

GOVERNMENT CODE

TITLE 6. PUBLIC OFFICERS AND EMPLOYEES

SUBTITLE A. PROVISIONS GENERALLY APPLICABLE TO PUBLIC OFFICERS AND  
EMPLOYEES

CHAPTER 606. SOCIAL SECURITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 606.001. DEFINITIONS. In this chapter:

(1) "Social security coverage" means federal old-age, survivors, and disability insurance benefits under 42 U.S.C. Chapter 7, Subchapter II.

(2) "Federal Insurance Contributions Act" means 26 U.S.C. Chapter 21.

(3) "Political subdivision" includes:

(A) a county;

(B) a municipality; or

(C) an instrumentality of the state, of another political subdivision, or of the state and another political subdivision:

(i) that is a juristic entity that is legally separate and distinct from the state or political subdivision; and

(ii) whose employees are not employees of the state or political subdivision.

(4) "Retirement system" means the Employees Retirement System of Texas.

(5) "Secretary" means the United States Secretary of Health and Human Services or an individual designated by the secretary to administer coverage of the Social Security Act to employees of a state and its political subdivisions.

(6) "Social Security Act" means Chapter 7, Title 42, United States Code (42 U.S.C. Section 301 et seq.), including regulations and requirements adopted under that chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.002. ADMINISTRATION OF CHAPTER. The executive

director of the retirement system shall direct and administer the functions of the retirement system under this chapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.003. AGREEMENTS WITH SECRETARY. (a) The retirement system may enter into agreements with the secretary to obtain social security coverage for employees of the state or a political subdivision.

(b) An agreement between the retirement system and the secretary may contain any appropriate provision, including a provision relating to coverage, benefits, contributions, effective date, modification, and administration.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER B. COVERAGE FOR EMPLOYEES OF POLITICAL SUBDIVISIONS

Sec. 606.021. DEFINITIONS. In this subchapter:

(1) "Employee" includes an officer of a political subdivision.

(2) "Employment" means service performed by an employee of a political subdivision except service:

(A) that in the absence of an agreement under this subchapter would constitute employment under the Social Security Act;

(B) that under the Social Security Act may not be included in an agreement between the retirement system and the secretary; or

(C) as a police officer in a position that, at the time the agreement is made, is subject to another retirement system of a municipality with a population of 250,000 or more, according to the most recent federal census before the date of the agreement.

(3) "Wages" means all remuneration for employment, including the cash value of all remuneration paid other than by cash. The term does not include remuneration that does not constitute "wages" under the Federal Insurance Contributions Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.022. AGREEMENTS WITH POLITICAL SUBDIVISIONS. (a) The retirement system and the governing body of a political subdivision that is eligible under the Social Security Act may enter into an agreement to obtain social security coverage for the employees of the political subdivision.

(b) An agreement between the retirement system and the governing body:

(1) must include a provision that an action of the federal government may not impair or impede a retirement program of this state or a political subdivision; and

(2) may include any other appropriate provision, including a provision relating to coverage benefits, contributions, effective date, modification of the agreement, and administration.

(c) The retirement system shall prescribe the terms of agreements necessary to:

(1) carry out this subchapter; and

(2) insure the financial responsibility of the participating political subdivisions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.023. RULES. The retirement system shall adopt rules that it finds necessary to govern the application for and the eligibility of employees of a political subdivision to obtain social security coverage.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.024. PLAN FOR COVERAGE. (a) To obtain social security coverage for its employees, a political subdivision must submit a plan for approval by the retirement system.

(b) The retirement system shall approve a plan if the retirement system finds that the plan:

(1) conforms to the retirement system's rules;

(2) conforms to federal law and agreements made between the federal government and the states;

(3) specifies the source of funds from which payments will be made and guarantees that this source will be adequate;

(4) provides methods for proper and efficient administration by the political subdivision that are found by the retirement system to be necessary;

(5) provides that the political subdivision will:

(A) report information at a time and in a form required by the retirement system; and

(B) comply with requirements of the retirement system or federal authorities for the receipt, correctness, and verification of reports; and

(6) specifies the personnel of the political subdivision who are responsible for making assessments, collections, and reports.

(c) The retirement system may not refuse to approve a submitted plan unless the retirement system gives the submitting political subdivision reasonable notice and an opportunity for a hearing.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.025. GUARANTEES FOR PAYMENT. The retirement system by rule may require guarantees to create adequate security that a political subdivision will be financially responsible for its payments for at least the minimum period required by federal requirements to precede social security coverage cancellation. The guarantees may be in the form of:

(1) surety bonds;

(2) advance payments into an escrow account;

(3) detailed representations and assurances of priority dedication; or

(4) another legal undertaking.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.026. CONTRIBUTIONS BY POLITICAL SUBDIVISION. (a) The governing body of a political subdivision may make contributions under an agreement to obtain social security coverage.

