

GOVERNMENT CODE

TITLE 8. PUBLIC RETIREMENT SYSTEMS

SUBTITLE G. TEXAS MUNICIPAL RETIREMENT SYSTEM

CHAPTER 855. ADMINISTRATION

SUBCHAPTER A. BOARD OF TRUSTEES

Sec. 855.001. COMPOSITION OF BOARD OF TRUSTEES. The board of trustees is composed of six trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.002. APPOINTMENT. The governor, with the advice and consent of the senate, shall appoint three executive trustees and three employee trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.003. ELIGIBILITY. (a) To be eligible to serve as an executive trustee a person must be a chief executive officer, chief finance officer, or other officer, executive, or department head of a participating municipality.

(b) To be eligible to serve as an employee trustee a person must be an employee of a participating municipality.

(c) Two or more trustees serving concurrently may not be employed by or serve the same municipality.

(d) A trustee is immediately disqualified from serving as a trustee if the trustee ceases to satisfy the requirements of 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. 65.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.004. TERM OF OFFICE. (a) The trustees hold office for staggered terms of six years, with the terms of two trustees

expiring February 1 of each odd-numbered year.

(b) The governor shall fill a vacancy in the office of a trustee for the unexpired term by appointing a successor from a participating municipality.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 2836, ch. 484, art. II, Sec. 11, eff. June 19, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.005. OATH OF OFFICE. Before taking office as a trustee, a person shall present to the board of trustees a certified copy of an oath of office subscribed before the clerk of the municipality that the person serves.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.007. MEETINGS. (a) The board of trustees shall hold regular meetings in March, June, September, and December of each year and special meetings when called by the director.

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

(c) 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.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.007 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.008. COMPENSATION; EXPENSES. Each trustee serves without compensation but is entitled to:

(1) reimbursement for reasonable traveling expenses incurred in attending board meetings and 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 municipality 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. 65.008 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 16, eff. Jan. 1, 1994.

Sec. 855.009. VOTING. (a) Each trustee is entitled to one vote.

(b) At any meeting of the board, four 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. 65.009 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

#### SUBCHAPTER B. POWERS AND DUTIES OF BOARD OF TRUSTEES

Sec. 855.101. 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. 65.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.102. RULEMAKING. (a) The board of trustees shall adopt rules and perform reasonable activities it finds necessary or desirable for efficient administration of the system.

(b) The board may adopt and enforce rules concerning:

(1) the time that a municipality electing to participate in the system begins its participation; or

(2) notice, information, and reports required of municipalities electing to participate in 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. 65.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.103. 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. 65.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 891, Sec. 3.15, eff. Sept. 1, 1997.

Sec. 855.104. 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) if no purpose is designated, 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. 65.104 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.105. 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 retirement system.

(b) A note or bond issued under this section must mature before the 20th anniversary of the issuance of the note or bond.

The rate of interest on the note or bond may not exceed six percent a year.

(c) The board shall charge a note or bond issued under this section against the system's expense fund and shall pay the note or bond from that fund. The total indebtedness against the expense fund may not exceed \$75,000 at any time.

(d) 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. 65.105 by  
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.106. 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. 65.106 by  
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.107. AUDIT. Annually, or more often, the board of trustees shall have the accounts of the retirement system audited by a certified public accountant.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.  
Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.107 by  
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.108. DESIGNATION OF AUTHORITY TO SIGN VOUCHERS. The board of trustees by resolution shall designate one or more representatives who have authority to sign vouchers 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. 65.108 by  
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.109. DEPOSITORIES. The board of trustees shall

designate financial institutions to qualify and serve the retirement system as depositories.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.109 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 57, Sec. 17, eff. Jan. 1, 1994.

Sec. 855.110. 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. In adopting rates and tables, the board of trustees shall adopt a discount rate that is not less than five percent in developing an annuity purchase rate.

(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 municipality participating in the supplemental death benefits fund.

(c) The board of trustees, after consultation with the actuary, by rule may set open or closed amortization periods not to exceed 25 years.

(d) In this section:

(1) "Annuity purchase rate" means the present value factor used to convert reserves to a monthly annuity based on the post-retirement discount rate assumption and the life expectancy of the retiree or beneficiary or both the retiree and the beneficiary at retirement under the selected form of payment.

(2) "Discount rate" means the interest rate used in determining the present value of future cash flows.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 229, ch. 18, Sec. 96, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.110 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. [293](#), Sec. 3, eff. January 1, 2008.

Acts 2009, 81st Leg., R.S., Ch. [154](#), Sec. 1, eff. May 26, 2009.

Sec. 855.111. CERTIFICATION OF RATES. (a) The board of trustees shall certify all current service contribution rates and all prior service contribution rates.

(b) The board shall notify each participating municipality of the rates certified in accordance with 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. 65.111 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [154](#), Sec. 2, eff. May 26, 2009.

Sec. 855.112. 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. 65.112 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.113. OFFICE. (a) The board of trustees shall establish an office in Austin or in one of the participating municipalities.

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

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.113 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.114. OBTAINING INFORMATION. The board of trustees shall obtain from members or participating municipalities information necessary for the proper operation 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. 65.114 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.115. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS, RETIREES, ANNUITANTS, OR BENEFICIARIES. (a) Information contained in records that are in the custody of the retirement system concerning an individual member, retiree, annuitant, or beneficiary is confidential under Section 552.101, and may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

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

(B) a spouse or former spouse of the individual after 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 after 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 individual in writing to receive the information; or

(2) the information is disclosed pursuant to a subpoena and the director determines that the individual 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.

(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 individual member, retiree, annuitant, or beneficiary.

Added by Acts 1991, 72nd Leg., ch. 466, Sec. 8, eff. Aug. 26, 1991.

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

Sec. 855.116. ELECTRONIC FILING OF CERTAIN DOCUMENTS. (a) In this section, "electronic filing" means the filing of data 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 disk, or any other medium.

