

GOVERNMENT CODE

TITLE 8. PUBLIC RETIREMENT SYSTEMS

SUBTITLE F. TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM

CHAPTER 845. ADMINISTRATION

SUBCHAPTER A. BOARD OF TRUSTEES

Sec. 845.001. COMPOSITION OF BOARD OF TRUSTEES. The board of trustees is composed of nine members.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.002. APPOINTMENT. The governor shall appoint the members of the board of trustees with the advice and consent of the senate.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.003. ELIGIBILITY. (a) To be eligible to serve as a trustee a person must be:

(1) a member of the retirement system and an employee of a participating subdivision; or

(2) a retiree of the retirement system.

(b) If a person serving as a trustee ceases to meet an eligibility requirement under Subsection (a), the person shall vacate the office of trustee.

(c) A person serving as trustee who fails to attend four consecutive regular meetings of the board of trustees may not act as a trustee and is considered to have vacated the office of trustee.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 214, ch. 18, Sec. 54, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989; Acts 2003, 78th Leg., ch. 621, Sec. 29, eff. Jan. 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 65, eff. January 1, 2008.

Sec. 845.004. TERM OF OFFICE. Trustees hold office for staggered terms of six years, with the terms of three trustees expiring December 31 of each odd-numbered year.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.005. OATH OF OFFICE. Before taking office as a trustee, a person shall take the constitutional oath prescribed for officers of the state.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.007. MEETINGS. (a) The board of trustees shall hold four regular meetings each year and special meetings when called by the director.

(b) Before the fifth day preceding the day of a special meeting, the director shall give written notice of the meeting to each trustee unless notice is waived.

(c) Except as otherwise permitted by Section [845.301\(a-1\)](#), Chapter [551](#), or other law, all meetings of the board must be open to the public.

(d) The board shall hold its meetings in the office of the board or in a place specified by the notice of the meeting.

(e) Notwithstanding Chapter [551](#) or any other law, the board of trustees may hold an open or closed meeting by telephone conference call, videoconference, or other similar telecommunication method. The board may use a telephone conference call, videoconference, or other similar telecommunication method for purposes of establishing a quorum or voting or for any other meeting purpose in accordance with Subsection (f) and this subsection. This subsection applies

without regard to the subject matter discussed or considered by the board at the meeting.

(f) A meeting held by telephone conference call, videoconference, or other similar telecommunication method:

(1) is subject to the notice requirements applicable to other board meetings;

(2) may not be held unless notice of the meeting specifies the location of the meeting at which at least one trustee of the board will be physically present; and

(3) must be open and audible to the public at the location specified in the notice under Subdivision (2) during the open portions of the meeting.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.007 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 621, Sec. 30, eff. Jan. 1, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 66, eff. January 1, 2008.

Sec. 845.008. COMPENSATION; EXPENSES. Each trustee serves without compensation but is entitled to:

(1) reimbursement for reasonable traveling expenses incurred in attending board meetings or authorized committee and association meetings or incurred in the performance of other official board duties; and

(2) payment of an amount equal to any compensation withheld by the trustee's employing subdivision because of the trustee's attendance at board meetings.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.008 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.009. VOTING. (a) Each trustee is entitled to one vote.

(b) At any meeting of the board, five or more concurring votes are necessary for a decision or action 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. 55.009 by
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. POWERS AND DUTIES OF BOARD OF TRUSTEES

Sec. 845.101. ADMINISTRATION. (a) The retirement system is a trust.

(b) The board of trustees is responsible for the administration of 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. 55.101 by
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.102. RULES AND STANDARDS. (a) The board of trustees shall adopt rules and perform reasonable activities necessary or desirable for efficient administration of the system.

(b) Subject to the provisions of this subtitle, the board of trustees may establish systemwide standards to which all subdivisions are subject and that apply to all members of the retirement system or to all members similarly situated in a class. The board may establish or modify a systemwide standard at a time and in a manner the board determines to be appropriate and in the best interests of the system, the members, or their beneficiaries.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.102 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. 67, eff.
January 1, 2008.

Sec. 845.103. ADMINISTERING SYSTEM ASSETS. (a) The board of trustees may sell, assign, exchange, or trade and transfer any security in which the retirement system's assets are invested. The board may use or reinvest the proceeds as the board determines that the system's needs require.

(b) In handling the funds of the retirement system, the board of trustees has all powers and duties granted to the comptroller that formerly were granted to the State Depository 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. 55.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.14, eff. Sept. 1, 1997.

Sec. 845.104. ACCEPTING GIFT, GRANT, OR BEQUEST. The board of trustees shall accept a gift, grant, or bequest of money or securities:

(1) for the purpose designated by the grantor if the purpose provides an endowment or retirement benefits to some or all participating employees or annuitants of the retirement system; or

(2) otherwise, for deposit in the endowment fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.104 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.105. INDEBTEDNESS; PAYMENT. (a) The board of trustees may:

(1) incur indebtedness;

(2) on the credit of the retirement system, borrow money to pay expenses incident to the system's operation;

(3) renew, extend, or refund its indebtedness; or

(4) issue and sell negotiable promissory notes or negotiable bonds of the system.

(b) A note or bond issued under this section must expressly state that the note or bond is not an obligation of this state.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.105 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 48, eff. Dec. 31, 1999.

Sec. 845.106. GRANTS AND PAYMENT OF BENEFITS. The board of trustees, in accordance with this subtitle, shall consider all

applications for annuities and benefits and shall decide whether to grant the annuities and benefits. The board may suspend one or more payments in accordance with 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. 55.106 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.107. AUDITS AND REVIEWS.(a) In this section:

(1) "Audit" means an audit authorized or required by a statute of this state or of the United States or initiated or commissioned by the board of trustees. The term includes a financial audit, compliance audit, economy and efficiency audit, effectiveness audit, performance audit, risk audit, and investigation.

(2) "Audit working paper" includes all information, documentary or otherwise, prepared or maintained in conducting an audit or preparing an audit report, including:

(A) internal or external communications relating to the audit that are made or received in the course of the audit; and

(B) drafts of an audit report or portions of those drafts.

(b) Annually, or more often, the board of trustees shall have the accounts of the retirement system audited by a certified public accountant.

(c) In addition to the financial audit required by Subsection (b), the board of trustees may initiate or commission an audit or investigation of activities, functions, or operations of the retirement system as the board determines appropriate.

(d) Audit working papers prepared, maintained, or assembled by the retirement system or an agent of the system are not a record of the board of trustees for purposes of Section [845.112](#), and are confidential and excepted from the disclosure requirements of Chapter [552](#).

(e) Unless made confidential under other law, an audit report, when accepted by the board of trustees in its final form, is a record of the board and public information.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.107 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. 25, eff.
January 1, 2010.

