

GOVERNMENT CODE

TITLE 8. PUBLIC RETIREMENT SYSTEMS

SUBTITLE F. TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM

CHAPTER 841. GENERAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 841.001. DEFINITIONS. In this subtitle:

(1) "Actuarial equivalent" means a benefit that, at the time it is begun, has the same present value as the benefit it replaces, based on seven percent annual interest and either:

(A) the mortality table published by the Conference of Actuaries in Public Practice and known as the UP-1984 table with an age setback of five years for retired or disabled annuitants and an age setback of 10 years for beneficiaries, with a 30-percent reserve refund assumption for the standard benefit; or

(B) a mortality basis adopted under Section [845.110\(c\)](#).

(1-a) "Accrued benefit" means the sum of a member's accumulated contributions and service credit calculated as of a specified date.

(2) "Accumulated contributions" means the contributions, other member deposits, and interest credited to a member's individual account in the employees saving fund.

(3) "Annuity" means an amount of money payable in equal monthly installments at the end of each month for a period determined under this subtitle.

(4) "Beneficiary" means an individual or entity designated by a member or annuitant or by statute to receive a benefit payable under this subtitle because of the death of a member or an annuitant. The term does not include an "alternate payee" as defined by Section [804.001](#).

(5) "Board of trustees" means the persons appointed under this subtitle to administer the retirement system.

(6) "Compensation" means the sum of payments that are made to an employee for performance of personal services as certified by a participating subdivision, including nonmonetary

compensation, the value of which is determined by the governing body of the subdivision, on which contributions by an employee to the retirement system are based, which may not exceed either the limit provided by Section 401(a)(17) of the Internal Revenue Code of 1986, as indexed in the manner provided by that section, or a lesser amount established by rule of the board of trustees. The term includes amounts by which payment for earnings is reduced because of employer pick-up of employee contributions to the retirement system under Section 845.403, deferral of compensation under benefit plans or tax-sheltered annuity programs adopted by the subdivision under Section 401(k), 403(b), or 457 of the Internal Revenue Code of 1986, the costs of benefits furnished under qualified cafeteria plans adopted by the subdivision under Section 125 of the Internal Revenue Code of 1986, and deductions for Federal Insurance Contribution Act taxes, federal income taxes, or other obligations of the employee. The term does not include workers' compensation benefits received by a member under Section 504.011, Labor Code.

(7) "Credited service" means the number of months of prior, current, and optional service ascribed to a member in the retirement system.

(7-a) "Director" means the person appointed as director under Section 845.202.

(8) "Employee" means a person, other than a person determined by a subdivision to be a temporary employee, who is certified by a subdivision as being employed in, or elected or appointed to, a position or office in the subdivision for which the person is compensated by the subdivision. The term includes a person described by Section 842.107 only as provided by that section.

(9) "Governing body" means the commissioners court of a county or, in any other subdivision, the body that is authorized to raise and expend revenue.

(10) "Initial deposit rate" means the percentage of the annual compensation of an employee of a participating subdivision that is required by the subdivision on the effective date of subdivision participation in the retirement system as the

rate for employee contributions to the retirement system.

(11) "Local pension system" means a public retirement benefit program of less than statewide scope.

(12) "Retirement" means the withdrawal from service with a retirement benefit granted under this subtitle.

(13) "Retirement annuity" means the service, disability, or survivor benefit paid under this subtitle in the form of an annuity.

(14) "Retirement system" means the Texas County and District Retirement System.

(15) "Service" means the time a person is an employee.

(16) "Service credit" means the monetary credits allowed a member for service for a participating subdivision.

(17) "Subdivision" means a political subdivision of the state that is not eligible to participate in any other statewide retirement system or that is not currently participating in a retirement system established by the legislature. The term includes the Texas Association of Counties, the retirement system, and a city-county hospital jointly managed under Subchapter B, Chapter 265, Health and Safety Code. The term does not include a branch, division, department, employee classification group, or other separately identified component of a political subdivision.