(b) The board of trustees may adopt rules and procedures relating to the electronic filing of documents with the retirement system. A document that is electronically filed in accordance with those rules and procedures is considered to have been properly filed with the retirement system.

Added by Acts 1999, 76th Leg., ch. 83, Sec. 15, eff. Dec. 31, 1999.

#### SUBCHAPTER C. OFFICERS AND EMPLOYEES OF BOARD OF TRUSTEES

Sec. 855.201. EXECUTIVE DIRECTOR. (a) The board of trustees shall appoint an executive director.

(b) The executive director shall:

(1) manage and administer the retirement system under the supervision and direction of the board; and

(2) invest the assets of the system.

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

(d) The executive director annually shall:

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

(2) submit the report 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. 65.201 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 121, Sec. 24, eff. Jan. 1, 2002.

Sec. 855.202. LEGAL ADVISER. (a) The board of trustees shall appoint an attorney.

(b) The attorney shall act as the legal adviser to the board and shall represent the system in all litigation.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.202 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.203. 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. 65.203 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.204. 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. 65.204 by  
Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.205. 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 retirement 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 retirement  
system; and

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

(d) On the basis of rates and tables adopted by the board,  
the actuary shall:

(1) annually compute the normal contribution rate for  
each participating municipality;

(2) annually compute the prior service contribution  
rate for each participating municipality;

(3) compute the supplemental death benefits rate and  
the supplemental disability benefits rate for each participating  
municipality; and

(4) make an annual valuation of the assets and  
liabilities of the funds 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. 65.205 and  
amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1,  
1989. Amended by Acts 1999, 76th Leg., ch. 83, Sec. 16, eff. Dec.  
31, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [154](#), Sec. 3, eff. May 26,  
2009.

Sec. 855.206. 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. 65.206 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.207. 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. 65.207 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

#### SUBCHAPTER D. MANAGEMENT OF ASSETS

Sec. 855.301. INVESTMENT OF ASSETS. (a) The board of trustees shall invest and reinvest the assets of the retirement system 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, "security" 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)

(b) 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.

(c) 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 or other entities experienced in short-term cash management to invest the system's cash balances through its short-term investment fund or funds and in such short-term securities as the board of trustees determines and as authorized by

this section.

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. 8, eff. Aug. 26, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 408, Sec. 5, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 858, Sec. 4, eff. June 18, 1993; Acts 1995, 74th Leg., ch. 514, Sec. 20, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 121, Sec. 25, eff. Jan. 1, 2002; Acts 2003, 78th Leg., ch. 599, Sec. 17, eff. Jan. 1, 2004.

Sec. 855.3011. SECURITIES LENDING. (a) The board of trustees, in the exercise of its discretion to manage the assets of the retirement system, may select a person, including a commercial bank or depository trust company, to lend retirement system securities as provided by this section and rules adopted by the board of trustees.

(b) To be eligible to lend securities under this section, a person 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, fully indemnifying the retirement system against any loss resulting from borrower default or the failure of the securities lending agent to properly execute the agent's responsibilities under the applicable securities lending agreement;

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

(5) comply with the guidelines adopted by the board of

trustees relating to the investment of cash collateral, borrower limits, and other items.

Added by Acts 2001, 77th Leg., ch. 121, Sec. 26, eff. Jan. 1, 2002.

Sec. 855.303. PRUDENCE REGARDING INVESTMENTS. A determination of whether the board of trustees has exercised prudence in an investment decision must be made by considering the investment of all of the assets of the trust over which the board has management and control, rather than by considering the prudence of a single investment. In making investments for the retirement system, the board of trustees shall exercise the judgment and care, under the circumstances, that persons of prudence, discretion, and intelligence exercise in the management of their own affairs, considering the probable income from the securities and probable safety of their capital.

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. 65.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 599, Sec. 18, eff. Jan. 1, 2004.

Sec. 855.304. CASH ON HAND. The board of trustees shall determine the amount of cash on hand required to pay benefits and the 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. 65.304 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.305. CREDITING SYSTEM ASSETS. (a) The retirement system shall immediately deposit all money received by the system with a depository designated under Section 855.109.

(b) When securities of the retirement system are received, the system shall deposit the securities in trust with a depository designated under Section 855.109. The depository shall provide adequate safe deposit facilities for the preservation of the securities.

(c) All assets 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) municipality accumulation fund;
- (3) current service annuity reserve fund;
- (4) interest fund;
- (5) endowment fund;
- (6) expense fund;
- (7) supplemental disability benefits fund; or
- (8) supplemental death benefits fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 229, ch. 18, Sec. 97, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.305 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.306. 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 on money in the account in accordance with this subtitle; and
- (3) the portion of a deposit required by Section 853.003 to reinstate credited service previously canceled that represents the amount withdrawn.

(b) 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. On a person's retirement under this subtitle on a date other than December 31, the retirement system shall credit to that person's individual account interest and supplemental interest, if any, at the rate credited on members' accounts for the preceding year. The interest must be:

- (1) on the amount of accumulated contributions credited to the member's account on January 1 of the year in which retirement occurs; and

(2) prorated from January 1 of the year in which retirement occurs to the effective date of retirement.

(c) The retirement system may not pay interest on money in a person's individual account:

(1) for a part of a year except as provided by Subsection (b); or

(2) after the person's membership has been terminated in accordance with Section 852.104 because of absence from service. 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. 229, ch. 18, Sec. 98, eff. Jan. 1, 1982; Acts 1989, 71st Leg., Ch. 462, Sec. 5, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.306 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(e), eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 83, Sec. 17, eff. Dec. 31, 1999; Acts 2003, 78th Leg., ch. 599, Sec. 19, eff. Jan. 1, 2004.

