

GOVERNMENT CODE

TITLE 8. PUBLIC RETIREMENT SYSTEMS

SUBTITLE G. TEXAS MUNICIPAL RETIREMENT SYSTEM

CHAPTER 853. CREDITABLE SERVICE

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 853.001. TYPES OF CREDITABLE SERVICE. The types of service creditable as credited service in the retirement system are prior service and current service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.002. BENEFIT ELIGIBILITY BASED ON CREDITED SERVICE. A member's eligibility to receive a benefit is based on credited service at the time of retirement.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.003. CREDITED SERVICE PREVIOUSLY CANCELED. (a) An eligible member who has withdrawn contributions and canceled credited service in the retirement system may reestablish the canceled credit in the system if the governing body of the municipality that currently employs the member by ordinance authorizes reestablishment of the credit by eligible employee members.

(b) A member eligible to reestablish credit under this section is one who has, since resuming membership, at least 24 consecutive months of credited service as an employee of the municipality for which the ordinance was adopted.

(c) A member may reestablish credit by depositing with the retirement system in a lump sum the amount withdrawn from the system, plus a withdrawal charge computed at an annual rate of five percent from the date of withdrawal to the date of redeposit.

(d) Credit reestablished under this section is treated as if

all service on which the credit is based were performed for the municipality authorizing the reestablishment.

(e) A governing body may not adopt an ordinance under Subsection (a) unless the actuary first determines that all obligations charged against the municipality's account in the municipality accumulation fund, including the obligations proposed in the ordinance, can be funded by the municipality within its maximum contribution rate and within its amortization period.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 220, ch. 18, Sec. 72, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

#### SUBCHAPTER B. ESTABLISHMENT OF PRIOR SERVICE

Sec. 853.101. CREDITABLE PRIOR SERVICE. Prior service creditable in the retirement system is:

(1) service performed as an employee of a participating department of a municipality before the date the department's participation in the retirement system became effective;

(2) for a person who becomes a member of the retirement system under Section 852.105, service performed as an employee of a participating department during a time the person was ineligible for membership because of age; or

(3) for a person entitled to prior service credit under Section 853.102(a)(3), service for which current service credit has not been granted that was performed as an employee of a participating department during a time the person was ineligible to participate because of age.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 220, ch. 18, Sec. 73, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.102. ELIGIBILITY FOR PRIOR SERVICE. (a) A member is eligible to receive credit in the retirement system for prior service if the member:

(1) became a member as an employee of a department of a municipality on the effective date of the department's participation in the retirement system;

(2) became a member as an employee of a department of a municipality before the fifth anniversary of the effective date of the department's participation and continued as an employee of a participating department of the municipality for at least five consecutive years after reemployment; or

(3) became a member September 1, 1987, by virtue of Sections 852.101(a)(3) and (b) and has service before that date with a municipality that has adopted the provisions of Section 852.105.

(b) The board of trustees may adopt rules concerning eligibility for prior service 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. 221, ch. 18, Sec. 74, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 183, Sec. 6, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.103. STATEMENT OF PRIOR SERVICE. A member may claim credit for prior service by filing a detailed statement of the service with the city clerk or city secretary of the municipality for which the service was performed.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.104. CERTIFICATION OF SERVICE AND AVERAGE COMPENSATION. (a) As soon as practicable after a member files a statement of prior service under Section 853.103, the municipality that employs the person who receives the statement shall verify the prior service claimed and certify to the board of trustees the

amount of service approved and the member's average prior service compensation.

(b) The average prior service compensation of a member is computed as the average monthly compensation for service performed for a participating department of the municipality:

(1) for the 36 months immediately preceding the effective date of the department's participation in the retirement system; or

(2) if the member did not perform service in each of the 36 months immediately preceding participation, for the number of months of service within the 36-month period.

(c) The board of trustees may adopt rules concerning verification and certification of service and compensation under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.105. DETERMINATION OF PRIOR SERVICE CREDIT. (a) After receiving a certification of prior service and average prior service compensation under Section 853.104, the board of trustees shall determine the member's prior service credit.

(b) For an employee of a municipality having an effective date of participation in the retirement system before January 1, 1976, the prior service credit is an amount equal to the accumulation at interest of a series of equal monthly amounts for the number of months of approved prior service. Each monthly amount equals 10 percent of the member's average prior service compensation, or \$300 a month, whichever is less. Interest is allowed at the end of each 12-month period on an accumulated amount at the beginning of each period and is credited only for each whole 12-month period.