Sec. 845.108. DESIGNATION OF AUTHORITY TO DISBURSE FUNDS.
The director is authorized to sign checks and authorize fund
transfers for payments from the assets of the retirement system.
The director may designate in writing additional persons to have
authority to sign checks and authorize fund transfers for payments
from the assets of 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. 55.108 by
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended
by Acts 1997, 75th Leg., ch. 309, Sec. 18, eff. Dec. 1, 1997.

Sec. 845.109. DEPOSITORIES. The board of trustees shall
designate financial institutions to qualify and serve the
retirement system as depositories in accordance with Subchapter C
of Chapter [404](#).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.109 and
amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1,
1989.

Sec. 845.110. ADOPTING RATES AND TABLES. (a) The board of
trustees shall adopt rates and tables that the board considers
necessary for the retirement system after considering the results
of the actuary's investigation of the mortality and service
experience of the system's members and annuitants.

(b) Based on recommendations of the actuary, the board of
trustees shall adopt rates and tables necessary to determine the
supplemental death benefits contribution rates for each
subdivision participating in the supplemental death benefits fund.
The initial rates and tables become effective on the date that the

fund and coverage become operative.

(c) On recommendation of the retirement system's actuary, the board of trustees by rule may adopt a mortality basis to be used in determining actuarial equivalents. A mortality basis adopted under this subsection may not be applied in a manner that would reduce a participant's monthly benefit that has accrued before the later of the date the mortality basis is adopted or the date the mortality basis is implemented.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 214, ch. 18, Sec. 55, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.110 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. 26, eff. January 1, 2010.

Sec. 845.111. INSURANCE. Notwithstanding any other law, the board of trustees may self-insure or purchase any insurance the board considers reasonable and prudent for the performance of board duties and prerogatives.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 68, eff. January 1, 2008.

Sec. 845.112. RECORDS OF BOARD OF TRUSTEES. (a) The board of trustees shall keep, in convenient form, data necessary for required computations and valuations by the actuary.

(b) The board shall keep a permanent record of all of its proceedings.

(c) Records of the board are open to the public.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.112 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.113. OFFICE. (a) The board of trustees shall maintain the offices of the retirement system in Austin and may, but is not required to:

(1) cause the system to own real estate on or in which those offices are located;

(2) contract for and construct a building or buildings to house those offices, along with related structures such as parking garages;

(3) lease office space from others;

(4) lease space in its offices, or in a building that previously has been its offices, to other persons or entities;

(5) maintain, modify, or construct improvements on any real estate, whether for the retirement system or a tenant; or

(6) sell real estate that previously has been the retirement system's offices.

(b) The board shall keep the books and records of the retirement system in those offices.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 215, ch. 18, Sec. 56, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.113 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 31, eff. Sept. 1, 1995.

Sec. 845.114. DEFINITION OF PARTICIPANT; OBTAINING INFORMATION. (a) In this chapter, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system.

(b) The retirement system shall obtain from participants and subdivisions information necessary for the proper operation and administration of the system.

(c) Each participant and subdivision shall timely provide to the retirement system in the form and manner specified by the system information the board of trustees determines to be necessary for the proper operation and administration of the 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. 55.114 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 23, eff.

January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 69, eff.
January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 27, eff.
January 1, 2010.

Sec. 845.115. CONFIDENTIALITY OF PARTICIPANT INFORMATION.

(a) Information contained in records in the custody of the retirement system or maintained in the custody of another governmental entity or an administrator or carrier acting in cooperation with or on behalf of the retirement system concerning a participant is confidential. Except as otherwise provided by this section, the retirement system is not required to accept or comply with a request for a record or information about a record of a participant or to seek an opinion from the attorney general because the records of a participant are exempt from the public information provisions of Chapter 552. The information may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the participant or the participant's attorney, guardian, executor, administrator, conservator, or other person who the director determines is acting in the interest of the participant or the participant's estate;

(B) a spouse or former spouse of the participant and the director determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the retirement system;

(C) a governmental official or employee and the director determines that disclosure of the information requested is reasonably necessary to the performance of the duties of the official or employee; or

(D) a person authorized by the participant in writing to receive the information; or

(2) the information is disclosed pursuant to a subpoena and the director determines that the participant will have a reasonable opportunity to contest the subpoena.

(b) This section does not prevent the disclosure of the

status or identity of an individual as a member, former member, retiree, deceased member or retiree, or beneficiary of the retirement system.

(b-1) This section does not require the retirement system to compile or disclose a list of participants' names, addresses, social security numbers, or other descriptive or demographic information.

(c) The director may designate other employees of the retirement system to make the necessary determinations under Subsection (a).

(d) A determination and disclosure under Subsection (a) may be made without notice to the participant.

(e) The records of a participant remain confidential after release to a person as authorized by this section. The records of the participant may become part of a public record of an administrative or judicial proceeding, and the participant waives the confidentiality of the records, including medical records, unless the records are closed to public access by a protective order issued under applicable law.

(f) Repealed by Acts 2009, 81st Leg., R.S., Ch. 300, Sec. 38(4), eff. January 1, 2010.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 22, eff. Aug. 26, 1991.

Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(97), eff. Sept. 1, 1995.

Amended by:

Acts 2005, 79th Leg., Ch. 574 (H.B. [1474](#)), Sec. 1, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 70, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 71, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. [407](#)), Sec. 38(4), eff. January 1, 2010.

Sec. 845.1151. ELECTRONIC INFORMATION. The retirement system may provide confidential information electronically to a participant and to a subdivision and receive information

electronically from those persons, including by use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a rule relating to the protection of confidential information.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 72, eff. January 1, 2008.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. [407](#)), Sec. 28, eff. January 1, 2010.

Sec. 845.116. ELECTRONIC TRANSFER OF FUNDS AND ELECTRONIC FILING OF DOCUMENTS. (a) In this section:

(1) "Electronic filing" means the filing of data transmitted to the retirement system by the communication of information by facsimile or in the form of digital electronic signals transformed by computer and stored on microfilm, magnetic tape, optical disks, or any other medium.

(2) "Electronic transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone instrument, computer, or magnetic media to order, instruct, or authorize a financial institution to debit or credit an account.

(b) The board of trustees may adopt rules and procedures relating to the electronic transfer of funds and the electronic filing of documents and required reports.

(c) Funds that are electronically transferred in accordance with those rules and procedures are considered to have been timely received by the retirement system. Documents and required reports that are electronically filed in accordance with those rules and procedures are considered to have been properly filed with the retirement system.

Added by Acts 1999, 76th Leg., ch. 427, Sec. 49, eff. Dec. 31, 1999.

SUBCHAPTER C. OFFICERS AND EMPLOYEES OF BOARD OF TRUSTEES

Sec. 845.201. OFFICERS. (a) The board of trustees annually shall elect from members of the board:

- (1) a chairman; and
- (2) a vice-chairman.

(b) The board may appoint the director or a member of the board as secretary.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.201 by
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.202. DIRECTOR. (a) The board of trustees shall appoint a director.