Sec. 855.307. MUNICIPALITY ACCUMULATION FUND: CURRENT SERVICE. (a) The retirement system shall credit or charge to the account of a participating municipality in the municipality accumulation fund:

(1) all current service contributions made by the municipality to the retirement system;

(2) net investment income or loss allocated to the fund under Section 855.317; and

(3) the withdrawal charge for reinstatement of credited service as provided by Section 853.003.

(b) The retirement system shall pay from the account of a participating municipality in the municipality accumulation fund:

(1) money to the current service annuity reserve fund in accordance with Section 855.318; and

(2) refunds to certain municipalities in accordance with Section 855.319.

(c) If credited service previously canceled is reinstated in accordance with Section 853.003, the retirement system shall charge the municipality's account in the municipality accumulation

fund with the necessary reserves to fund the credits based on current service that are 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. 230, ch. 18, Sec. 99, eff. Jan. 1, 1982; Acts 1989, 71st Leg., ch. 462, Sec. 6, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.307 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(f), eff. Aug. 26, 1991.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [154](#), Sec. 4, eff. May 26, 2009.

Sec. 855.308. MUNICIPALITY ACCUMULATION FUND: PRIOR SERVICE. (a) In addition to amounts credited or charged as provided by Section 855.307, the retirement system shall credit to the account of a participating municipality in the municipality accumulation fund all prior service contributions made by the municipality to the retirement system.

(b) In addition to amounts paid as provided by Section 855.307, the retirement system shall pay from the account of a participating municipality in the municipality accumulation fund:

(1) all payments under annuities arising from prior service credits, special prior service credits, antecedent service credits, or updated service credits authorized by a participating municipality; and

(2) optional increased payments authorized by a participating municipality under Section 854.203.

(c) The retirement system shall charge municipal liabilities from updated service credits against the account of the municipality that authorized the credits.

(d) If credited service previously canceled is reinstated in accordance with Section 853.003, the retirement system shall charge the municipality's account in the municipality accumulation fund with the necessary reserves to fund credits based on prior service that are restored to the member.

(e) The retirement system shall charge reserves required to

fund optional benefit increases authorized under Section 854.203 against the account of the municipality allowing the increases.

(f) The board of trustees may proportionately reduce all payments under annuities payable under this section, at any time and for a period necessary, to prevent those payments for a year from exceeding the amount available in the participating municipality's account.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 230, ch. 18, Sec. 99, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.308 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [154](#), Sec. 5, eff. May 26, 2009.

Sec. 855.309. CURRENT SERVICE ANNUITY RESERVE FUND. (a) The retirement system shall deposit and hold in the current service annuity reserve fund all reserves for current service annuities and all benefits in lieu of current service annuities.

(b) The retirement system shall pay from the current service annuity reserve fund annuities and benefits described by Subsection (a).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.309 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.310. INTEREST FUND. (a) The amount in the interest fund must accurately reflect the determination and allocation of net investment income or loss.

(b) The retirement system shall determine net investment income or loss annually as of December 31 in accordance with generally accepted accounting principles and shall allocate that amount each year in accordance with Section 855.317.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.310 and

amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [154](#), Sec. 6, eff. May 26, 2009.

Sec. 855.311. ENDOWMENT FUND. (a) The retirement system shall deposit in the endowment fund gifts, awards, funds, and assets delivered to the retirement system that are not specifically required by the system's other funds.

(b) The endowment fund consists of:

- (1) the interest reserve account;
- (2) the general reserves account;
- (3) the distributive benefits account;
- (4) the perpetual endowment account; and
- (5) other special accounts that the board of trustees by resolution establishes.

(c) The retirement system shall credit or charge to the interest reserve account, general reserves account, and distributive benefits account amounts allocated in accordance with Section 855.317.

(d) The board of trustees shall transfer money from the interest reserve account to the expense fund in accordance with Section 855.312.

(e) If the board of trustees determines that the amount credited to the distributive benefits account on December 31 of any year is sufficient to do so, the board by resolution may:

(1) authorize the distribution and payment of all or part of the money credited to the account to persons who were annuitants on that day in the ratio of the rate of the monthly benefit of each annuitant to the total of all annuity payments made by the system for the final month of the year; or

(2) authorize the distribution of all or part of the amount credited to the account to each member's individual account in the employees saving fund as supplemental interest in the ratio of the amount of interest paid on the individual's account to the interest paid to all individual accounts for the year.

(f) The retirement system shall deposit and hold in the perpetual endowment account:

(1) funds, gifts, and awards that the grantors designate as perpetual endowments for the retirement system; and

(2) money forfeited to the retirement system as provided by Section 855.603.

(g) Distribution and payment to an annuitant under Subsection (e) must be based on the ratio that the number of months elapsing since the effective date of the person's retirement bears to the number 12 if that person retired under this subtitle during the year for which the distribution and payment is made.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 231, ch. 18, Sec. 100, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.311 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 83, Sec. 18, eff. Dec. 31, 1999.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [154](#), Sec. 7, eff. May 26, 2009.

Sec. 855.312. EXPENSE FUND. (a) The board of trustees shall deposit in the expense fund municipality contributions for expenses of the retirement system paid in accordance with Section 855.404.

(b) The board of trustees by resolution recorded in its minutes shall transfer from the interest reserve account of the endowment fund to the expense fund the amount that exceeds the amount needed to provide adequate reserves as provided by Section 855.317 and that is needed to pay the system's estimated expenses for the fiscal year.

(c) The retirement system shall pay from the expense fund:

(1) administrative and maintenance expenses of the system; and

(2) notes and bonds issued in accordance with Section 855.105.

(d) If the amount of the system's estimated expenses exceeds

the amount in the interest reserve account of the endowment fund available for administrative expenses, the board of trustees, by a resolution recorded in its minutes, shall assess an amount equal to the difference against each participating municipality in proportion to the number of its members in the retirement system. The board shall collect the assessments and deposit the amount collected in the expense 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. 65.312 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [154](#), Sec. 8, eff. May 26, 2009.