(c) For an employee of a municipality having an effective date of participation in the retirement system after December 31, 1975, the prior service credit is an amount computed as a percentage determined as provided by Subsection (d), times a base credit equal

to the accumulation at three percent interest of a series of monthly amounts for the number of months of approved prior service, times the sum of:

(1) the rate of contributions required of employees of the municipality for current service; plus

(2) the rate described in Subdivision (1) times the municipal current service matching ratio.

(d) The governing body of a municipality having an effective date of retirement system participation after December 31, 1975, shall determine in the ordinance providing for participation the percentage to be applied against the base credit in computing a prior service credit under Subsection (c). The percentage adopted may be any multiple of 10 percent that does not exceed 100 percent of the base credit. A governing body may not adopt a percentage under this subsection until the actuary first determines, and the board of trustees concurs in the determination, that the municipality is able to fund, before the 25th anniversary of the effective date of its participation in the retirement system, all prior service obligations that the municipality proposes to assume under this section.

(e) The prior service credit of a person who becomes a member of the retirement system under Section 852.105 or who is entitled to prior service credit under Section 853.102(a)(3) is computed on the percentage of the base prior service credit that was most recently used by the person's employing municipality in computing prior or updated service credits for current employees.

(f) Interest on a prior service credit is earned for each whole calendar year beginning on the effective date of membership and ending on the effective date of retirement. If a person retires under this subtitle on a date other than December 31, interest on a prior service credit is earned for the partial year in which the retirement occurs, prorated from January 1 of the year in which the retirement occurs to the effective date of retirement.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 221, ch. 18, Sec. 75, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.105 and amended by Acts 1989, 71st Leg., ch. 179, Sec.

1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 121, Sec. 5, eff. Jan. 1, 2002.

Sec. 853.106. PRIOR SERVICE CERTIFICATE. (a) After determining a member's prior service credit under Section 853.105, the board of trustees shall issue to the member a prior service certificate stating:

- (1) the number of months of prior service credited;
- (2) the average prior service compensation; and
- (3) the prior service credit.

(b) As long as a person remains a member, the person's prior service certificate is, for purposes of retirement, conclusive evidence of the information it contains, except that a member or participating municipality, before the first anniversary of its issuance or modification, may request the board of trustees to modify the certificate.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.106 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.107. VOID PRIOR SERVICE CERTIFICATE. (a) When a person's membership in the retirement system is terminated, any prior service certificate issued to the person becomes void.

(b) A person whose membership has terminated and who subsequently resumes membership in the retirement system is not entitled to credit for prior service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.107 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

#### SUBCHAPTER C. ESTABLISHMENT OF CURRENT SERVICE

Sec. 853.201. CREDITABLE CURRENT SERVICE. Service performed as an employee member of a participating department of a municipality is credited in the retirement system for each month for which the required contributions are made by the member.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.  
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.201 by  
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

#### SUBCHAPTER D. OPTIONAL SERVICE

Sec. 853.301. SERVICE FOR CERTAIN PUBLIC FACILITIES. (a)  
The governing body of a participating municipality by ordinance may  
authorize the granting of prior service credit in the retirement  
system for service performed in a public hospital, utility, or  
other public facility currently operated by the municipality,  
during a time the facility was operated by a unit of government  
other than the municipality and before:

(1) the effective date of the municipality's  
participation in the retirement system, if the facility was  
acquired by the municipality before that date; or

(2) the date of acquisition of the facility, if the  
facility was acquired after the effective date of the  
municipality's participation in the retirement system.

(b) A member eligible to receive credit under this section  
after an ordinance is adopted under Subsection (a) is one who was  
employed by the municipality at a public facility:

(1) on the effective date of the municipality's  
participation, for service under Subsection (a)(1); or

(2) on the date of acquisition of the facility, for  
service under Subsection (a)(2).

(c) All credit authorized by a municipality under this  
section is treated as if it were performed for the municipality.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.  
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.301 and  
amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1,  
1989.