(b) The director shall manage and administer the retirement system under the supervision and direction of the board.

(c) The board of trustees may delegate to the director powers and duties in addition to those stated by Subsection (b).

(d) The director annually shall:

(1) prepare an itemized budget showing the amount required to pay the retirement system's administrative expenses for the following fiscal year; and

(2) submit the administrative budget to the board for review, amendment, and adoption.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.202 and
amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1,
1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 32, eff. Sept.
1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 19, eff. Dec. 1, 1997.

Sec. 845.203. LEGAL ADVISER. (a) The board of trustees shall appoint an attorney.

(b) The attorney shall act as the legal adviser to 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. 55.203 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. 73, eff. January 1, 2008.

Sec. 845.204. MEDICAL BOARD. (a) The board of trustees shall designate a medical board composed of three physicians.

(b) To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in the state and be of good standing in the medical profession. A physician who is eligible to participate in the retirement system may not be a member of the medical board.

(c) The medical board shall:

(1) review all medical examinations required by this subtitle;

(2) investigate essential statements and certificates made by or on behalf of a member of the retirement system in connection with an application for disability retirement; and

(3) report in writing to the board of trustees its conclusions and recommendations on all matters referred to it.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.204 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.205. OTHER PHYSICIANS. The board of trustees may employ physicians in addition to the medical board to report on special cases.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.205 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.206. ACTUARY. (a) The board of trustees shall appoint an actuary.

(b) The actuary shall perform duties in connection with advising the board concerning operation of the system's funds.

(c) At least once every five years the actuary shall:

(1) make a general investigation of the mortality and service experience of the members and annuitants of the system; and

(2) on the basis of the results of the investigation, recommend for adoption by the board required tables and rates.

(d) On the basis of tables and rates adopted by the board, the actuary shall make an annual valuation of the assets and liabilities of the retirement system and of each participating subdivision with regard to 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. 55.206 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 19, eff. Jan. 1, 1994; Acts 1997, 75th Leg., ch. 309, Sec. 20, eff. Dec. 1, 1997.

Sec. 845.207. OTHER EMPLOYEES. The board of trustees shall employ actuarial, clerical, legal, medical, and other assistants required for the efficient administration of 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. 55.207 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.208. COMPENSATION OF EMPLOYEES. The board of trustees shall determine the amount of compensation that employees of the retirement system receive.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.208 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER D. MANAGEMENT OF ASSETS

Sec. 845.301. INVESTMENT OF ASSETS.

Text of subsection effective until January 01, 2022

(a) The assets of the retirement system shall be invested and reinvested without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. For purposes of the investment authority of the board of trustees under Section 67, Article XVI, Texas Constitution, "securities" means any investment instrument within the meaning of the term as defined by Section 4, The Securities Act (Article 581-4, Vernon's Texas Civil Statutes),

15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10). An interest in a limited partnership or investment contract is considered a security without regard to the number of investors or the control, access to information, or rights granted to or retained by the retirement system. Any instrument or contract intended to manage transaction, currency exchange, or interest rate risk in purchasing, selling, or holding securities, or that derives all or substantially all of its value from the value or performance of one or more securities, including an index or group of securities, is considered to be a security. Investment decisions are subject to the standard provided in the Texas Trust Code by Section [117.004\(b\)](#), Property Code.

Text of subsection effective on January 01, 2022

(a) The assets of the retirement system shall be invested and reinvested without distinction as to their source in accordance with Section [67](#), Article XVI, Texas Constitution. For purposes of the investment authority of the board of trustees under Section [67](#), Article XVI, Texas Constitution, "securities" means any investment instrument within the meaning of the term as defined by Section [4001.068](#), 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10). An interest in a limited partnership or investment contract is considered a security without regard to the number of investors or the control, access to information, or rights granted to or retained by the retirement system. Any instrument or contract intended to manage transaction, currency exchange, or interest rate risk in purchasing, selling, or holding securities, or that derives all or substantially all of its value from the value or performance of one or more securities, including an index or group of securities, is considered to be a security. Investment decisions are subject to the standard provided in the Texas Trust Code by Section [117.004\(b\)](#), Property Code.

(a-1) Notwithstanding any provision of Chapter [551](#) or any other law, the board of trustees may discuss an investment or potential investment with one or more employees of the retirement system or with a third party to the extent permitted to the board of trustees of the Texas growth fund under Section [551.075](#).

(b) The board of trustees shall exercise control of the

investment operations by employing an investment officer, who shall supervise the investment operations for the board of trustees. The investment officer shall prepare and submit to the board for review, amendment, and adoption an itemized budget showing the amount required to pay the investment expenses of the retirement system for the following fiscal year.

(c) The board of trustees, acting on the recommendations of the investment officer, may contract with private professional investment managers to assist in investing the assets of the retirement system. The board of trustees also has the authority set forth in Section 802.204 to appoint investment managers for the retirement system, with the effect described by Section 802.203(c).

(d) The board of trustees shall employ one or more performance measurement services to evaluate and analyze the investment results of those assets of the retirement system for which reliable and appropriate measurement methodology and procedures exist. Each service shall compare investment results with the written investment objectives developed by the board of trustees and shall also compare the investment of assets being evaluated and analyzed with the investment of other public funds.

(e) The assets of the retirement system may be held in the name of agents, nominees, depository trust companies, or other entities designated by the board of trustees. The records and all relevant reports or accounts of the retirement system must show the ownership interests of the retirement system in these assets and the facts regarding the system's holdings.

(f) The board of trustees shall establish written investment objectives concerning the investment of assets of the retirement system.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 542, Sec. 7, eff. Aug. 26, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 408, Sec. 4, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 175, Sec. 20, eff. Jan. 1, 1994; Acts 1993, 73rd Leg., ch. 858, Sec. 3, eff. June 18, 1993; Acts 1995, 74th Leg., ch. 245, Sec. 33, eff. May 27, 1995;

Acts 1997, 75th Leg., ch. 309, Sec. 21, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 50, eff. Dec. 31, 1999; Acts 2003, 78th Leg., ch. 1103, Sec. 13, eff. Jan. 1, 2004; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 15.01, eff. Jan. 11, 2004.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 74, eff. January 1, 2008.

Acts 2019, 86th Leg., R.S., Ch. 491 (H.B. [4171](#)), Sec. 2.23, eff. January 1, 2022.

Sec. 845.302. CUSTODY AND INVESTMENT OF ASSETS PENDING TRANSACTIONS. The board of trustees, in the exercise of its discretion to manage the assets of the retirement system, may select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's cash or securities pending completion of an investment transaction and may authorize the custodian to invest the cash so held in such short-term securities as the board of trustees determines.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.302 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 34, eff. May 27, 1995.

