

GOVERNMENT CODE

TITLE 8. PUBLIC RETIREMENT SYSTEMS

SUBTITLE G. TEXAS MUNICIPAL RETIREMENT SYSTEM

CHAPTER 851. GENERAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 851.001. DEFINITIONS. In this subtitle:

(1) "Accumulated contributions" means the sum of all contributions made by a member and credited to the member's individual account, plus interest allowed on the account as provided by this subtitle.

(2) "Actuarial equivalent" means a benefit that, at the time it is entered upon, has the same present value as the benefit it replaces, based on interest and on a mortality table recommended by the actuary and adopted by the board of trustees.

(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) "Annuity reserve" means the present value, computed on the basis of annuity or mortality tables adopted by the board of trustees, with interest, of all payments to be made under an annuity.

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

(6) "Compensation" means the sum of payments made to an employee for performance of personal services, as certified on a written payroll of an employing department, that does not exceed any rate of compensation fixed by a governing body as the maximum salary on which member contributions to the retirement system may be based and does not exceed the amount established by board rule, which may not exceed the limit provided by Section 401(a)(17) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), as indexed in the manner provided by that section, and includes amounts by which payment for earnings is reduced by reason of:

(A) employer pick-up of employee contributions to the retirement system under Section [855.402\(j\)](#);

(B) deferral of compensation under benefit plans adopted by the employer pursuant to Section 401(k) or 457 of the Internal Revenue Code of 1986 (26 U. S.C. Sections 401, 457);

(C) cost of benefits furnished under qualified cafeteria plans adopted by the employer pursuant to Section 125 of the Internal Revenue Code of 1986 (26 U.S.C. Section 125);

(D) cost of tax-sheltered annuities acquired for the employee under Section 403(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 403); and

(E) deductions for Federal Insurance Contribution Act taxes, federal income taxes, or other obligations of the employee.

(7) "Department" means a recognized division performing a governmental or proprietary function of a municipality.

(8) "Employee" means a person, including a person serving a period of probationary employment, who receives compensation from and is certified by a municipality as being regularly engaged in the performance of duties of:

(A) an appointive office or position that normally requires services from the person for not less than 1,000 hours a year; or

(B) an elective office that normally requires services from the person for not less than 1,000 hours a year, in a municipality that began participating in the retirement system after December 31, 1981, or that has adopted a membership requirement under Section [852.107](#).

(9) "Municipality" means any incorporated city or town in this state.

(10) "Rate of compensation" means the rate at which payments to an employee are computed, as certified by the employing municipality, converted into compensation for any period on the assumption that 2,400 hours, 300 days, 52 weeks, 12 months, and 1 year are equivalents.

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

(12) "Retirement system" means the Texas Municipal

Retirement System.

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

(14) "Credited service" means the number of months of prior and current service ascribed to a member in the retirement system or included in a prior service certificate in effect for the member.

(15) "Amortization period" means, as to a particular municipality, the time ending with the later of:

(A) the expiration of 25 years after the effective date of the municipality's participation in the retirement system;

(B) the expiration of 25 years after the most recent actuarial valuation date for the municipality; or

(C) the period determined under Section [855.407\(h\)](#).

(16) "Member" means a person for whom an individual account has been established in the retirement system and whose membership has not terminated under Section [852.104](#).

(17) "Beneficiary" means a person designated by a member, annuitant, or by statute to receive a benefit payable under this subtitle as a result of the death of a member or annuitant.

(18) "Director" means the person appointed executive director under Section [855.201](#).

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

(20) "Individual account" means an individual account for a member in the benefit accumulation fund, as established under Section [855.306\(a\)](#).

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 218, ch. 18, Sec. 65, 66, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 183, Sec. 1, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 462, Sec. 1, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B,

Sec. 61.001 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(a), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 57, Sec. 1, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 514, Sec. 1, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 76, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 83, Sec. 1, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 121, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 599, Sec. 1, eff. Jan. 1, 2004.

Amended by:

Acts 2011, 82nd Leg., R.S., Ch. 1208 (S.B. 350), Sec. 1, eff. June 17, 2011.

For contingent expiration of this section, see Subsection (c).

Sec. 851.0011. ALTERNATIVE DEFINITION OF DEPARTMENT.

(a) This section applies only with respect to a municipality:

- (1) with a population of less than 200,000;
- (2) that is located in a county with a population of not less than 2 million and not more than 4 million;
- (3) that has a regularly organized fire department for which a retirement system and fund have been established under Section 4, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes); and
- (4) that before January 1, 2017, has one or more departments participating in the retirement system.

(b) Notwithstanding Section 851.001(7), "department" in this subtitle includes employees of a municipality described by Subsection (a) who are allowed to participate in the retirement system under Section 31A, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), because the municipality completed all actions authorized or required by that section within the time prescribed by that section.

(c) If a municipality fails to complete all actions authorized or required by Section 31A, Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), before October 1, 2018, this section expires on October 1, 2018, in accordance with Section 31A(g), Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes).

Added by Acts 2017, 85th Leg., R.S., Ch. 886 (H.B. 3056), Sec. 2, eff. September 1, 2017.

Sec. 851.002. 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. The retirement system may not apply a forfeiture to increase a benefit that any person would otherwise receive under this subtitle.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 61.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 599, Sec. 2, eff. Jan. 1, 2004.

Sec. 851.003. RETIREMENT SYSTEM. The Texas Municipal 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. 61.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 851.004. POWERS AND PRIVILEGES. The retirement system has the powers, privileges, and immunities of a corporation, as well as the powers, privileges, and immunities conferred 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. 61.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 851.005. ACTION 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 municipality, a board of the municipality, or individual officers

of the municipality, 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 municipality 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. 61.005 by
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 851.006. EXEMPTION FROM EXECUTION. (a) Except as provided by Subsection (b), 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) The board of trustees by rule may authorize the retirement system to make distributions to pay the qualified health insurance premiums of a public safety officer in accordance with the provisions of Section 845, Pension Protection Act of 2006, Pub. L. No. 109-280.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 61.006 by
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 293 (H.B. [1244](#)), Sec. 1, eff. January 1, 2008.

SUBCHAPTER B. PENAL PROVISIONS

Sec. 851.101. 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) An offense under this section is a misdemeanor

punishable by a fine of not less than \$100 nor more than \$1,000, 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. 61.101 by
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.