Sec. 853.302. SERVICE FOR ELECTED OFFICERS. An elected  
officer who becomes a member of the retirement system on the  
effective date of an ordinance adopted under Section 852.107 is  
entitled to prior service credit computed as provided by Section

853.105, except that if the employing municipality has granted updated service credits, the percentage to be used in computing a prior service credit under this section is the percentage of the base updated service credit that was most recently used by the municipality in computing updated service credits.

Added by Acts 1981, 67th Leg., 1st C.S., p. 221, ch. 18, Sec. 76, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 853.303. PRIOR SERVICE CREDIT FOR SERVICE FOR NONPARTICIPATING DEPARTMENT. (a) The governing body of a participating municipality by ordinance may authorize the granting of prior service credit in the retirement system to an employee who is a member of the retirement system and who became a member as an employee of a participating department of the municipality, for service performed, before the person's date of membership, as an employee of a department of the same municipality that was not participating in the retirement system at the time of the service but later became a participating department.

(b) A member may claim prior service credit under this section by filing, not later than one year after the effective date of the ordinance authorizing the credit, a detailed statement of the service with the clerk or secretary of the municipality.

(c) As soon as practicable after a member has filed a statement of prior service under this section, the municipality shall verify the prior service claimed and certify to the board of trustees the creditable prior service approved and the average monthly compensation paid to the member during the period of the service.

(d) After receiving a certification of prior service and average monthly compensation under this section, the board of trustees shall:

(1) determine the prior service credit allowable to the member in the manner provided by Section 853.105; and

(2) issue to the member a prior service certificate as provided by Section 853.106.

Added by Acts 1989, 71st Leg., ch. 136, Sec. 1, eff. May 25, 1989.  
Renumbered from Title 110B, Sec. 63.303 and amended by Acts 1989,  
71st Leg., ch. 1100, Sec. 4.08(a)(1) to (3), eff. Sept. 1, 1989.

Sec. 853.304. PRIOR SERVICE CREDIT FOR PROBATIONARY EMPLOYMENT. (a) The governing body of a participating municipality which prior to September 1, 1989, engaged persons beginning work with the municipality on a probationary basis for a specified period and consequently did not enroll the person as a member of the system until the probationary period expired may by ordinance allow prior service credit for service performed during the period of probationary employment (not exceeding six months) with the municipality.

(b) After the retirement system receives a copy of a municipality's ordinance described by Subsection (a), the retirement system shall furnish to the municipality a report containing the names of employees who, according to the retirement system's records, are eligible to receive prior service credit for probationary employment.

(c) As soon as practicable after the municipality receives a report under Subsection (b), the municipality shall verify the information in the report and certify to the retirement system the number of months of probationary employment to which each employee listed on the report appears to be entitled and the average monthly compensation paid to the member during the period of probationary employment.

(d) The certification by the municipality must be received by the retirement system not later than the first anniversary of the effective date of the ordinance allowing the credit. After receiving the certification from the municipality described by Subsection (c), the board of trustees shall determine the prior service credit allowable to the member in the manner provided in Section 853.105.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(b), eff. Aug. 26, 1991. Amended by Acts 2001, 77th Leg., ch. 121, Sec. 6, eff. Jan. 1, 2002.

Sec. 853.305. CREDIT FOR SERVICE WITH NONPARTICIPATING MUNICIPALITY, AIRPORT AUTHORITY, OR COUNCIL OF GOVERNMENTS, OR CERTAIN SERVICE PREVIOUSLY CANCELED. (a) The governing body of a participating municipality by ordinance may authorize the granting of restricted prior service credit to an employee who is a member of the retirement system for service previously performed:

(1) as a full-time, paid employee of the United States, of any public authority or agency created by the United States, of any state or territory of the United States, of any political subdivision of any state of the United States, of any public agency or authority created by a state or territory of the United States, or of an institution of higher education at which the person is commissioned as a campus security personnel employee under Section 51.212, Education Code, and for which service the person has not otherwise received credited service in this system, including combined service credit under Chapter 803; or

(2) as an employee of the state or any branch, agency, or subdivision of the state for which the person received credited service under the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Judicial Retirement System of Texas Plan One, the Judicial Retirement System of Texas Plan Two, the Texas County and District Retirement System, or this retirement system, and the credit for which was canceled because of withdrawal of contributions and has not been reinstated.

(b) Restricted prior service credit may be used only to satisfy length-of-service requirements for retirement eligibility, has no monetary value in computing the annuity payments allowable to the member, and may not be used in other computations, including computation of updated service credits.