Sec. 845.303. SECURITIES LENDING. (a) The board of trustees, in the exercise of its discretion to manage the assets of the retirement system, may select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's securities and to lend the securities under rules adopted by the board of trustees and as required by this section.

(b) To be eligible to lend securities under this section, a bank or brokerage firm must:

(1) be experienced in the operations of a fully secured securities lending program;

(2) maintain capital adequate in the prudent judgment of the retirement system to assure the safety of the securities;

(3) execute an indemnification agreement satisfactory

in form and content to the retirement system; and

(4) require any securities broker or dealer to whom it lends securities belonging to the retirement system to deliver to and maintain with the custodian collateral in the form of cash or United States government securities, the market value of which must equal not less than 100 percent of the market value, from time to time, of the loaned securities.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 35, eff. May 27, 1995.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 75, eff. January 1, 2008.

Sec. 845.305. CREDITING SYSTEM ASSETS. (a) The retirement system shall deposit all receipts with a depository designated under Section 845.109 or a custodian designated under Section 845.302.

(b) All assets of the pension trust of the retirement system shall be credited according to the purpose for which they are held to one of the following funds:

- (1) employees saving fund;
- (2) subdivision accumulation fund;
- (3) closed subdivision annuity reserve fund;
- (4) income fund;
- (5) endowment fund; or
- (6) expense fund.

(c) Amounts contributed by a subdivision to provide benefits under the optional group term life program for its participating employees and retirees shall be deposited to the optional group term life fund and maintained by the board of trustees as the optional group term life trust.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 215, ch. 18, Sec. 57, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.305 and amended by Acts 1989, 71st Leg., ch. 179, Sec.

1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 22, eff. Dec. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 24, eff. January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 76, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 29, eff. January 1, 2010.

Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 5, eff. June 1, 2015.

Sec. 845.306. EMPLOYEES SAVING FUND.

(a) The retirement system shall deposit in a member's individual account in the employees saving fund:

(1) the amount of contributions to the retirement system deducted from the member's compensation;

(2) interest allowed in accordance with this subtitle;

(3) the contribution made by a member in an amount equal to the amount withdrawn to reinstate service credit under Section 843.003;

(4) the amount deposited by a member in accordance with Section 843.0031; and

(5) the amount contributed by a member in accordance with Section 843.601(b) to establish current service credit for military service under the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.).

(b) The retirement system shall establish and maintain a separate member individual account for each subdivision with which the member has credited service.

(c) On December 31 of each year, the retirement system shall credit to each member's individual account interest as allowed by this subtitle on the amount of accumulated contributions credited to the member's account on January 1 of that year.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 215, ch. 18, Sec. 58, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title

110B, Sec. 55.306 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 24, eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 427, Sec. 51, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 46, eff. Dec. 31, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 25, eff. January 1, 2006.

Sec. 845.307. SUBDIVISION ACCUMULATION FUND. (a) The retirement system shall credit or charge to the account of a participating subdivision in the subdivision accumulation fund:

(1) all benefit contributions made by the subdivision to the system pursuant to Section 845.404(a)(2);

(2) net investment income or loss allocated to the fund under Section 845.315;

(3) amounts deposited by the subdivision under Section 845.408;

(4) the withdrawal charge for reinstatement of service credit as provided by Section 843.003; and

(5) other credits and charges that may be authorized under this subtitle.

(b) Subject to Subsection (c), the retirement system shall pay from the subdivision accumulation fund all payments for annuities and other benefit payments granted by a participating subdivision.

(c) The board of trustees may proportionately reduce all payments under prior service annuities and supplemental annuities at any time and for a period necessary to prevent payments under those annuities for a year from exceeding the amount available in the participating subdivision's account.

(d) If credited service previously forfeited is reinstated in accordance with Section 843.003, the retirement system shall charge the subdivision's account in the subdivision accumulation fund with the necessary reserves to fund the credits restored to the member.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1981, 67th Leg., 1st C.S., p. 216, ch. 18, Sec. 59, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 491, Sec. 25, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.307 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 25, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 309, Sec. 23, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 52, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 47, eff. Dec. 31, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 26, eff. January 1, 2006.

Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 6, eff. June 1, 2015.

Sec. 845.308. CLOSED SUBDIVISION ANNUITY RESERVE FUND.

(a) The retirement system shall deposit and hold in the closed subdivision annuity reserve fund all reserves for annuities payable to annuitants who were members of subdivisions that terminated participation with the retirement system under Subchapter A-1, Chapter 842.

(b) The retirement system shall pay from the closed subdivision annuity reserve fund annuities described by Subsection (a) and all benefits in lieu of those annuities as provided by 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. 55.308 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 7, eff. June 1, 2015.

Sec. 845.309. INCOME FUND. (a) The income fund shall account for the determination and allocation of net investment income or loss.

(b) Net investment income or loss will be determined annually as of December 31.

(c) Net investment income or loss will be allocated each year in accordance with Section [845.315](#).

(d) Repealed by Acts 2005, 79th Leg., Ch. 506, Sec. 33(14), eff. January 1, 2006.

(e) Repealed by Acts 2005, 79th Leg., Ch. 506, Sec. 33(14), eff. January 1, 2006.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.309 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 24, eff. Dec. 1, 1997; Acts 2003, 78th Leg., ch. 621, Sec. 31, eff. Jan. 1, 2004. Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. [633](#)), Sec. 27, eff. January 1, 2006.

Acts 2005, 79th Leg., Ch. 506 (H.B. [633](#)), Sec. 33(14), eff. January 1, 2006.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. [407](#)), Sec. 30, eff. January 1, 2010.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. [407](#)), Sec. 31, eff. January 1, 2010.

Sec. 845.310. ENDOWMENT FUND.

(a) The endowment fund consists of the general reserves account and other accounts as necessary.

(b) Repealed by Acts 2005, 79th Leg., Ch. 506, Sec. 33(15), eff. January 1, 2006.

(c) The retirement system shall credit or charge to the general reserves account amounts allocated to the endowment fund in accordance with Section [845.315](#).

(c-1) As of December 31, the board of trustees shall provide from the general reserves account the amount needed to pay the retirement system's estimated operating expenses for the next fiscal year.

(d) The board of trustees may allocate any amount in the endowment fund to any other account or fund in the pension trust.

(e) Any allocation of reserves to an account of a subdivision to which Section [842.052](#), [842.053](#), or [845.317](#) applies

must be specifically authorized by board resolution.

(f) Repealed by Acts 2005, 79th Leg., Ch. 506, Sec. 33(15), eff. January 1, 2006.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.310 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 23, eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 245, Sec. 36, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 25, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 53, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 48, eff. Dec. 31, 2001.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 28, eff. January 1, 2006.

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 33(15), eff. January 1, 2006.

Sec. 845.311. EXPENSE FUND. The expense fund shall account for the administrative revenues and expenses of 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. 55.311 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 26, eff. Dec. 1, 1997.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 29, eff. January 1, 2006.

