

GOVERNMENT CODE

TITLE 8. PUBLIC RETIREMENT SYSTEMS

SUBTITLE A. PROVISIONS GENERALLY APPLICABLE TO PUBLIC RETIREMENT
SYSTEMS

CHAPTER 810. MISCELLANEOUS PROVISIONS

Sec. 810.001. ESTABLISHMENT OF PUBLIC RETIREMENT SYSTEM.

(a) In this section:

(1) "Political entity" means a municipality or any agency thereof, a junior college district, river authority, water district, appraisal district, or other special purpose district or authority that is created pursuant to state law and that is not an agency of the state.

(2) "Public retirement system" means a continuing, organized program or plan (including a plan qualified under Section 401(a) of the Internal Revenue Code of 1986) of service retirement, disability retirement, or death benefits for officers or employees of a political entity, other than:

(A) a program providing only workers' compensation benefits;

(B) a program administered by the federal government;

(C) an individual retirement account or individual retirement annuity within the meaning of Section 408 or a retirement bond within the meaning of Section 409 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 408, 409);

(D) an individual account plan consisting of an annuity contract described by Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403); or

(E) an eligible state deferred compensation plan described by Section 457(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 457).

(b) Except as provided by Subsection (d), the governing body of a political entity may establish and maintain a public retirement system for its appointive officers and employees and determine the benefits, funding source and amount, and administration of the system. Each active member of a public

retirement system established under the authority provided by this section shall contribute to the system an amount, if any, determined by the political entity. The political entity shall contribute for each active member in a defined contribution plan or a defined benefit plan an amount determined by the political entity to be required to meet the system's benefit plan.

(c) The governing body of the political entity may arrange for administration of the system by a private provider of public retirement benefits, whether or not the provider is also a source of benefits provided for under the system.

(d) The authority granted by Subsections (b) and (c) does not apply to a political entity to the extent that the entity, by specific statute, is:

(1) required to establish or participate exclusively in a particular public retirement system; or

(2) prohibited from establishing or participating in any public retirement system or in a particular retirement system.

(e) The authority granted by Subsections (b) and (c) is in addition to any other statutory authority to provide a public retirement system or programs specifically excluded from the definition of a public retirement system.

(f) Every political entity which establishes or maintains a public retirement system covered under this Act shall file all reports with the State Pension Review Board required by Chapter 802. If a political subdivision establishes a retirement program that would be a "public retirement system" within the meaning ascribed to that term by Section 801.001, but for the fact that the program is administered by a life insurance company, the subdivision shall notify the State Pension Review Board of the establishment of the program and the name of the administering company.

(g) "Civil union" means any relationship status that grants to the parties of the relationship the same legal protections, benefits, and responsibilities as are granted to the spouses of a marriage.

(h) For purposes of this title, the state may not give effect to a:

(1) public act, record, or judicial proceeding that recognizes or validates a marriage or civil union between persons of the same sex; or

(2) right or claim asserted as a result of the purported marriage or civil union.

(i) Subsection (h) does not preclude the enforcement in this state of an order issued in another state relating to child custody, child support, or property division, including a qualified domestic relations order.

(j) A single governmental employer is not considered to be permitting a person who is a public employee, officer, or retiree of that employer to be receiving benefits from more than one system or program of retirement for the same service if:

(1) the employer participates in the Texas Municipal Retirement System or the Texas County and District Retirement System and also sponsors one or more supplemental plans:

(A) funded by the employer, the employee, or a combination of the employer and the employee; and

(B) established before January 1, 2005; and

(2) the amount of the combined benefits paid to the person by the Texas Municipal Retirement System or the Texas County and District Retirement System and all of the supplemental plans described by Subdivision (1) is in compliance with Section 415, Internal Revenue Code of 1986.

Added by Acts 1991, 72nd Leg., ch. 589, Sec. 1, eff. June 16, 1991.

Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 46, eff. Sept. 1, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 1157 (H.B. [3200](#)), Sec. 1, eff. June 18, 2005.

Sec. 810.002. ALTERNATIVE BENEFIT PLAN FOR CERTAIN MUNICIPALITIES. (a) In this section, "alternative benefit plan" means a continuing, organized benefit plan, including a plan qualified under Section 401(a) of the Internal Revenue Code of 1986, of service retirement, disability retirement, or death benefits for officers or employees of a municipality.

(b) This section applies only to a municipality subject to Article 6243a-1, Revised Statutes.

(c) Notwithstanding any other law and subject to Subsection (f), the governing body of a municipality subject to this section may by ordinance:

(1) establish an alternative benefit plan and determine the benefits, funding source and amount, and administration of the alternative benefit plan; and

(2) require an employee first hired by the municipality on or after the date the alternative benefit plan is implemented to participate in the alternative benefit plan instead of participating in the pension system provided under Article 6243a-1, Revised Statutes.

(d) Each active participant of an alternative benefit plan established under this section shall contribute to the plan an amount, if any, determined by the municipality. The municipality shall contribute for each active participant in an alternative benefit plan established under Subsection (c) an amount determined by the municipality.