(b) The maximum compensation provided by statute for a county employee is not exceeded by the payment of a matching

contribution by a political subdivision to obtain social security coverage for the employee.

(c) An instrumentality of the state that receives a direct legislative appropriation may contribute, for employees covered under Subtitle C, Title 8, only funds specifically appropriated for social security coverage.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.027. PROCEDURE FOR MAKING CONTRIBUTIONS. (a) In accordance with state and federal requirements, a political subdivision that has an approved plan for social security coverage shall:

(1) make deductions from wages of employees whose services are covered by the plan; and

(2) pay matching contributions from the funds from which covered employees receive their compensation.

(b) The employment or continued employment of an employee covered by an approved plan of a political subdivision is consideration for the deductions.

(c) An employee or a political subdivision is not relieved from liability for a contribution if the political subdivision fails to deduct the contribution from the employee's wages.

(d) The county treasurer, or the person who acts as treasurer in a political subdivision other than a county, shall assess and collect the required contributions and transmit the contributions in accordance with federal requirements for the filing of reports and the payment of contributions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.028. ADMINISTRATIVE EXPENSES. (a) As agreed by the retirement system and the governing body of a political subdivision that has an approved plan, the retirement system shall require the political subdivision to pay the subdivision's proportionate share of the state administrative expenses for this subchapter by:

(1) an annual fee for the political subdivision;

(2) an annual fee for each employee covered;

(3) an amount equal to a percentage of the contributions made to federal authorities; or

(4) any other equitable measure.

(b) A political subdivision may make payment for administrative expenses under this section from any available fund not otherwise dedicated.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.029. DELINQUENT PAYMENTS. (a) The retirement system may require in an agreement with a political subdivision that interest be paid on delinquent payments.

(b) The retirement system may bring suit to collect a delinquent payment and interest on the payment.

(c) The retirement system may direct the comptroller to deduct a delinquent payment and interest from funds payable by the state to the delinquent political subdivision that are expressly subject to deduction. The comptroller shall send to the retirement system in trust the amount deducted for the contribution of the delinquent political subdivision.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.39, eff. Sept. 1, 1997.

Sec. 606.030. SOCIAL SECURITY ADMINISTRATION FUND. (a) The social security administration fund is outside the treasury. The comptroller is the custodian of the fund and shall administer the fund separately from other funds as directed by the retirement system. Credits of money in the fund are not state funds or subject to legislative appropriation.

(b) The retirement system shall deposit in the fund all money collected for administrative expenses under Section 606.028.

(c) The comptroller shall issue warrants for disbursements from the fund under sworn vouchers executed by the executive director of the retirement system or a person designated by the director.

(d) The fund may be used to pay:

(1) interest assessed as a penalty by the United

States secretary of the treasury because of delinquent payment of contributions under this subchapter; or

(2) any expense necessary for the retirement system to administer this subchapter.

(e) A salary or expenditure paid from the fund shall be consistent with a comparable item in and the general provisions of the General Appropriations Act.

(f) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 618, Sec. 26(a)(2), eff. September 1, 2013.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.40, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 618 (S.B. [1459](#)), Sec. 26(a)(2), eff. September 1, 2013.

Sec. 606.031. EXPENDITURES. The retirement system may employ personnel, purchase equipment, and make other expenditures as necessary to administer this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER C. COVERAGE FOR STATE EMPLOYEES

Sec. 606.061. DEFINITIONS. In this subchapter:

(1) "Employee tax" means the tax imposed by Section 3101 of the Internal Revenue Code of 1986 (26 U.S.C. Section 3101).

(2) "Employment" means service performed by a state employee except service:

(A) that in the absence of an agreement under this subchapter would constitute employment under the Social Security Act; or

(B) that under the Social Security Act may not be included in an agreement between the retirement system and the secretary.

(3) "State agency" means:

(A) a department, commission, board, office, or other agency in the executive or legislative branch created by the

constitution or a statute of this state;

(B) the supreme court, the court of criminal appeals, a court of appeals, or the Texas Judicial Council; or

(C) a university system or an institution of higher education as defined by Section 61.003, Education Code.

(4) "State employee" includes an elected or appointed state officer but does not include an individual who:

(A) is compensated by fees; or

(B) is in a position eligible for membership in the Teacher Retirement System of Texas unless the person is employed by a state department, agency, or institution.