Sec. 845.312. OPTIONAL GROUP TERM LIFE FUND. (a) The retirement system shall deposit in the optional group term life fund contributions paid by subdivisions to the retirement system to provide optional group term life benefits in accordance with Section 845.406. The retirement system may not establish separate accounts in the fund for subdivisions participating in the optional group term life program but shall credit contributions to a single account.

(b) The retirement system shall pay benefits under the optional group term life program only from money in the optional group term life fund, and the benefits are not an obligation of other funds of the system.

(c) The effective participation date of a subdivision is the first day of any calendar month after the month in which the subdivision notifies the board of its election to enter the fund.

Added by Acts 1981, 67th Leg., 1st C.S., p. 216, ch. 18, Sec. 60, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.3111 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 54, eff. Dec. 31, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 77, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 78, eff. January 1, 2008.

Sec. 845.313. DISBURSEMENTS. (a) Disbursements from the assets of the retirement system may be made by check, electronic funds transfer, or any other means generally available within the banking industry and must be signed or otherwise authorized by a person designated for that purpose in accordance with Section [845.108](#).

(b) When a check or fund transfer is properly signed or otherwise authorized, a depository with which assets of the system are deposited shall accept and pay the check or complete the fund transfer. The depository is released from liability for payment made on the check or authorized fund transfer.

(c) The retirement system shall make payments by electronic funds transfer to annuitants whose first annuity payment under this subtitle occurs after January 1, 2002, except that the system may make payment by check to an annuitant if making the payment by electronic funds transfer would be impractical for the system or if the annuitant properly notifies the system that:

(1) receiving the payment by electronic funds transfer would be impractical for the person;

(2) receiving the payment by electronic funds transfer would be more costly to the person than receiving the payment by check; or

(3) the person is unable to establish a qualifying account at a financial institution to receive electronic funds transfers.

(d) If payment by check to an individual would be, or has become, impractical, insecure, or proportionally more costly for the retirement system than payment by check to other persons, the system may hold or suspend any payment and require the individual to accept payment by another means or method that is practical, secure, and cost-effective.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.312 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 27, eff. Dec. 1, 1997; Acts 2001, 77th Leg., ch. 122, Sec. 49, eff. Dec. 31, 2001. Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 79, eff. January 1, 2008.

Sec. 845.314. INTEREST RATES. Unless this subtitle expressly states another specified rate of interest, for periods beginning after December 31, 1996, the annual rate of interest is seven percent.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 217, ch. 18, Sec. 61, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 491, Sec. 26, 27, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.313 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 26, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 245, Sec. 37, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 28, eff. Dec. 1, 1997.

Amended by:

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

Sec. 845.315. ANNUAL ALLOCATION OF NET INVESTMENT INCOME OR LOSS. (a) As of December 31 of each year, the board of trustees shall make the following allocations that in the aggregate equal the net investment income or loss for the year:

(1) to the closed subdivision annuity reserve fund, interest as allowed under this subtitle on the mean amount in the closed subdivision annuity reserve fund during that year;

(2) to the optional group term life fund, interest as allowed under this subtitle on the mean amount in the optional group term life fund during that year;

(3) to the general reserves account of the endowment fund, a positive or negative amount determined by the board;

(4) to the employees saving fund, current interest as allowed under this subtitle on the member account balances on January 1 of that year of all persons who are members on December 31 of that year;

(5) to the accounts of subdivisions, other than subdivisions otherwise described by this section, positive or negative amounts as determined under rules adopted by the board prescribing the allocation methodology for the accounts; and

(6) to the accounts of subdivisions to which Section [842.052](#) or [842.053](#) applies, positive or negative amounts as determined by the board, and if a subdivision terminates participation before December 31 of that year, the board shall determine the allocation amount and transfer date before December 31 of that year.

(b) The account of a subdivision that has ceased participation according to Section [845.317](#)(a) will not receive an allocation under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 217, ch. 18, Sec. 62, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.314 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 27, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 309, Sec. 29, 33, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 55, eff.

Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 50, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 32, eff. Jan. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 30, eff. January 1, 2006.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 32, eff. September 1, 2009.

Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 8, eff. June 1, 2015.

Sec. 845.316. TRANSFER OF ASSETS ON RETIREMENT.

(a) When a member retires, the retirement system shall transfer from the employees saving fund to the subdivision accumulation fund, the member's accumulated contributions.

(b) When a member retires from a subdivision that has terminated participation with the retirement system under Subchapter A-1, Chapter 842, the retirement system shall transfer the member's individual account to the closed subdivision annuity reserve fund.

(c) Repealed by Acts 2007, 80th Leg., R.S., Ch. 873, Sec. 92(30), eff. January 1, 2008.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 217, ch. 18, Sec. 63, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.315 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 28, eff. Aug. 26, 1992; Acts 2001, 77th Leg., ch. 122, Sec. 51, eff. Dec. 31, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 81, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 82, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 92(30), eff. January 1, 2008.

Acts 2015, 84th Leg., R.S., Ch. 303 (S.B. 463), Sec. 9, eff. June 1, 2015.

Sec. 845.317. PAYMENT TO FORMERLY PARTICIPATING SUBDIVISION. (a) If a participating subdivision, other than a subdivision described by Subsection (b), has no employees who are members of the retirement system and has no present or potential liabilities resulting from the participation of former employees, the subdivision's participation in the system stops and the system shall repay to the subdivision on application any amount in the subdivision accumulation fund that is credited to the subdivision.

(b) If the participation of a subdivision has terminated under Section 842.052 or 842.053 and the subdivision has no present or potential liabilities resulting from the participation of current or former employees, the retirement system, after application by the subdivision or its governmental successor in interest, shall pay to the subdivision or its governmental successor any remaining credit to the account of the subdivision in the subdivision accumulation fund.

(c) A subdivision that has terminated participation in the retirement system has no right or claim to any amounts in the system, except as provided by this section.

(d) If a participating subdivision has ceased to exist and diligent efforts by the retirement system to identify a governmental entity as the successor in interest to the subdivision have been unsuccessful, the board of trustees may close the subdivision's account and transfer the remaining credit to the endowment fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.316 by
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 30, eff.
January 1, 2006.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 83, eff.
January 1, 2008.

Sec. 845.318. CONSOLIDATION OF COUNTY'S ACCOUNTS IN SUBDIVISION ACCUMULATION FUND; RETURN OF EXCESS FUNDS. (a) If a

county that has provided for participation of county hospital employees separately from other county employees stops operating a county hospital, the commissioners court of the county, by order, may direct the retirement system to consolidate the separate accounts of the county in the subdivision accumulation fund.

(b) The retirement system shall consolidate the accounts and after consolidation shall charge each obligation of the county arising under this subtitle because of service performed by employees of the county against the consolidated account.