(e) A municipality that establishes an alternative benefit plan under this section shall file all reports with the State Pension Review Board required by Chapter 802.

(f) The governing body of a municipality may only establish an alternative benefit plan under this section if:

(1) the qualified actuary of the pension system established under Article 6243a-1, Revised Statutes, determines that after establishment and implementation of the alternative benefit plan, the pension system would continue to comply with funding and amortization period requirements applicable to the pension system under Subchapter C, Chapter 802; and

(2) the State Pension Review Board conducts a review of and validates the determination made under Subdivision (1).

Added by Acts 2017, 85th Leg., R.S., Ch. 318 (H.B. 3158), Sec. 1.51, eff. September 1, 2017.

Sec. 810.003. CERTAIN ELECTED OFFICIALS INELIGIBLE FOR RETIREMENT ANNUITY. (a) In this section:

(1) "Governing body of a public retirement system" and "public retirement system" have the meanings assigned by Section [802.001](#).

(2) "Qualifying felony" means any felony involving:

- (A) bribery;
- (B) the embezzlement, extortion, or other theft of public money;
- (C) perjury;
- (D) coercion of public servant or voter;
- (E) tampering with governmental record;
- (F) misuse of official information;
- (G) conspiracy or the attempt to commit any of the offenses described by Paragraphs (A)-(F); or
- (H) abuse of official capacity.

(b) This section applies only to a person who is:

(1) a member of the elected class of the Employees Retirement System of Texas as described by Section [812.002\(a\)\(1\)](#) or (2); or

(2) otherwise eligible for membership in a public retirement system wholly or partly because the person was elected or appointed to an elected office.

(c) Except as provided by Subsection (d), a member of a public retirement system is not eligible to receive a service retirement annuity under the retirement system if the member is convicted of a qualifying felony committed while in office and arising directly from the official duties of that elected office.

(d) The retirement system, on receipt of notice of a conviction under Subsection (e) or (k), any similar notice of a conviction of a qualifying felony from a United States district court or United States attorney, or any other information that the retirement system determines by rule is sufficient to establish a conviction of a qualifying felony, shall suspend payments of a service retirement annuity to a person the system determines is ineligible to receive the annuity under Subsection (c). A person whose conviction is overturned on appeal or who meets the requirements for innocence under Section [103.001\(a\)\(2\)](#), Civil Practice and Remedies Code:

(1) is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period; and

(2) may resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person under Subsection (f).

(e) Not later than the 30th day after the conviction of a person of a qualifying felony, the governmental entity to which the person was elected or appointed must provide written notice of the conviction to the public retirement system in which the person is enrolled. The notice must comply with the administrative rules adopted by the public retirement system under Subsection (j).

(f) A member who is ineligible to receive a service retirement annuity under Subsection (c) is entitled to a refund of the member's service retirement annuity contributions, including interest earned on those contributions. A refund under this subsection is subject to an award of all or part of the member's service retirement annuity contributions to a former spouse, including as a just and right division of the contributions on divorce, payment of child support, or payment of spousal maintenance or contractual alimony or other order of a court.

(g) Benefits payable to an alternate payee under Chapter 804 who is recognized by a qualified domestic relations order established before the effective date of this subsection are not affected by a member's ineligibility to receive a service retirement annuity under Subsection (c).

(h) On conviction of a member for a qualifying felony:

(1) a court may, in the same manner as in a divorce or annulment proceeding, make a just and right division of the member's service retirement annuity by awarding to the member's spouse all or part of the community property interest in the annuity forfeited by the member; and

(2) a court shall, if the member's service retirement annuity was partitioned or exchanged by written agreement of the spouses as provided by Subchapter B, Chapter 4, Family Code, before the member's commission of the offense, award the annuity forfeited by the member to the member's spouse as provided in the agreement.

(i) Ineligibility for a service retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(j) The governing body of a public retirement system shall adopt rules and procedures to implement this section.

(k) A court shall notify the retirement system of the terms of a conviction of a person convicted of an offense described by Subsection (c).

(l) Notwithstanding any other provision of this section, if the spouse of a member convicted of a qualifying felony is convicted of the felony as a party to the offense as defined by Section 7.01, Penal Code, or of another qualifying offense arising out of the same criminal episode as defined by Section 3.01, Penal Code, the spouse forfeits the member's service retirement annuity and service retirement contributions to the same extent as the member.

Added by Acts 2017, 85th Leg., R.S., Ch. 443 (S.B. 500), Sec. 1, eff. June 6, 2017.

Redesignated from Government Code, Section 810.002 by Acts 2019, 86th Leg., R.S., Ch. 467 (H.B. 4170), Sec. 21.001(32), eff. September 1, 2019.

Redesignated from Government Code, Section 810.002 by Acts 2019, 86th Leg., R.S., Ch. 641 (S.B. 1570), Sec. 4, eff. June 10, 2019.

Sec. 810.004. CERTAIN CORRECTIONS EMPLOYEES INELIGIBLE FOR RETIREMENT ANNUITY. (a) In this section:

(1) "Governing body of a public retirement system" and "public retirement system" have the meanings assigned by Section 802.001.