Sec. 855.313. SUPPLEMENTAL DISABILITY BENEFITS FUND. (a) The retirement system shall deposit in the supplemental disability benefits fund contributions made to provide supplemental disability benefits in accordance with previous law. The retirement system may not establish separate accounts in the fund for municipalities participating in the fund but shall credit contributions to a single account.

(b) The retirement system shall pay supplemental disability benefits only from money in the supplemental disability benefits fund, and the benefits are not an obligation of other funds of the system.

(c) The beginning date of participation of each municipality participating in the supplemental disability benefits fund is that determined by the board of trustees. Participation terminates January 1, 1988.

(d) As soon as practicable after December 31, 1988, the actuary shall calculate the amount of reserves required to pay all annuities that are obligations of the supplemental disability benefits fund. If the board of trustees determines, on the basis of the calculations made by the actuary, that the money to the credit of the fund is materially in excess of the amount of reserves needed to assure payment of all annuities that are obligations of the fund,

the board may direct that a portion of the excess shall be transferred from the supplemental disability benefits fund to the municipality accumulation fund and credited to the respective accounts of the participating municipalities in such proportions as the board of trustees determines to be the ratio of their respective contributions to the total of all contributions to the supplemental disability benefits fund. When all annuities payable from the supplemental disability benefits fund have been finally paid and discharged, the board of trustees shall direct that the money remaining in the supplemental disability benefits fund shall be transferred and credited to the accounts of the respective participating municipalities in the municipality accumulation fund in proportion to the same ratios of their contributions to the total of all contributions to the supplemental disability benefits fund. Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 231, ch. 18, Sec. 101, eff. Jan. 1, 1982; Acts 1987, 70th Leg., ch. 183, Sec. 14, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.313 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.314. SUPPLEMENTAL DEATH BENEFITS FUND. (a) The retirement system shall deposit in the supplemental death benefits fund contributions paid by municipalities to the retirement system to provide supplemental death benefits in accordance with Section 855.408. The retirement system may not establish separate accounts in the fund for municipalities participating in the fund but shall credit contributions to a single account.

(b) The retirement system shall pay supplemental death benefits only from money in the supplemental death benefits fund, and the benefits are not an obligation of other funds of the system.

(c) The supplemental death benefits fund may become operative only after a sufficient number of municipalities elect to participate in the fund so that 4,000 members or more are covered by the fund.

(d) The board of trustees shall determine the operative date of the fund.

(e) The effective participation date of a municipality is:

(1) the operative date of the fund if the municipality elected to participate in the fund on or before the fund's operative date; or

(2) the first day of any calendar month after the month in which the municipality notifies the board of its election to enter the fund.

(f) The board of trustees shall notify each municipality of its effective participation date.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 231, ch. 18, Sec. 102, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.314 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.315. DISBURSEMENTS. (a) Disbursements from the assets of the retirement system may be made only on vouchers signed by the person designated for that purpose in accordance with Section 855.108.

(b) A person designated to sign vouchers may draw checks or warrants only on proper authorization from the board of trustees recorded in the official minutes of the board.

(c) When a voucher is properly signed, a depository with which assets of the system are deposited shall accept and pay the voucher. The depository is released from liability for payment made on the voucher.

(d) The retirement system shall make payments by electronic funds transfer to annuitants whose first annuity payment under this subtitle occurs after January 1, 2000. The retirement system may use electronic funds transfers to make other payments.

(e) Notwithstanding any requirement to make a payment by electronic funds transfer, the retirement system may make payment by vouchers, checks, or warrants to an annuitant if making the payment by electronic funds transfer would be impractical for the retirement system or if the annuitant properly notifies the retirement system that:

(1) receiving the payment by electronic funds transfer

would be impractical to the person;

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

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

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.315 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 83, Sec. 19, eff. Dec. 31, 1999.

Sec. 855.316. INTEREST RATES. Unless this subtitle expressly specifies another rate of interest, for periods after December 31, 2008, the rate of interest is five percent compounded annually, plus any other amounts the board of trustees is expressly authorized to provide. Notwithstanding any other provision in this chapter, the interest credited to the employees saving fund in a calendar year may not be less than five percent as allocated under Section 855.317(a).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 232, ch. 18, Sec. 103, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.316 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [154](#), Sec. 9, eff. May 26, 2009.

Sec. 855.317. ANNUAL ALLOCATION OF NET INVESTMENT INCOME OR LOSS FROM INTEREST FUND. (a) Effective as of December 31 of each year, the board of trustees shall make the following allocations from the interest fund that in the aggregate equal the net investment income or loss for the year:

(1) to the current service annuity reserve fund, interest on the mean amount in the current service annuity reserve

fund during that year;

(2) to the supplemental disability benefits fund, interest on the mean amount in the supplemental disability benefits fund during that year;

(3) to the supplemental death benefits fund, interest on the mean amount in the supplemental death benefits fund during that year;

(4) to the accounts in the municipality accumulation fund, an amount derived by applying a positive or negative rate, as determined by the board of trustees in its sole discretion to the January 1 balances of that year for each of those accounts;

(5) to the interest reserve account of the endowment fund, a positive or negative amount as determined by the board of trustees in its sole discretion; and

(6) to the employees saving fund, interest on the sum of the accumulated contributions in the employees saving fund credited on January 1 of that year to all persons who are members on December 31 of that year before any transfers for retirement effective December 31 of that year are made.

(b) In making allocations under this section, the board of trustees shall, without regard to the amount of net investment income or loss for the calendar year, first allocate interest as specified in Section 855.316 to those funds or accounts referenced in Subsections (a)(1), (2), (3), and (6). The board shall then allocate the remaining net investment income or loss between the funds or accounts referenced in Subsections (a)(4) and (5) in rates or amounts determined by the board in its sole discretion. The board of trustees shall accumulate the amount of assets in the interest reserve account of the endowment fund that the board in its sole discretion determines is necessary:

(1) to provide adequate reserves to:

(A) mitigate the effects of future investment return volatility and insufficient net investment income; and

(B) provide reasonable rate stabilization for participating municipalities;

(2) to provide adequate reserves against special and contingency requirements of other funds of the system; and

(3) to provide the amount required for the administration expenses of the system for the following year.