(18) "Optional group term life program" means the voluntary, employer-funded optional death benefit program established under Subchapter F, Chapter 844.

(19) "Vested member" means a member who may withdraw from employment with all participating subdivisions, leave the member's accumulated contributions on deposit with the retirement system, and, on meeting the age and length-of-service requirements for service retirement, file an application for retirement and begin to receive a service retirement annuity.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 63, Sec. 1, eff. May 6, 1987; Acts 1989, 71st Leg., ch. 664, Sec. 3, eff. June 14, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 14, Sec. 284(85), eff.

Sept. 1, 1991; Acts 1991, 72nd Leg., ch. 16, Sec. 11.03(a), eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 245, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 1, eff. Dec. 1, 1997; Acts 1997, 75th Leg., ch. 703, Sec. 2, eff. June 17, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 1, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 1, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 2, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 1, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 1, eff. January 1, 2010.

Sec. 841.002. PURPOSE OF SUBTITLE. The purpose of this subtitle is to establish a program of benefits for members, retirees, and their beneficiaries and to establish rules for the management and operation of the retirement system. The assets of the retirement system are held in trust for the exclusive benefit of the members, the retirees, and their beneficiaries and may not be diverted. Forfeitures may not be applied to increase the benefits any person would otherwise receive under this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 2, eff. Dec. 1, 1997.

Sec. 841.003. RETIREMENT SYSTEM. The Texas County and District Retirement System is continued in existence and is the name by which the business of the retirement system shall be transacted, all its funds invested, and all its cash and other property held.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 841.004. POWERS, PRIVILEGES, AND IMMUNITIES. (a) The retirement system is a governmental entity and has the powers, privileges, and immunities of a corporation, as well as the powers, privileges, and immunities conferred by this subtitle.

(b) The board of trustees, director, investment officer, and employees of the retirement system are not liable for any action taken or omission made or suffered by them in the good faith performance of any duty in connection with any program or benefit administered by the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.004 by
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 2, eff.
January 1, 2008.

Sec. 841.005. ACTIONS FOR ACCOUNTING. (a) The retirement system or the board of trustees may initiate, or cause to be initiated on its behalf, an action against a participating subdivision, a board of the subdivision, or individual officers of the subdivision, to compel an accounting of sums due to the retirement system or to require the withholding and accounting of sums due from members.

(b) The venue of an action brought under this section is in either Travis County or a county in which the subdivision is situated.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.005 by
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 841.0051. VENUE. (a) The venue of any action brought against the retirement system in a state court or before the State Office of Administrative Hearings is in Travis County.

(b) The venue of any action brought in a state court by the retirement system is in Travis County or in the county in which the defendant is situated, domiciled, or does business.

Added by Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 3, eff.

January 1, 2006.

Sec. 841.006. EXEMPTION FROM EXECUTION.(a) All retirement annuity payments, other benefit payments, and a member's accumulated contributions are unassignable and are exempt from execution, garnishment, attachment, and state and local taxation.

(b) Notwithstanding Subsection (a), the board of trustees by rule may authorize the retirement system, in accordance with a retiree's voluntary election, to:

(1) deduct qualified health insurance premiums from the retirement annuity otherwise distributable to a retiree who is an eligible public safety officer or a retiree who meets any expanded eligibility provision for a similar tax exemption under subsequent federal legislation; and

(2) pay the deducted amount directly to the health plan provider, subject to the requirements of Section 402(1), Internal Revenue Code of 1986, or other applicable federal law, and the rules adopted by the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.006 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 2, eff. January 1, 2010.

Sec. 841.007. REDUCTION OF ANNUITY PAYMENTS ON REQUEST.

(a) An annuitant by written request may authorize the retirement system to reduce the annuitant's monthly payment to an amount specified in the request. In writing, the annuitant may subsequently request the retirement system to increase the annuitant's monthly payment to any specified amount that does not exceed the amount payable if a reduction had never been requested.

(b) If the retirement system receives a request under Subsection (a), the director may cause the monthly annuity payment of the requesting annuitant to be reduced or increased as specified in the request.