(c) If the participation of a county hospital as a subdivision separate from other county employees is terminated under this subtitle, the retirement system shall pay to the county any excess funds remaining in the subdivision accumulation fund to the credit of the account of the county hospital.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.317 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. 84, eff.
January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 85, eff.
January 1, 2008.

SUBCHAPTER E. COLLECTION OF CONTRIBUTIONS

Sec. 845.402. MEMBER CONTRIBUTIONS. (a) Each participating subdivision, by order or resolution of its governing body, shall designate the rate of member contributions for its employees. The subdivision may elect a rate of four, five, six, or seven percent of the current service compensation of its employees.

(b) After timely notice to the board of trustees, the governing body of a participating subdivision may increase the rate of its member contributions effective with the first pay period beginning in the following calendar year.

(c) After timely notice to the board of trustees, the governing body of a participating subdivision may reduce the rate of its member contributions effective with the first pay period

beginning in the following calendar year.

(d) to (f) Repealed by Acts 1997, 75th Leg., ch. 309, Sec. 33, eff. Dec. 31, 1997.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 28, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 29, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 309, Sec. 30, 33, eff. Dec. 1, 1997; Acts 2003, 78th Leg., ch. 621, Sec. 33, eff. Jan. 1, 2004.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 33, eff. January 1, 2010.

Sec. 845.403. COLLECTION OF MEMBER CONTRIBUTIONS. (a) Each payroll period after the effective date of a subdivision's participation, the subdivision shall cause the contribution for that period to be deducted from the compensation of each member that it employs.

(b) Repealed by Acts 1991, 72nd Leg., ch. 460, Sec. 30, eff. August 26, 1991.

(c) Repealed by Acts 2005, 79th Leg., Ch. 506, Sec. 33(16), eff. January 1, 2006.

(d) A participating subdivision shall certify to the board of trustees on each payroll, or in another manner prescribed by the board, the amount to be deducted from the compensation of each member that it employs.

(e) Each participating subdivision shall:

(1) make deductions from each member's compensation for contributions to the retirement system;

(2) transmit monthly, or at the time designated by the board of trustees, the payroll and other pertinent information prescribed by the board; and

(3) pay the deductions to the board of trustees at the board's home office.

(f) After the deductions for member contributions are paid, the board of trustees shall:

(1) record all receipts; and

(2) deposit the receipts to the credit of the employees saving fund.

(g) The participating subdivision shall make the deductions required by this section even if the member's compensation is reduced below the amount equal to the minimum compensation provided by law.

(h) By becoming a member of the retirement system, a member consents to the deductions required by this section. The payment of compensation less those deductions is a complete release of all claims, except benefits provided by this subtitle, for services rendered by the member during the payroll period.

(i) Each participating subdivision shall pick up the employee contributions required of each member by Section 845.402 and this section for all compensation earned after December 31, 1985, and shall pay these picked-up employee contributions from the same source of funds used in paying earnings to the employee. The participating subdivision may pick up these contributions by a reduction in the cash salary of the employee or by an offset against a future salary increase or by a combination of a reduction in salary and offset against a future salary increase; unless it is otherwise determined by the governing body of the participating subdivision, the pick-up shall be accomplished by a corresponding reduction in the cash salary of the employee.

(j) Contributions picked up as provided by Subsection (i) shall be treated as employer contributions in determining tax treatment of the amounts under Section 414(h) of the United States Internal Revenue Code of 1986. Each employee contribution that is picked up shall be deposited as provided in Section 845.306 to the individual account of the member, on whose behalf the contribution is made, and shall be treated for all other purposes of this subtitle in the same manner as if the amount had been deducted from the compensation of and made by the employee pursuant to Sections 845.402 and this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 29, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.403

and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 30, eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 427, Sec. 57, eff. Dec. 31, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 31, eff. January 1, 2006.

Acts 2005, 79th Leg., Ch. 506 (H.B. 633), Sec. 33(16), eff. January 1, 2006.

Sec. 845.4031. CONTRIBUTIONS IN ANTICIPATION OF PARTICIPATION. (a) After a subdivision has officially elected to join the retirement system and has specified the date for its participation to begin, and before the board of trustees has approved its participation, the subdivision may, with the consent of the director, begin deducting from an employee's compensation for each payroll period beginning on or after the specified participation date the contribution that would be deducted if the subdivision were then participating.

(b) The subdivision shall collect and segregate the amounts deducted from its employees' compensation and the contributions that the subdivision would be required to make under this subtitle if it were then participating.

(c) The period during which contributions may be deducted from an employee's compensation in anticipation of board approval of participation may not exceed six months and may not extend into a subsequent calendar year without consent of the board of trustees. During the period that board approval is pending, the subdivision may not participate in, and the subdivision's employees may not be covered by, the optional group term life program.

(d) On approval of participation, the subdivision shall immediately transfer to the retirement system, for credit to the appropriate funds within the system, the amounts collected and segregated under Subsection (b). If the subdivision previously elected to participate in the optional group term life program, participation in that program begins on the first day of the month following the month in which the board of trustees approves

participation in the system.

(e) If the board of trustees disapproves the subdivision's participation in the retirement system, the subdivision shall pay all employee contributions collected and segregated in anticipation of board approval to the employees from whom the contributions were withheld.

Added by Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 86, eff. September 1, 2007.

Sec. 845.404. COLLECTION OF SUBDIVISION CONTRIBUTIONS. (a) Before the 16th day of each month, each participating subdivision shall pay or cause to be paid to the retirement system at the system's office:

(1) the member contributions, or "picked-up" member contributions, provided for by Sections [845.402](#) and [845.403](#), which shall be deposited to the individual accounts of the members; and

(2) the contributions that a subdivision is required to make under this subtitle, which shall be deposited to the account of the subdivision in the subdivision accumulation fund.

(b) Unless otherwise provided for and paid by a subdivision, a subdivision shall pay its contributions to the retirement system from:

(1) the fund from which compensation is paid to members; or

(2) the general fund of the subdivision.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 30, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.404 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 58, eff. Dec. 31, 1999.

Sec. 845.405. ALTERNATIVE PERIODS FOR ADMINISTRATIVE COMPLIANCE. (a) Notwithstanding any other provision of this subtitle, the board of trustees may authorize a subdivision to remit to the retirement system contributions, deposits, and other payments on the basis of a period that is less than a month,

including a weekly, biweekly, or other semimonthly period. A subdivision authorized to remit amounts more frequently than monthly shall make reports and filings and perform other actions accordingly, and the retirement system shall credit payments accordingly.

(b) The board of trustees may make an authorization under Subsection (a) by rule applicable to all subdivisions similarly situated or by order applicable to designated subdivisions. A rule adopted under this subsection is amendable or revocable in the manner provided for adoption, amendment, or repeal of rules generally. An order adopted under this subsection is revocable wholly or partly by subsequent board order.