(5) "Wages" means all remuneration for employment, including the cash value of all remuneration paid other than by cash, except for remuneration that does not constitute "wages" under the Federal Insurance Contributions Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.062. DUTY OF EXECUTIVE DIRECTOR. The executive director of the retirement system shall negotiate the best possible contract for social security coverage for state employees.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.063. CONTRIBUTIONS BY STATE AGENCY. A state agency may pay contributions on social security coverage of the agency's state employees who are paid from the state treasury as required by an agreement with the secretary from funds appropriated to the comptroller for that purpose. A contribution made under this section is not considered compensation to the employee under any state law.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.064. EMPLOYEE CONTRIBUTIONS. (a) Each state employee, including a judge paid by the state, for whom an agreement for social security coverage is in effect under this subchapter shall pay contributions on wages in the amount of the employee tax.

(b) The obligation provided by this section is a condition of employment or of holding office.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.  
Amended by Acts 1995, 74th Leg., ch. 417, Sec. 1, eff. Dec. 1, 1995.

Sec. 606.066. COLLECTION OF EMPLOYEE'S CONTRIBUTION. (a) On the authorization of the head of a state agency, the disbursing officer of the department shall deduct from each payroll of a state employee with social security coverage the amount of the employee's contribution paid by the employee under this subchapter. The total amount deducted shall be paid in accordance with federal requirements.

(b) The head of a state agency shall, for each payroll:

(1) certify to the comptroller in the manner prescribed by the comptroller:

(A) the amount of a state employee's contribution to be deducted from the employee's salary; and

(B) the total amount to be deducted from all salaries; and

(2) include the total amount in the payroll voucher.

(c) If an amount less than the amount of the employee's contribution under this subchapter is deducted from a state employee's salary for the employee's contribution, the employee is liable for the difference between the amount deducted and the correct amount of the contribution.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.067. COLLECTION OF STATE CONTRIBUTION FOR EMPLOYEES PAID FROM TREASURY. (a) For a state employee who is paid from the state treasury, the legislature shall appropriate, from the same fund from which the employee is paid, an amount equal to the state's contributions under Section [606.063](#).

(b) The state agency shall certify at the end of each payroll period to the comptroller in a manner prescribed by the comptroller the total amount of the department's state contributions for that period for employees paid from the state treasury.

(c) A state agency having employees paid from the state treasury shall include in the budget information the department

submits to the Legislative Budget Board and the budget division of the governor's office a certification of the amount necessary to pay contributions of the state for the following biennium. The governor shall include this amount in the budget that the governor submits to the legislature.

(d) All money appropriated to the comptroller for the contributions of the state shall be allocated to the state agency according to rules adopted by the comptroller.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Amended by Acts 1995, 74th Leg., ch. 417, Sec. 2, eff. Dec. 1, 1995.

Sec. 606.068. COLLECTION OF STATE CONTRIBUTION FOR EMPLOYEES NOT PAID FROM TREASURY. (a) For state employees who are paid from funds not in the state treasury, the head of a state agency shall certify to the department's disbursing officer the total amount of the state's contributions based on compensation paid the employees.

(b) The disbursing officer of a state agency that has state employees who are paid from funds not in the state treasury shall pay the total amount of contributions of the state for employees in accordance with federal requirements.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.069. METHOD OF MAKING CONTRIBUTIONS TO FEDERAL GOVERNMENT. A state agency shall comply with federal requirements for filing reports and paying contributions.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.070. RULES AND REPORTS. (a) The retirement system may, as it finds necessary to the efficient administration of this subchapter, adopt rules and require state agencies to file reports.

(b) The retirement system shall certify to the comptroller any state agency that has not filed a required report within the specified time.

(c) The comptroller shall withhold salary or expense reimbursement warrants to the head or an employee of a state agency that the retirement system certifies under Subsection (b). On

notification from the retirement system that the report has been filed, the comptroller shall release the warrants.

(d) If a state agency whose employees are not paid from funds in the state treasury is notified that a required report is delinquent, the disbursing officer may not pay a salary or an expense reimbursement. A disbursing officer is liable both personally and on the officer's official bond if the officer pays a salary or an expense reimbursement after notification of a delinquent report by the retirement system.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.071. EXPENDITURES. The retirement system may employ personnel, including accountants and attorneys, purchase equipment, and make other expenditures as necessary to administer this subchapter.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

Sec. 606.072. BENEFITS FOR STATE EMPLOYEES UNDER BOTH STATE AND FEDERAL LAW. A state employee may receive benefits under both Chapters 811 through 815 and the Social Security Act.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.

#### SUBCHAPTER D. COVERAGE FOR STATE EMPLOYEES PAID FROM FEDERAL FUNDS

Sec. 606.101. COVERAGE. Subchapter B applies to a state employee or officer who is paid entirely from federal funds but is classified as a state employee by the federal government.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993.