(c) After the requirements of the interest reserve account of the endowment fund have been satisfied, the board of trustees may transfer any of the amount remaining in the interest fund to the general reserves account of the endowment fund to maintain adequate reserves against special requirements of other funds of the retirement system.

(d) After the requirements of the interest reserve account and the general reserves account of the endowment fund have been satisfied, the board of trustees shall transfer any amount remaining in the interest fund to the distributive benefits account of the endowment fund.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 232, ch. 18, Sec. 104, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.317 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. [154](#), Sec. 10, eff. May 26, 2009.

Acts 2009, 81st Leg., R.S., Ch. [154](#), Sec. 11, eff. May 26, 2009.

Sec. 855.318. TRANSFER OF ASSETS ON MEMBER'S RETIREMENT OR RESTORATION TO ACTIVE DUTY. (a) When a member retires, the retirement system shall transfer:

(1) from the employees saving fund to the current service annuity reserve fund, the member's accumulated contributions; and

(2) from the municipality accumulation fund account of the municipality employing the retiring member to the current service annuity reserve fund, an amount equal to the amount of the member's accumulated contributions in the employees saving fund or a greater amount that a participating municipality has agreed to provide as reserves for an additional current service annuity for the member.

(b) If the retiring member's accumulated contributions are the result of service for more than one participating municipality, the retirement system shall transfer from the account of each municipality the amount chargeable to that municipality for the member.

(c) If a retiree resumes employment under Section 854.308, the board of trustees shall transfer the balance of the person's retirement reserve from the current service annuity reserve fund to the employees saving fund and to the municipality accumulation fund in proportion to the original amount transferred to the current service annuity reserve fund from those funds.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 233, ch. 18, Sec. 105, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.318 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.319. PAYMENT TO FORMERLY PARTICIPATING MUNICIPALITY. If a participating municipality 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 municipality's participation in the system stops and the system shall repay to the municipality on application any amount in the municipality accumulation fund that is credited to the municipality.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 233, ch. 18, Sec. 105, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.319 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

#### SUBCHAPTER E. COLLECTION OF CONTRIBUTIONS

Sec. 855.401. MEMBER CONTRIBUTIONS. (a) Each municipality that has one or more departments participating in the retirement system by ordinance shall designate the rate of member contributions for employees. The municipality shall elect a rate of

five, six, or seven percent of the employees' compensation. All departments of a participating municipality must have the same employee contribution rate, except that any municipality that before September 1, 1991, has elected to have different rates of member contributions in different departments may continue member contributions in accordance with its existing ordinances until the municipality elects to equalize the rates.

(b) A participating municipality by ordinance may increase the rate of member contributions.

(c) A participating municipality may reduce the rate of member contributions if:

(1) at an election by secret ballot conducted under rules adopted by the board of trustees, the proposal to reduce the rate is passed by an affirmative vote of two-thirds of all members employed by the municipality; and

(2) the municipality by ordinance provides for the reduction.

(d) A reduction in a member contribution rate may become effective only on the first day of a calendar month. The effective date of the reduction must be after the 90th day after the day on which the election required by Subsection (c) is held or the day on which the ordinance required by Subsection (c) is adopted, whichever is later. The municipality shall give written notice of a reduction in the deposit rate to the director before the 60th day preceding the effective date of the reduction.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 183, Sec. 15, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 466, Sec. 9, eff. Aug. 26, 1991.

Sec. 855.402. COLLECTION OF MEMBER CONTRIBUTIONS. (a) Each payroll period each participating municipality shall cause the contribution for the period to be deducted from the compensation of each member that it employs.

(b) In determining the amount of a member's compensation for

a payroll period, the board of trustees may use the rate of annual compensation payable to a member on the first day of the payroll period as the rate for the entire period and may omit deductions from compensation for less than a full payroll period if the employee was not a member on the first day of the period.

(c) The board of trustees may modify a member's required deduction by an amount that does not exceed one-tenth of one percent of the annual compensation on which the deduction is made.

(d) A participating municipality 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) The treasurer or disbursing officer of each participating municipality 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, a certified copy of the payroll; and

(3) pay the deductions in cash to the board of trustees at the board's home office before the 16th day of the month following that for which the deductions are required to be made.

(f) To facilitate the collection of member contributions, the city clerk or city secretary of each participating municipality, before January 31 of each year, shall file with the director a certified list that states the name and monthly and annual salaries of each employee of the municipality who is a member of the retirement system. Any addition to or deletion from the list must be certified.

(g) 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.

(h) The treasurer or disbursing officer of a participating municipality 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.

(i) 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.

Text of subsec. (j) added effective upon I.R.S. determination

(j) Each participating municipality shall pick up the employee contributions required by Section 855.401 and this section for all compensation earned after December 31, 1983, and shall pay these picked-up employee contributions from the same source of funds used in paying earnings to the employee. The participating municipality 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 municipality, the pick-up shall be accomplished by a corresponding reduction in the cash salary of the employee.

(k) Contributions picked up as provided by Subsection (j) shall be treated as employer contributions in determining tax treatment of the amounts under the United States Internal Revenue Code; however, each participating municipality shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service determines or the federal courts rule that pursuant to Section 414(h) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414), these picked-up contributions are not included as gross income of the employee until such time as they are distributed or made available. Employee contributions that are picked up as above provided shall be deposited to the individual account of the member and shall be treated for all other purposes of this subtitle in the same manner and with like effect as if the amount had been deducted from the compensation of the employee pursuant to Sections 855.401 and 855.402(a) through (h); and picked-up contributions may not be included in calculating the limitations on municipality contribution rates prescribed by

Section 855.407 or other provisions of this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 2978, ch. 512, Sec. 2; Acts 1987, 70th Leg., ch. 183, Sec. 16, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.403. COLLECTION OF MUNICIPALITY CONTRIBUTIONS.