(c) If the board of trustees adopts a rule or order under Subsection (b), the board shall also adopt rules, applicable to a subdivision electing or designated to take actions described by this section more frequently than monthly, to alter the periods required for submission of payments and reports, including the period when a late penalty begins to accrue or is deducted from a subdivision's account in the subdivision accumulation fund, in a manner consistent with the periods provided by this subtitle.

(d) A participant may not receive less credited service, service credit, or benefits due to an authorization under this section than the participant would have received on a monthly basis.

Added by Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 34, eff. January 1, 2010.

Sec. 845.406. OPTIONAL GROUP TERM LIFE PROGRAM. (a) In addition to other contributions to the retirement system required by this subtitle, each subdivision participating in the optional group term life program monthly shall pay to the optional group term life fund an amount equal to the rate of contribution computed in accordance with this section, multiplied by the total compensation for the month of the members employed by the subdivision.

(b) A limitation on subdivision contribution rates provided by this subtitle does not apply to the rate of the contribution to the optional group term life fund.

(c) At the time of each investigation of members' mortality and service experience required by Section 845.110, the actuary shall investigate the mortality experience of the members and eligible annuitants participating in the program. On the basis of the result of that investigation, the actuary shall recommend to the board of trustees rates and tables necessary to determine optional group term life program contribution rates. The rates and tables may provide for the anticipated mortality experience of the persons covered under the program and for a contingency reserve.

(d) Before a subdivision's participation date in the program and before January 1 of each subsequent year, the actuary shall compute, on the basis of rates and tables adopted by the board of trustees, the contribution rate of a subdivision participating in the program. The rate must be expressed as a percentage of the compensation of members employed by the subdivision. When the rate is approved by the board of trustees, the rate is effective for the calendar year for which it was approved.

(e) The board of trustees, in the exercise of its discretion to manage the assets of the retirement system, may lend money to the optional group term life fund if the amount in the fund is insufficient to pay the benefits due. Any loan is an investment of the retirement system and must be repaid solely from future contributions to the fund and its share of trust earnings. The terms of the loan shall be set by the board of trustees, but the loan must bear a commercially reasonable interest rate. The board may adjust future contributions to the fund for purposes of repayment of the loan.

(f) To protect against adverse claim experience, the board of trustees may secure reinsurance from one or more stock insurance companies doing business in this state if the board determines that reinsurance is necessary. The retirement system shall pay the premiums for reinsurance from the optional group term life fund.

Added by Acts 1981, 67th Leg., 1st C.S., p. 217, ch. 18, Sec. 64, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.406 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 59, eff. Dec. 31, 1999.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 87, eff. January 1, 2008.

Sec. 845.407. PENALTY FOR LATE CONTRIBUTIONS. (a) Except as provided by Subsections (c), (d), and (e), a participating subdivision that fails to provide the information required by Section 845.403 or to pay all contributions required by this subchapter to be made and remitted to the retirement system not later than the 15th day of the month in which they become due shall pay a penalty under this section. The penalty for a past-due monthly remission is equal to interest on the past-due amounts for each day past due at a nominal interest rate of 12 percent, plus a \$500 administrative fee. If the penalty is not paid within three months after the date notice of the penalty has been sent to the subdivision, the retirement system shall deduct the penalty from the subdivision's account in the subdivision accumulation fund. The interest portion of the penalty shall be deposited by the retirement system in the distributable income account of the income fund. The administrative fee portion of the penalty shall be deposited by the retirement system in the expense fund.

(b) Payments and required reports are considered to be made when received by the retirement system.

(c) A penalty will not be assessed under this section for a late payment or report made in a document sent to the correct address:

(1) by certified mail, return receipt requested, not later than the 10th day of the month in which the payment or report becomes due; or

(2) using a same-day or overnight delivery method, approved by the board of trustees, not later than the 14th day of the month in which the payment or report becomes due.

(d) If the retirement system does not receive a payment or report, a penalty will not be assessed under this section if the subdivision provides proof satisfactory to the system that the document containing the payment or report was sent in accordance with Subsection (c).

(e) The retirement system may extend the due date provided by this section if a subdivision applies for an extension before the due date and the director determines that good cause exists for the extension and that the need for the extension is not caused by neglect, indifference, or lack of diligence.

Added by Acts 1999, 76th Leg., ch. 427, Sec. 60, eff. Dec. 31, 1999.

Amended by Acts 2001, 77th Leg., ch. 122, Sec. 52, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 34, eff. Jan. 1, 2004.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. 407), Sec. 35, eff. January 1, 2010.

Sec. 845.408. ADDITIONAL OPTIONAL DEPOSITS BY SUBDIVISIONS. In addition to the deposits that a subdivision is required to make under this subtitle, the governing body of a participating subdivision may elect to deposit to the subdivision's account in the subdivision accumulation fund one or more lump-sum payments. Once a payment is deposited, it cannot be withdrawn from that fund by the subdivision.

Added by Acts 1999, 76th Leg., ch. 427, Sec. 61, eff. Dec. 31, 1999.

SUBCHAPTER F. MISCELLANEOUS ADMINISTRATIVE PROCEDURES

Sec. 845.501. STATEMENT OF AMOUNT IN ACCOUNT. (a) As soon as possible after the end of each calendar year, the board of trustees shall send to the governing body of each subdivision and to each requesting member an annual statement that contains the basic financial statements of the retirement system.

(b) The board of trustees shall furnish to a member, on written request, a statement of the amount credited to the member's individual account. During a calendar year, the board is not required to furnish to a member more than one statement requested under this subsection.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 55.501 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 31, eff. Dec. 1, 1997.

Sec. 845.502. INTEREST IN ASSETS. A particular person or subdivision has no right in a specific security or in an item of cash other than an undivided interest in the assets of 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. 55.502 by
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 845.503. AUTHORITY TO RECOUP OR MAKE ADJUSTMENTS FOR PAYMENTS MADE IN ERROR. (a) The retirement system may reduce future payments of benefits based on the account of a member, a retiree, or other former member to recoup an amount overpaid or otherwise paid in error to or on the behalf of a participant. If no future payments are due, the retirement system may recover the overpayment in any manner that is permitted for the collection of any other debt.

(b) The retirement system may not recover from a participant any overpayment made more than three years before the date the overpayment is discovered. This subsection does not apply to an overpayment a reasonable person should know the person is not entitled to receive.

(c) The retirement system may adjust amounts in a subdivision's account in the subdivision accumulation fund to correct an error caused by an act or omission of the subdivision.
Added by Acts 2003, 78th Leg., ch. 621, Sec. 35, eff. Jan. 1, 2004.
Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 88, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. 300 (H.B. [407](#)), Sec. 36, eff. January 1, 2010.

Sec. 845.504. EXCESS BENEFIT PROGRAM. (a) If the board of trustees determines that it is in the interest of the retirement system and will benefit members and annuitants, the board by rule may establish an excess benefits program for the payment of benefits under Section 415(m) of the Internal Revenue Code of 1986,

and its subsequent amendments, that would otherwise be barred by the limitation on benefits imposed by Section 415 of that code.