(c) A member seeking to establish restricted prior service credit under Subsection (a)(1) must obtain from the official custodian of personnel records of the entity for which the previous service was performed a detailed statement of the service, verified by that official, and file the statement with the clerk or secretary of the participating municipality by which the member is employed. A member seeking to establish restricted prior service credit under Subsection (a)(2) must obtain from the public retirement system in

which the canceled service was credited a detailed statement of the service, verified by an official of that retirement system, and file that statement with the clerk or secretary of the participating municipality by which the member is employed.

(d) As soon as practicable after the member has filed the verified statement, the clerk or secretary of the participating municipality authorizing the credit shall examine the statement. If satisfied that the claim is correct, the clerk or secretary shall endorse the statement as approved, file the original in the appropriate files of the granting municipality, and prepare and transmit to the director of the retirement system a certified copy of the approved claim.

(e) On receipt of a certified copy of an approved claim, the retirement system, if satisfied that credit for service claimed under Subsection (a)(1) has not previously been granted the member, or that credit claimed under Subsection (a)(2) previously existed but has been canceled and not reinstated, shall enter the credit in the member's records.

(f) In this section, "full-time, paid employee" has the meaning assigned "employee" by Section 851.001, except that the services do not have to be performed for a municipality.

(g) An ordinance adopted under this section applies to the granting of restricted prior service credit to a member who is or has been an employee of the authorizing municipality at any time on or after the effective date of the ordinance.

Added by Acts 1991, 72nd Leg., ch. 466, Sec. 1, eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 5, 6, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 514, Sec. 6, 7, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 76, Sec. 2, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 121, Sec. 7, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 599, Sec. 7, eff. Jan. 1, 2004.

#### SUBCHAPTER E. OPTIONAL INCREASES IN SERVICE CREDITS

Sec. 853.401. ORDINANCE AUTHORIZING UPDATED SERVICE CREDITS. (a) Except as provided by Subsection (b), the governing body of a participating municipality by ordinance may authorize the

crediting in the retirement system of updated service credits for service performed for the municipality by members. An updated service credit authorized under this section replaces any updated service credit or prior service credit previously authorized for part of the same service.

(b) A municipality may not authorize updated service credits for members who had less than 36 months of credited service on the date prescribed by Section 853.402(e).

(c) In adopting an ordinance under this section, a governing body shall specify the percentage of base updated service credits to be used in computing updated service credits for employees of the municipality and shall specify the date the updated service credits will take effect. The percentage adopted may be 50 percent, 75 percent, or 100 percent of a base updated service credit. The effective date must be January 1 of a year specified by the governing body. If the governing body of a municipality has specified a different percentage in an ordinance adopted under Section 853.404(a) and in effect on December 31, 1999, the percentage used in computing updated service credits for employees of that municipality remains in effect until changed or discontinued under Section 853.404.

(d) A governing body that adopts an ordinance under this section shall send it to the retirement system, and the system must receive it before the effective date of the updated service credits authorized in the ordinance.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 221, ch. 18, Sec. 77, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 7, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 83, Sec. 3, eff. Dec. 31, 1999.

Sec. 853.402. DETERMINATION OF UPDATED SERVICE CREDITS.

(a) If a governing body sends the retirement system an ordinance adopted under Section 853.401, the retirement system shall determine for each affected member the average updated service

compensation, base updated service credit, and updated service credit.

(a-1) The board of trustees by rule may limit the increase in a member's average updated service compensation from year to year.

(b) The average updated service compensation of a member is computed as the monthly average compensation:

(1) for the 36 months immediately preceding the date prescribed by Subsection (e); or

(2) if the member did not perform service in each of the 36 months described in Subdivision (1) or did not perform any service within the 36-month period, for the most recent 36 months before the date prescribed by Subsection (e) in which the member performed service.