(a) Before the 16th day of each month, each participating municipality shall pay or cause to be paid to the retirement system at the system's office expense contributions in accordance with Section 855.404, current service contributions in accordance with Section 855.405, and prior service contributions in accordance with Section 855.406.

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

(1) the fund from which earnings are paid to members;

or

(2) the general fund of 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. 65.403 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.404. MUNICIPALITY EXPENSE CONTRIBUTION. (a) Each participating municipality shall pay to the retirement system an expense contribution prescribed in accordance with this section.

(b) The board of trustees, before January 1 of each year, shall set the rate of the contribution necessary to provide an amount required to pay the difference between:

(1) the estimated administrative expenses for the following year; and

(2) the anticipated revenue, from sources other than municipality contributions, to be used for the expenses of the year as adjusted for a surplus or deficiency existing on January 1 of that year.

(c) The rate set by the board of trustees under Subsection (b) may not exceed 50 cents a month for each member.

(d) The board of trustees shall certify the rate set under Subsection (b) to each participating municipality before January 1 of the year for which the rate is set.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.404 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.405. MUNICIPALITY NORMAL CONTRIBUTION. Each participating municipality shall pay to the municipality accumulation fund, as its normal contribution, an amount equal to a percentage of the compensation of members employed by the municipality for that month. The rate of contribution is the normal contribution rate determined annually by the actuary and approved by the board of trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 233, ch. 18, Sec. 106, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.405 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.406. MUNICIPALITY PRIOR SERVICE CONTRIBUTION. (a) Each participating municipality shall pay to the municipality accumulation fund, as its prior service contribution, an amount equal to a percentage of the compensation of members employed by the municipality for that month.

(b) The rate of contribution is the rate determined annually by the actuary and approved by the board of trustees as being the rate required to fund all obligations charged against the municipality's account in the municipality accumulation fund within the municipality's amortization period without resulting in a probable future depletion of that account.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 233, ch. 18, Sec. 106, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title

110B, Sec. 65.406 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.4065. ADDITIONAL EMPLOYER CONTRIBUTIONS. (a) In addition to the contributions a participating municipality is required to make under this subtitle, the board of trustees, after consultation with the actuary, by rule may authorize a participating municipality to make lump-sum or periodic employer contributions to the retirement system to be deposited in the municipality's account in the municipality accumulation fund.

(b) A contribution made under this section is not subject to the maximum contribution rates under Sections 855.407 and 855.501. Added by Acts 2007, 80th Leg., R.S., Ch. [293](#), Sec. 4, eff. January 1, 2008.

Sec. 855.407. LIMITATION ON MUNICIPALITY CONTRIBUTION RATES. (a) The combined rates of a municipality's normal contributions and prior service contributions may not exceed:

(1) 9-1/2 percent of the total compensation paid by the municipality to the employees of its participating departments if the rate of member contributions of the employees of its participating departments is 7 percent of their compensation;

(2) 8-1/2 percent of the total compensation paid by the municipality to the employees of its participating departments if the rate of member contributions of the employees of its participating departments is 6 percent of their compensation;

(3) 7-1/2 percent of the total compensation paid by the municipality to the employees of its participating departments if the rate of member contributions of the employees of its participating departments is 5 percent of their compensation; or

(4) 5-1/2 percent of the total compensation paid by the municipality to the employees of its participating departments if the rate of member contributions of the employees of its participating departments is 3 percent of their compensation.

(b) The actuary annually shall determine the municipality normal contribution rate and the prior service contribution rate from the most recent data available at the time of the

determination. Before January 1 of each year, the board of trustees shall certify the rates to each participating municipality. If a participating municipality has different rates of contribution for employees of different departments, the actuary shall determine the maximum rate for the municipality using the average rate of contribution prescribed for contributions of employees of its participating departments. To compute the average rate the actuary shall consider the number of employees in each participating department of the municipality.

(c) A reduction in the member contribution rate for employees of a participating municipality or in the municipality's matching rate does not reduce the maximum rate of contribution of the municipality.

(d) If the dates of participation of each department of a municipality are not the same, the governing body of the municipality may request that, to determine the municipality normal contribution rate and prior service contribution rate and to determine the period during which the municipality must fund the obligations charged against its account in the municipality accumulation fund, all of its departments have a single composite participation date. The actuary shall determine the composite participation date by computing an average weighted according to the number of members entering the retirement system on the actual dates of participation of the departments involved.

(e) If the combined rates of a municipality's normal contributions and prior service contributions exceed the rate prescribed by Subsection (a), the rate for prior service contributions shall be reduced to the rate that equals the difference between the maximum rate prescribed by Subsection (a) and under Section 855.501, if applicable, and the normal contribution rate for the municipality.

(f) The governing body of a municipality that is determined by the actuary to be unable to finance all obligations charged against its account in the municipality accumulation fund within 25 years after its most recent actuarial valuation date may elect to have the municipality contribute to its account in the municipality accumulation fund at a rate that does not exceed in any year the sum

of two percent and the maximum contribution rate specified by Subsection (a) and by Section 855.501, if applicable, and that the actuary annually may determine as necessary to finance the existing levels of benefits before the expiration of 25 years after the most recent actuarial valuation date.

(g) A municipality that begins participation in the retirement system on or after December 31, 1999, and any municipality already participating in the retirement system on that date whose governing body elects to have the municipality do so shall contribute to its account in the municipality accumulation fund at the combined rate of total compensation paid to its employees as the actuary determines is necessary to fund all obligations chargeable to its account in the fund within the municipality's amortization period, regardless of other provisions of this subtitle.