(b) Notwithstanding any other provision of this subtitle, the board of trustees by rule may provide for the transfer of contributions as part of the excess benefits program in a manner consistent with a governmental excess benefit arrangement.

Added by Acts 2003, 78th Leg., ch. 621, Sec. 35, eff. Jan. 1, 2004.

Sec. 845.505. UNDISTRIBUTED BENEFITS. (a) If a person's membership in the retirement system has terminated and a valid application for a retirement annuity or a refund of accumulated contributions has not been filed with the retirement system, the retirement system shall mail the notice described by Subsection (b) to the most recent address of the former member as shown on system records and make reasonable efforts to locate any person entitled to apply for the benefit.

(b) A notice under this section must include the name of the former member, the name of each subdivision with which the former member has an individual account, a statement that no additional interest is credited after a membership has terminated, a statement that a benefit is payable, and a statement of the procedure for obtaining payment of that benefit.

(c) If a person files with the retirement system a valid application for an annuity based on a membership that terminated under Section [842.109\(b\)](#), the retirement system shall pay an annuity computed as of the former member's effective retirement date as determined under that section.

(d) An applicant who is a former member may select the standard retirement annuity or an optional retirement annuity under Section [844.0041\(c\)](#) or (d). An applicant who is the surviving beneficiary or the personal representative of a deceased former member may select an annuity payable in a form authorized by the board of trustees under Section [844.407](#). All annuity payments that previously would have been paid if the annuity had begun on the effective retirement date will be paid to the applicant.

(e) If a person files with the retirement system a valid application for a refund of a former member's accumulated

contributions or a valid application for a benefit payable under the optional group term life program, the retirement system shall pay to the applicant the portion of the former member's accumulated contributions or the portion of the optional group term life benefits to which the applicant is entitled.

(f) If a person eligible to receive a benefit fails to provide accurate and verifiable information regarding the identity, age, taxpayer identification number, or residential address of the person or the person's beneficiary, the retirement system may hold or delay payment of any benefit until the information is provided. If a person receiving an annuity fails to negotiate two or more annuity payments, fails to respond to a written request for information relevant to the annuitant's continuing right to receive benefits or relevant to the responsibility of the system to report accurately the distribution under federal or state law, fails to provide the system with an address for the delivery of a benefit that is safe and secure from loss, theft, or misdelivery, or fails in any other manner that interferes with or impedes the efficient administration of the system, the system may suspend and hold all benefit payments until the failure is corrected.

(f-1) If there is a continuation of an optional annuity, the retirement system shall pay to the person receiving the continuing annuity any amount held by the system to which the deceased person was entitled. If the annuity terminates with the death of the person, any amount held by the retirement system to which a deceased person was entitled is payable under rules and procedures adopted by the board of trustees.

(g) If a benefit becomes payable as the result of the death of a person receiving an annuity, the retirement system shall mail a notice similar to the notice described by Subsection (b) to the most recent address of the decedent's beneficiary as shown on system records and make reasonable efforts to locate each person to whom the benefit is payable. After receipt of a valid application, the retirement system shall pay the applicant the benefit to which the applicant is entitled. All annuity payments that would previously have been paid if the annuity had begun on the date required under

this subtitle will be paid to the applicant.

(h) A person entitled to a benefit under this section is solely responsible for a tax or penalty relating to the distribution of the benefit without regard to whether the person received notice from the retirement system.

(i) The board of trustees may adopt rules concerning the notice, distribution, management, transfer, and administration of unclaimed, held, delayed, and suspended benefits, the authority of an applicant to act as trustee of an absent beneficiary in the selection of a payment option or receipt of an absent beneficiary's benefit under this section, and the distribution of benefits to an alternate payee under a qualified domestic relations order with respect to a terminated membership.

Added by Acts 1997, 75th Leg., ch. 309, Sec. 32, eff. Dec. 1, 1997.

Amended by Acts 1999, 76th Leg., ch. 427, Sec. 62, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 53, eff. Dec. 31, 2001.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 89, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. [1587](#)), Sec. 90, eff. January 1, 2008.

Sec. 845.506. APPEAL OF ADMINISTRATIVE DECISION. (a) A decision of the retirement system is final and conclusive unless an appeal is filed in writing with the system by regular mail or electronic filing, as that term is defined by Section [845.116](#)(a)(1), not later than the 90th day after the earlier of the date the person subject to the decision receives notice of the decision by any means or the date the system files notice of its decision with the person by regular mail or electronic means.

(b) A person may appeal a decision to the board of trustees if the person is aggrieved by a decision of the retirement system relating to the system or any program administered by the system under this subtitle:

(1) denying or limiting membership, service credit, or eligibility for or the amount of benefits payable by the system; or

(2) regarding to whom benefits should be paid under

the system or program.

(c) The director or the director's designee may refer an appeal made under Subsection (a) to the State Office of Administrative Hearings for a hearing or employ, select, or contract for the services of an administrative law judge or hearing examiner not affiliated with the State Office of Administrative Hearings to conduct a hearing. This subsection prevails over any other law to the extent of any conflict.

(d) An appeal under this section is considered to be a contested case under Chapter 2001. The appellant in a contested case under this section has the burden of proof on all issues, including issues in the nature of an affirmative defense.

(e) The board of trustees may in its sole discretion make a final decision on a contested case under this section. Notwithstanding any other law, the board may in its sole discretion modify, refuse to accept, or delete any proposed finding of fact or conclusion of law contained in a proposal for decision submitted by an administrative law judge or other hearing examiner, or make alternative findings of fact and conclusions of law, in a proceeding considered to be a contested case under Chapter 2001. The board shall state in writing the specific reason for its determination and may adopt rules for the implementation of this subsection. The board may delegate its authority under this subsection to the director.

(f) Notwithstanding Subsections (d) and (e), the retirement system and a person aggrieved by a decision of the system may at any time informally negotiate an award of benefits. Negotiated benefits may not exceed the maximum benefits otherwise available or required by law.

(g) A final decision of the board of trustees in a contested case under this section is subject to judicial review under Chapter 2001. The standard of review is by substantial evidence. Venue of the appeal is only in a district court in Travis County.

Added by Acts 1997, 75th Leg., ch. 309, Sec. 32, eff. Dec. 1, 1997.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 873 (H.B. 1587), Sec. 91, eff. January 1, 2008.

Sec. 845.507. QUALIFICATION. It is intended that this subtitle be construed and administered in a manner that the retirement system will be considered qualified under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401). The board of trustees may adopt rules that it determines necessary for the retirement system to be considered qualified. Rules adopted by the board of trustees relating to qualification issues are considered a part of the plan.

Added by Acts 1997, 75th Leg., ch. 309, Sec. 32, eff. Dec. 1, 1997.