(c) The base updated service credit of a member is an amount computed as the number 1.03, times the difference by which the amount computed under Subdivision (1) exceeds the amount computed under Subdivision (2), where:

(1) "(1)" is an amount equal to the accumulation at three percent interest of a series of monthly amounts for the number of months of credited service on the date prescribed by Subsection (e), each amount of which equals the member's average updated service compensation, times the sum of:

(A) the rate of contributions required of the member for current service; plus

(B) the member's contribution rate, times the municipal current service ratio in effect on the effective date of the ordinance adopted under Section 853.401; and where

(2) "(2)" is an amount equal to the sum of:

(A) the amount credited to the member's individual account in the employees saving fund on the date prescribed by Subsection (e), subject to a 1 to 1 matching ratio, times 2; plus

(B) the amount credited to the member's individual account, subject to a 1.5 to 1 matching ratio, times 2.5; plus

(C) the amount credited to the member's

individual account, subject to a 2 to 1 matching ratio, times 3.

(d) The updated service credit of a member is an amount equal to the greatest of the following:

(1) the percentage determined under Section 853.401(c), times the member's base updated service credit; or

(2) any updated service credit previously authorized by the municipality and in effect for the member, accumulated at interest as provided by Subsection (f) from the date it took effect to the date prescribed by Subsection (e); or

(3) prior service credit previously authorized by the municipality and in effect for the member, accumulated at interest as provided by Subsection (f) from the date the credit took effect to the date prescribed by Subsection (e).

(e) The date used in computing updated service compensation and updated service credits under this section is January 1 of the year immediately preceding the January 1 on which the updated service credits will take effect.

(f) Interest on an updated service credit is earned for each whole calendar year beginning on the date the updated service credit takes effect and ending on the effective date of retirement. If a person retires under this subtitle on a date other than December 31, interest on an updated service credit is earned for the partial year in which the retirement occurs, prorated from January 1 of the year in which the retirement occurs to the effective date of retirement.

(g) Repealed by Acts 2007, 80th Leg., R.S., Ch. 293, Sec. 5, eff. September 1, 2007.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989; Acts 1993, 73rd Leg., ch. 57, Sec. 8, eff. Jan. 1, 1994. Amended by Acts 1999, 76th Leg., ch. 83, Sec. 4, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 121, Sec. 8, eff. Jan. 1, 2002.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [293](#), Sec. 2, eff. January 1, 2008.

Acts 2007, 80th Leg., R.S., Ch. [293](#), Sec. 5, eff. September 1,

2007.

Sec. 853.403. APPROVAL OF ORDINANCE. (a) An ordinance adopted under Section 853.401 may not take effect unless the board of trustees approves the ordinance as meeting the requirements of this section. The board may not approve an ordinance unless the actuary first determines, and the board concurs in the determination, that all obligations charged against the municipality's account in the municipality accumulation fund, including obligations proposed in the ordinance, can be funded by the municipality within its maximum total contribution rate and within its amortization period as in effect on the date the updated service credits take effect.

(b) The board of trustees may adopt rules it finds necessary to ensure that the retirement system receives in a timely manner from a municipality the certified information the actuary requires to make the necessary determinations before the date the updated service credits take effect.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 222, ch. 18, Sec. 78, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.403 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 76, Sec. 3, eff. Sept. 1, 1997.

Sec. 853.404. ALLOWANCE OF UPDATED SERVICE CREDIT AND ANNUITY INCREASES. (a) The governing body of a participating municipality that adopts an ordinance authorizing the crediting in the retirement system of updated service credits under Sections 853.401, 853.402, and 853.403, to be effective January 1 of a designated year, may further provide in the ordinance that updated service credits will be credited effective January 1 of each year following the designated year, using the same percentage of the base updated service credit specified in the ordinance in computing updated service credits for each future year, until changed or discontinued as provided by this section.

(b) The governing body of a participating municipality that

adopts an ordinance under Section 853.601, authorizing the crediting of updated service credits for transferred service effective January 1 of a designated year, may further provide in the ordinance that updated service credits will be credited effective January 1 of each year following the designated year, using the same percentage of the base updated service credit specified in the ordinance in computing updated service credits for each future year, until changed or discontinued as provided by this section.

(c) The governing body of a participating municipality that adopts an ordinance under Section 854.203 providing for increased annuities effective January 1 of a designated year may further provide in the ordinance that increases in annuities will be credited effective January 1 of each year following the designated year based on recomputations made as provided by Section 854.203(b)(1) for each year following the initial computation, and using the fraction specified in the ordinance as required under Section 854.203(b)(2) in the recomputations.