(c) Any amounts by which an annuity is reduced under this

section are forfeited to the retirement system and are not recoverable by any person.

Added by Acts 1985, 69th Leg., ch. 491, Sec. 1, eff. June 12, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.007 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 841.008. APPLICATIONS BY, AND PAYMENTS TO, PERSONS OTHER THAN MEMBERS, BENEFICIARIES, AND ANNUITANTS. (a) The board of trustees may accept an application for any benefit under this subtitle that is signed on behalf of a person entitled to the benefit by:

(1) an appointed guardian of the person and estate of the person; or

(2) an attorney in fact authorized to act on behalf of the person by a written power of attorney that provides that the power is not revoked by disability of the person, except that an attorney in fact who is not the person's spouse may not select a benefit in which the attorney in fact or a direct ancestor or lineal descendant of the attorney in fact is a named beneficiary, unless the attorney in fact designates as the person's beneficiary:

(A) the same individuals, with the same share of the benefit that each would have received if the person had died immediately before the beneficiary designation by the attorney in fact; or

(B) all individuals who bear the same relationship to the attorney in fact, with the same share of the benefit that each would have received if the person had died intestate.

(b) If it is made to appear to the director by affidavit of a licensed physician that a person entitled to a benefit is not mentally capable of managing the person's own affairs, and if the director reasonably believes that the estate of the person is insufficient to justify the expense of establishing a guardianship, or continuing a guardianship after letters of guardianship have expired, then until current letters of guardianship are filed with the retirement system, the director may make payment of any annuity

or other benefit:

(1) to the spouse of the person, as trustee for the person;

(2) to an individual or entity actually providing for the needs of and caring for the person, as trustee for the person; or

(3) to a public agency or private charitable organization providing assistance or services to the aged or incapacitated that agrees to accept and manage the payment for the benefit of the person as a trustee.

(c) If requested by the person entitled to the benefit or the guardian, attorney in fact, or trustee of the person, the director may, if the director determines that it is in the best interest of the person entitled to the benefit, make payments directly to the trustee of:

(1) a trust described by Subchapter B, Chapter 1301, Estates Code, that has been created for the management of guardianship funds for the benefit of the person; or

(2) a trust described by 42 U.S.C. Section 1396p(d)(4)(A), (B), or (C) that has been established to qualify the person for benefits or other assistance under a state or federal program or to supplement the benefits or other assistance provided under the program.

(c-1) If the director reasonably believes that the individual or entity accepting benefits for the person has breached a fiduciary duty owed to the person or is failing to act in the interest of or for the benefit of the person and the person may suffer personal or financial harm as a result, the retirement system, on giving notice to the individual or entity receiving payments on behalf of the person, may cease making payments to the individual or entity. Thereafter, the system may make payment of any annuity or other benefit in a manner provided by Subsection (b). This subsection does not apply if a court of competent jurisdiction has appointed the individual or entity accepting benefits for the person.

(d) The director may require proof of facts used to establish a right under this section by evidence the director

determines is satisfactory.

Added by Acts 1985, 69th Leg., ch. 491, Sec. 2, eff. June 12, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.008 and
amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1,
1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 2, eff. Dec.
31, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 3, eff.
January 1, 2008.

Acts 2017, 85th Leg., R.S., Ch. 324 (S.B. 1488), Sec. 22.042,
eff. September 1, 2017.

Sec. 841.009. DIVORCE-DECREE PAYMENTS PROTECTED. The
system and officials of the system are not liable to any person for
making payments of any benefits in accordance with the provisions
of a decree of divorce in a cause in which the member or annuitant
was a party.

Added by Acts 1985, 69th Leg., ch. 291, Sec. 3, eff. June 12, 1985.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.009 and
amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1,
1989.

Sec. 841.0091. DIVISION OF BENEFITS ON DIVORCE OF MEMBER.
(a) On receipt of a qualified domestic relations order incident to
a divorce that awards a portion of a member's accrued benefit to a
former spouse of the member and that strictly follows the terms and
format of the model qualified domestic relations order, as well as
any other requirements, adopted by the board of trustees for this
purpose, the retirement system shall divide the accrued benefit
into two separate benefits that, in combination at the time of
division, are actuarially equivalent to the undivided accrued
benefit.