(h) If the board of trustees adopts any change in actuarial assumptions or in actuarial method that would result in any municipality having an increase in its combined contribution rate of more than one-half of one percent of the total compensation paid to its employees based on its current amortization period, and if its governing body adopts a resolution requesting a new amortization period, the municipality will be assigned a new amortization period equal to the lesser of:

(1) the number of years required to limit the increase in the combined rate to one-half of one percent of the total compensation paid to its employees; or

(2) the maximum number of years, not to exceed 40 years, specified by the board of trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 234, ch. 18, Sec. 107, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.407 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 466, Sec. 10, eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 57, Sec. 18, eff. Jan. 1, 1994; Acts 1997, 75th Leg., ch. 76, Sec. 13, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 83, Sec. 20, eff. Dec. 31, 1999.

Sec. 855.408. MUNICIPALITY SUPPLEMENTAL DEATH BENEFITS CONTRIBUTION. (a) In addition to other contributions to the retirement system required by this subtitle, each municipality participating in the supplemental death benefits fund monthly shall pay to the supplemental death benefits fund an amount equal to the rate of contribution computed in accordance with Section 855.502, multiplied by the total compensation for the month of the members employed by the municipality.

(b) The limitation of Section 855.407(e) does not apply to the rate of the contribution to the supplemental death benefits 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. 65.409 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.410. INTEREST ON LATE CONTRIBUTIONS. (a) A participating municipality that fails to remit before the 16th day of the month all contributions required by this subchapter to be made and remitted to the retirement system by that date shall pay to the retirement system, in addition to the contributions, interest on the past-due amounts at an annual rate that is the total of the rates of interest credited by the retirement system to accounts in the municipality accumulation fund for the preceding calendar year, plus two percent. The retirement system shall notify participating municipalities of the rate of interest that will be due on late payments.

(b) Payment is considered timely made if transmitted by first-class United States mail, postage prepaid, and postmarked not later than the 15th day of the month in which the payment is due.

Added by Acts 1987, 70th Leg., ch. 183, Sec. 18, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.411 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

#### SUBCHAPTER F. OPTIONAL PROGRAMS

Sec. 855.501. INCREASED CURRENT SERVICE ANNUITIES. (a) A

participating municipality may elect to provide for an increased current service annuity reserve on the retirement of each of its employees who are members.

(b) The governing body of a municipality electing to provide for increased reserves by ordinance shall provide that for each month of current service rendered by a participating employee of the municipality after the date of its election the municipality will provide a contribution as provided by Subsection (c) equal to 150 or 200 percent of the member's accumulated contribution to the retirement system for that month.

(c) On the retirement of a member covered by an increased current service annuity reserve, the retirement system shall transfer to the current service annuity reserve fund:

(1) accumulated contributions credited to the member's account in the employees saving fund; and

(2) the amount from the municipality's account in the municipality accumulation fund that the municipality has adopted under Subsection (b).

(d) If the retiring member's accumulated contributions are the result of service for more than one participating municipality, the retirement system shall transfer from the account of each municipality the amount chargeable to that municipality for the member.

(e) A participating municipality electing to provide an increased current service annuity reserve and electing a contribution rate of 150 percent for a year is liable for total contributions at a rate that does not exceed a rate equal to the maximum rate prescribed for the municipality by Section 855.407, plus two percent a year. A municipality electing a rate of 200 percent a year is liable for contributions at a rate that does not exceed a rate equal to the maximum rate prescribed for the municipality by Section 855.407, plus four percent a year.

(f) Except as provided by Subsection (g), an increased rate of contribution authorized under this section may become effective only on January 1 of a calendar year.

(g) A municipality that begins participation in the retirement system after December 31, 1975, may elect to provide for

an increased current service annuity reserve beginning on its effective date of participation. That election remains in effect until the municipality elects to pay contributions at another rate.

(h) A municipality electing to provide for an increased current service annuity reserve may reduce its rate of contribution to 150 percent of the member contributions or to a rate equal to the member contributions. The reduction becomes effective on January 1 of the calendar year following the date on which the municipality's governing body adopts an ordinance reducing the rate of contribution.

(i) A participating municipality electing to provide an increased service annuity reserve and electing a contribution rate of 150 percent for a year may, by ordinance, agree to be liable for total contributions at a rate that does not exceed a rate equal to the maximum rate prescribed for the municipality by Section 855.407 plus two and one-half percent if the contribution rate for its employees is six percent, or a rate that does not exceed a rate equal to the maximum rate prescribed for the municipality by Section 855.407 plus three percent if the contribution rate for its employees is seven percent.

(j) A participating municipality electing to provide an increased service annuity reserve and electing a contribution rate of 200 percent for a year may, by ordinance, agree to be liable for total contributions at a rate that does not exceed a rate equal to the maximum rate prescribed for the municipality by Section 855.407 plus five percent if the contribution rate for its employees is six percent, or a rate that does not exceed a rate equal to the maximum rate prescribed for the municipality by Section 855.407 plus six percent if the contribution rate for its employees 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. 235, ch. 18, Sec. 108, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.501 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 514, Sec. 21, eff. Sept. 1, 1995.

Sec. 855.502. SUPPLEMENTAL DEATH BENEFITS PROGRAM. (a) As soon as practical after the supplemental death benefits program is established and at the time of each investigation of members' mortality and service experience required by Section 855.110, the actuary shall investigate the mortality experience of the members and eligible annuitants participating in the supplemental death benefits 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 supplemental death benefits contribution rates. The rates and tables may provide for the anticipated mortality experience of the persons covered under the supplemental death benefits fund and for a contingency reserve.

(b) Before a municipality's participation date in the supplemental death benefits fund 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 supplemental death benefits contribution rate of a municipality participating in the supplemental death benefits contribution fund. The rate must be expressed as a percentage of the compensation of members employed by the municipality. When the rate is approved by the board of trustees, the rate is effective for the calendar year for which it was approved.