(d) Except as provided by Subsection (e), an ordinance under this section continues in effect for each year that the actuary determines that all obligations charged against the municipality's account in the municipality accumulation fund, including the obligations to become effective the next January 1, can be funded by the municipality within its maximum contribution rate and within its amortization period as in effect on the next January 1. An ordinance under this section will cease to be in effect for future years if the actuary cannot make that determination, but shall again take effect for future years beginning January 1 of the first year after the actuary can make that determination.

(e) An ordinance under this section ceases to be in effect for future years if the municipality:

- (1) adopts a new ordinance under this section;
- (2) adopts a new matching ratio for matching a member's future contributions and earnings on those contributions at the time of retirement under Section 855.501;
- (3) adopts a new rate of member contributions under Section 855.401; or
- (4) adopts an ordinance stating that the ordinance in

effect under this section will cease to be in effect for future years.

Added by Acts 1991, 72nd Leg., ch. 466, Sec. 2, eff. Aug. 26, 1991.

Amended by Acts 1995, 74th Leg., ch. 514, Sec. 8, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 76, Sec. 4, eff. Sept. 1, 1997.

#### SUBCHAPTER F. MILITARY SERVICE

Sec. 853.501. MILITARY SERVICE BY MEMBER. (a) A member of the retirement system is allowed credited service as provided in this subchapter if at any time the person:

(1) leaves employment with a participating municipality to perform and performs active duty service in the armed forces or the armed forces reserves of the United States or their auxiliaries, provided that:

(A) the person makes application for reemployment with the same municipality within 90 days after the person is released from active duty or discharged from such military service or from hospitalization continuing after discharge for a period of not more than one year; and

(B) the person is reemployed by the same participating municipality; or

(2) is conscripted and leaves employment with a participating municipality to perform and performs war-related service during a state of war or during a conflict between the armed forces of the United States and the armed forces of a foreign country, provided that the person is reemployed by the same municipality within 90 days after the end of such service.

(b) Credit for service under this section may only be used as set forth in Section 853.505.

Added by Acts 1989, 71st Leg., ch. 462, Sec. 4, eff. Sept. 1, 1989.

Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(d), eff. Aug. 26, 1991.

Sec. 853.502. OTHER MILITARY SERVICE CREDIT. (a) The governing body of a participating municipality by ordinance may authorize eligible members in its employment to establish credit in

the retirement system for active military service performed as a member of the armed forces or armed forces reserves of the United States or their auxiliaries, for which service the members do not receive credit under Section 853.501.

(b) A member eligible to establish credit for military service creditable as provided by this section is one who is an employee of a municipality that has adopted an ordinance under this section and who:

(1) was an employee of a participating municipality immediately prior to the military service, but terminated employment with the municipality and membership in the retirement system during the period of service, and applied for reemployment with the municipality not later than the 90th day after the date the person was released from active duty or discharged or from hospitalization continuing after discharge for a period of not more than one year, and was reemployed by that municipality; or

(2) has at least five years of credited service in the retirement system and has been an employee of one or more participating municipalities for at least five years.

Added by Acts 1981, 67th Leg., 1st C.S., p. 222, ch. 18, Sec. 79, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 462, Sec. 4, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.501 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Renumbered from Government Code, Sec. 853.501 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(d), eff. Aug. 26, 1991; Acts 2003, 78th Leg., ch. 599, Sec. 8, eff. Jan. 1, 2004.

Sec. 853.503. CONDITIONS FOR RECEIVING MILITARY SERVICE CREDIT. No person can receive credit for service under this subchapter unless:

(1) the person's military service was terminated by release from active duty or discharge on terms not dishonorable;

(2) the person does not receive and is not eligible to receive federal retirement payments based on 20 years or more of active military service or its equivalent; and

(3) the person does not have and does not receive

credit for the service in any other public retirement system or program established under laws of this state.

Added by Acts 1989, 71st Leg., ch. 462, Sec. 4, eff. Sept. 1, 1989.

Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(d), eff. Aug. 26, 1991.

Sec. 853.504. ESTABLISHMENT OF MILITARY SERVICE CREDIT.

(a) An eligible member may establish credit under Section 853.501 by filing written application therefor with the retirement system, accompanied by satisfactory evidence of the member's military service.

(b) An eligible member seeking military service credit under Section 853.502 must file with the retirement system a written application for the credit, together with satisfactory evidence of the member's military service.