(b) Following a division described by Subsection (a), the
portion of the accrued benefit awarded the alternate payee is
considered the alternate payee's sole and separate property in
which the member has no interest. The board of trustees by rule
shall define and specify the rights and responsibilities of the

alternate payee and the terms and features of the benefit awarded the alternate payee under the order, but in no event may the alternate payee vest in the accrued benefit before the member vests or attain greater rights than are attained by the member or the member's beneficiary.

(c) Notwithstanding Section 804.101, the board of trustees by rule may prescribe terms on which the interest awarded the alternate payee under a qualified domestic relations order described by this section may be transferred at the alternate payee's death.

(d) The board of trustees has sole authority and discretion to:

(1) specify the terms and format that are required for a qualified domestic relations order to be acceptable for purposes of Subsection (a);

(2) require strict compliance for qualification;

(3) specify the dates on which a distribution to an alternate payee may or must begin; and

(4) establish rules for the administration of this section.

(e) This section applies to all domestic relations orders described by this section that the retirement system first determines to be qualified on or after September 1, 2009, and to those domestic relations orders determined to be qualified before September 1, 2009, that the system further determines can be construed to allow a division described by this section without harm or injury to the member's interest awarded under the original qualified order. The actuarial equivalent value of the accrued benefit payable to an alternate payee may not be greater than the actuarial equivalent value of the accrued benefit as if there had been no division and the accrued benefit had been payable to the member in the form of an annuity.

Added by Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 3, eff. September 1, 2009.

Sec. 841.010. DISTRIBUTION REQUIREMENTS. (a)

Notwithstanding any other provision of this subtitle, all

distributions under this subtitle must be determined and made in accordance with Section 401(a)(9) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401) and the regulations adopted under that provision, including the minimum incidental death benefit distribution requirement of Section 401(a)(9)(G) of that code. The board of trustees may adopt rules relating to the selection, payment, and distribution of benefits to ensure compliance with federal statutes and regulations.

(b) The entire vested interest of a participant must be distributed or begin to be distributed not later than the required beginning date as determined in accordance with Section 401(a)(9) of the Internal Revenue Code of 1986 and the regulations adopted under that provision. If the participant dies after distribution of the participant's interest has begun, the remaining portion of the interest will continue to be distributed at least as rapidly as the method of distribution being used before the participant's death. If the participant dies before distribution of the participant's interest begins, distribution of the participant's entire interest must be made in a manner complying with Section 401(a)(9)(B) of the code.

Added by Acts 1997, 75th Leg., ch. 309, Sec. 3, eff. Dec. 1, 1997.
Amended by Acts 2001, 77th Leg., ch. 122, Sec. 3, eff. Dec. 31, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 4, eff. January 1, 2006.

Sec. 841.011. FULL VESTING OF ACCRUED BENEFITS AT TERMINATION. If the retirement system is terminated or if there is a complete discontinuance of contributions to the retirement system, each member will become fully vested in that member's accrued benefit to the extent funded as of the date of termination or contribution discontinuance.

Added by Acts 1997, 75th Leg., ch. 309, Sec. 3, eff. Dec. 1, 1997.

SUBCHAPTER B. PENAL PROVISIONS

Sec. 841.101. OFFENSES; PENALTY. (a) A person commits an offense if the person knowingly makes a false statement in a report or application to the retirement system in an attempt to defraud the retirement system.

(b) A person commits an offense if the person knowingly makes a false certificate of an official report to the retirement system.

(c) A person commits an offense if the person knowingly fails to return money received from the retirement system to which the person is not entitled.

(d) An offense under this section is a misdemeanor punishable by a fine of not less than \$100 nor more than \$1,000, by confinement in jail for not less than 30 days nor more than one year, or both.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 51.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 4, eff. Dec. 31, 2001.