(2) "Qualifying felony" means any felony involving an incarcerated member of a criminal street gang as defined by Section 71.01, Penal Code, including:

- (A) bribery;
- (B) the embezzlement, extortion, or other theft of public money;
- (C) perjury;
- (D) engaging in organized criminal activity;
- (E) tampering with governmental record;

(F) misuse of official information;
(G) abuse of official capacity; or
(H) conspiracy or the attempt to commit any of the offenses described by Paragraphs (A)-(G).

(b) This section applies only to a person who is:

(1) a member of the employee class of the Employees Retirement System of Texas as described by Section 812.003 because the person serves as a corrections officer for the Texas Department of Criminal Justice or the Texas Juvenile Justice Department; or

(2) otherwise eligible for membership in a public retirement system wholly or partly because the person served as a corrections officer for the Texas Department of Criminal Justice or the Texas Juvenile Justice Department.

(c) Except as provided by Subsection (d), a member of a public retirement system is not eligible to receive a service retirement annuity under the retirement system if the member is convicted of a qualifying felony for conduct arising directly from the member's service as a corrections officer.

(d) The retirement system, on receipt of notice of a conviction under Subsection (j), any similar notice of a conviction of a qualifying felony from a United States district court or United States attorney, or any other information that the retirement system determines by rule is sufficient to establish a conviction of a qualifying felony, shall suspend payments of a service retirement annuity to a person the system determines is ineligible to receive the annuity under Subsection (c). A person whose conviction is overturned on appeal or who meets the requirements for innocence under Section 103.001(a)(2), Civil Practice and Remedies Code:

(1) is entitled to receive an amount equal to the accrued total of payments and interest earned on the payments withheld during the suspension period; and

(2) may resume receipt of annuity payments on payment to the retirement system of an amount equal to the contributions refunded to the person under Subsection (e).

(e) A member who is ineligible to receive a service retirement annuity under Subsection (c) is entitled to a refund of

the member's service retirement annuity contributions, including interest earned on those contributions. A refund under this subsection is subject to an award of all or part of the member's service retirement annuity contributions to a former spouse, including as a just and right division of the contributions on divorce, payment of child support, or payment of spousal maintenance or contractual alimony or other order of a court.

(f) Benefits payable to an alternate payee under Chapter 804 who is recognized by a qualified domestic relations order established before the effective date of this subsection are not affected by a member's ineligibility to receive a service retirement annuity under Subsection (c).

(g) On conviction of a member for a qualifying felony:

(1) a court may, in the same manner as in a divorce or annulment proceeding, make a just and right division of the member's service retirement annuity by awarding to the member's spouse all or part of the community property interest in the annuity forfeited by the member; and

(2) a court shall, if the member's service retirement annuity was partitioned or exchanged by written agreement of the spouses as provided by Subchapter B, Chapter 4, Family Code, before the member's commission of the offense, award the annuity forfeited by the member to the member's spouse as provided in the agreement.

(h) Ineligibility for a service retirement annuity under this section does not impair a person's right to any other retirement benefit for which the person is eligible.

(i) The governing body of a public retirement system shall adopt rules and procedures to implement this section.

(j) A court shall notify the retirement system of the terms of a conviction of a person convicted of an offense described by Subsection (c).

(k) Notwithstanding any other provision of this section, if the spouse of a member convicted of a qualifying felony is convicted of the felony as a party to the offense as defined by Section 7.01, Penal Code, or of another qualifying offense arising out of the same criminal episode as defined by Section 3.01, Penal Code, the spouse forfeits the member's service retirement annuity and service

retirement contributions to the same extent as the member.
Added by Acts 2019, 86th Leg., R.S., Ch. 641 (S.B. 1570), Sec. 1,
eff. June 10, 2019.

Sec. 810.006. MINIMUM RETIREMENT FUNDING REQUIREMENTS FOR
DEFUNDING MUNICIPALITIES. (a) In this section:

(1) "Defunding municipality" means a municipality
that is considered to be a defunding municipality under Chapter
109, Local Government Code.

(2) "Public retirement system" has the meaning
assigned by Section 802.001.

(b) This section applies only to a municipality that is:

(1) an employer of active members of a public
retirement system administering a defined benefit plan; and

(2) a defunding municipality.

(c) Notwithstanding any other law and as soon as practicable
after the date the criminal justice division of the office of the
governor issues a written determination under Section 109.003(2),
Local Government Code, with respect to a municipality, the
municipality shall for the purpose of funding retirement benefits
increase municipal contributions to a public retirement system in
which its employees participate as members in a manner that ensures
that the total amount the municipality and members contribute to
the system for the fiscal year on which the determination is based
is not less than the total amount the municipality and members of
the system contributed to the system for the fiscal year
immediately preceding the fiscal year on which the determination is
based.

(d) A municipality subject to this section shall increase
contributions in the manner provided by Subsection (c) for each
fiscal year for which the municipality is considered a defunding
municipality.

Added by Acts 2021, 87th Leg., R.S., Ch. 199 (H.B. 1900), Sec. 4.01,
eff. September 1, 2021.