(c) No person may obtain credit under this subchapter for more than 60 months of military service.

Added by Acts 1981, 67th Leg., 1st C.S., p. 222, ch. 18, Sec. 79, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 462, Sec. 4, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.502 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Renumbered from Government Code, Sec. 853.502 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(d), eff. Aug. 26, 1991; Acts 2003, 78th Leg., ch. 599, Sec. 9, eff. Jan. 1, 2004.

Sec. 853.505. USE OF MILITARY SERVICE CREDIT. (a) The retirement system shall use military service credit established under this subchapter in determining length-of-service requirements for benefits.

(b) Except as provided by Section 853.506, military service credit allowed under Section 853.501 shall have no monetary value in calculating the annuity payments allowable to the member and shall not be used in other computations, including computation of updated service credits or prior service credits.

(c) When a person who has military service credit under Section 853.502 retires, the retirement system shall transfer to

the current service annuity reserve fund the accumulated amount paid by the person under Section 853.504(b) and an amount from the municipality account in the municipality accumulation fund equal to the accumulated amount paid by the person times the municipality's current service matching percent in effect on the date the member applies for credit under Section 853.504(b). The retirement system shall use the amounts to make annuity payments to the person computed in the same manner as is the person's current service annuity, but the credit and the amounts may not be used in other computations, including computations of updated service credits or prior service credits.

Added by Acts 1981, 67th Leg., 1st C.S., p. 222, ch. 18, Sec. 79, eff. Jan. 1, 1982. Amended by Acts 1989, 71st Leg., ch. 462, Sec. 4, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.503 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Renumbered from Government Code, Sec. 853.503 and amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.01(d), eff. Aug. 26, 1991. Amended by Acts 1997, 75th Leg., ch. 76, Sec. 5, eff. Sept. 1, 1997.

Sec. 853.506. CURRENT SERVICE FOR REEMPLOYED VETERANS. Notwithstanding any provision of this subtitle to the contrary, contributions, benefits, and service credit for qualified military service will be provided in accordance with Section 414(u) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414). The board of trustees may adopt rules that modify the terms of this subtitle for the purpose of compliance with the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. Section 4301 et seq.). Added by Acts 1997, 75th Leg., ch. 76, Sec. 6, eff. Sept. 1, 1997.

#### SUBCHAPTER G. OPTIONAL UPDATED SERVICE CREDIT FOR TRANSFERRED SERVICE

Sec. 853.601. ORDINANCE AUTHORIZING UPDATED SERVICE CREDIT FOR TRANSFERRED SERVICE. (a) The governing body of a participating municipality in ordinances authorizing updated service credits under Section 853.401 on or after January 1, 1984, may provide that

those members who are eligible for such credits on the basis of service with the granting municipality, who have unforfeited credit for prior service or current service with another participating municipality or municipalities by reason of previous employment, and who are contributing members on the date prescribed by Section 853.402(e), shall be credited in the retirement system with updated service credit calculated in the manner prescribed by Sections 853.401 and 853.402, except that in determining the base updated service credit of the member under Section 853.402(c)(1), all unforfeited credited service performed by the member by reason of previous employment in other participating municipalities prior to the date prescribed by Section 853.402(e) shall be treated as if performed in the service of the municipality adopting the ordinance, and that amount shall be reduced by an amount equal to the sum of:

(1) 2 times the amount credited to the member's individual accounts in the employees saving fund on the date prescribed in Section 853.402(e), which any participating municipality has undertaken to match on a 1 to 1 ratio; plus

(2) 2.5 times the amount credited to the member's individual accounts, subject to a 1.5 to 1 matching ratio by any participating municipality; plus

(3) 3 times the amount credited to the member's individual accounts, subject to a 2 to 1 matching ratio by any participating municipality; and plus

(4) the sum of all updated service credits, prior service credits, special prior service credits, and antecedent service credits allowed to the member by any other participating municipality by which the member was previously employed and to which the member is entitled.

(b) If the member is granted an updated service credit by a previously employing municipality on or after the granting of an updated service credit under Subsection (a), the updated service credit granted under Subsection (a) shall be reduced by the amount of increase in credits resulting from the granting of updated service credits by the previous employer.

Added by Acts 1983, 68th Leg., p. 2977, ch. 512, Sec. 1, eff. Aug.

29, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 63.601 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.