(c) If the balance in the supplemental death benefits fund is insufficient to pay the supplemental death benefits due, the board of trustees may direct that, to the extent available, an amount equal to the amount of the deficiency be transferred from the general reserves account of the endowment fund to the supplemental death benefits fund. The board may adjust future contributions to the supplemental death benefits fund to repay to the general reserves account the transferred amount.

(d) If the total number of members covered by the supplemental death benefits fund becomes fewer than 4,000, the board of trustees may order that the fund be discontinued and all coverage terminated. The termination date must be December 31 of a year designated by the board and may not be before the expiration of six months after the date on which the order of termination was adopted.

(e) 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 supplemental death benefits fund. Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 235, ch. 18, Sec. 109, eff. Jan. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.502 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

#### SUBCHAPTER G. MISCELLANEOUS ADMINISTRATIVE PROCEDURES

Sec. 855.601. 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 municipality and to each requesting member an annual statement that contains:

(1) a balance sheet showing the financial and actuarial condition of the retirement system on December 31 of that year;

(2) a statement showing the receipts and disbursements made during the calendar year;

(3) a statement showing changes in the asset, liability, reserve, and surplus accounts during the calendar year; and

(4) additional statistics necessary for proper interpretation of the condition 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. 65.601 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.602. INTEREST IN ASSETS. A particular person,

group of persons, municipality, or other entity has no right in a specific security, item of cash, or other property of the retirement system 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. 65.602 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.603. FORFEITURE OF CONTRIBUTIONS. (a) If an application under Section 852.103 for the accumulated contributions of a person who has ceased to be employed by a participating department for a reason other than death or retirement has not been made before the seventh anniversary of the person's last day of service, the retirement system shall return to the person or the person's estate all accumulated contributions of the person.

(b) If the person or the administrator of the person's estate cannot be found, the person's accumulated contributions are forfeited to the retirement system. The retirement system shall credit the amount forfeited to the perpetual endowment account of 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. 65.603 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.604. MERGER. A pension system for municipal employees may merge into the retirement system only on conditions that the board of trustees in its sole discretion determines in an individual case are consistent with the fiduciary responsibilities of the board.

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. 65.604 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 599, Sec. 20, eff. Jan. 1, 2004.

Sec. 855.605. PARTICIPATION OF MEMBERS OF FIRE DEPARTMENT.

(a) If the employees of the fire department of a municipality, with the consent of the municipality, elect to become members of the retirement system, the funds of the municipality's firemen's relief and retirement fund, if any, and future payments to the fund may be transferred to the board of trustees on the voluntary application of the municipality.

(b) A participating municipality shall pay to the board of trustees money that could have been paid annually to the firemen's relief and retirement fund if the fire department were not covered by the retirement system or another pension system or if the municipality had taken the proper steps to secure the money. The retirement system shall credit amounts paid under this subsection for the benefit of fire fighters as the board of trustees directs. Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 65.605 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 855.606. APPEAL OF ADMINISTRATIVE DECISION. A

decision of the board of trustees denying or limiting membership, service credit, eligibility for or the amount of benefits payable by the retirement system, or regarding to whom benefits should be paid is a decision in a contested case as defined by the administrative procedure law, Chapter 2001, and is subject to judicial review under the substantial evidence rule in accordance with Sections 2001.174-2001.177.

Added by Acts 1997, 75th Leg., ch. 76, Sec. 14, eff. Sept. 1, 1997.

Sec. 855.607. PLAN QUALIFICATION. It is intended that the provisions of this subtitle be construed and administered in a manner that the retirement system's benefit plan will be considered a qualified plan 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 modify the plan to the extent the board considers necessary for the retirement system to be considered a qualified plan. Rules adopted by the board of trustees relating to plan qualification issues are considered a part of the plan.

Added by Acts 1997, 75th Leg., ch. 76, Sec. 14, eff. Sept. 1, 1997.

Sec. 855.608. FULL BENEFIT ARRANGEMENT. (a) A separate fund for the payment of benefits under Section 415(m), Internal Revenue Code of 1986, and its subsequent amendments, is created outside the retirement system trust fund solely for the purpose of providing benefits to participants equal to the amount by which the participant's annual benefit otherwise payable under this subtitle exceeds the limitation on benefits imposed by Section 415, Internal Revenue Code of 1986, and its subsequent amendments.

(b) The board of trustees shall administer this section. Except as otherwise provided by this section, the board of trustees has the same rights, duties, and responsibilities concerning the full benefits arrangement as it has for the trust fund.

(c) Money for the payment of benefits to a participant under this section shall be paid to the separate fund created by this section from the contributions that otherwise would be deposited in the municipality accumulation fund account of the municipality that employed the member. If the benefit is payable as a result of service with more than one participating municipality, there shall be paid from the contributions that otherwise would be deposited in the municipality accumulation fund account of each affected municipality the amount chargeable to that municipality for the member. When feasible, the monthly amount to pay benefits under this section shall be paid not later than the 15th day before the date of a monthly payment to a person receiving annuity benefits under this section.

(d) The full benefits arrangement shall be administered as an unfunded governmental excess benefit arrangement. Benefits under this section are unassignable and are exempt from execution, garnishment, attachment, and state and local taxation to the same extent as provided by Section 851.006. Contributions to this arrangement are not held in trust and may not be commingled with other retirement system assets. The board of trustees may adopt rules for the efficient administration of this section and to maintain compliance with Section 415(m), Internal Revenue Code of 1986, and its subsequent amendments.

(e) The retirement system may transfer amounts among accounts and funds to balance the accounts and funds affected by the arrangement required by this section.

Added by Acts 2001, 77th Leg., ch. 121, Sec. 27, eff. Jan. 1, 2002.

Amended by Acts 2003, 78th Leg., ch. 599, Sec. 21, eff. Jan. 1, 2004.