

GOVERNMENT CODE
CHAPTER 825. ADMINISTRATION
SUBCHAPTER A. BOARD OF TRUSTEES

Sec. 825.001. COMPOSITION OF BOARD OF TRUSTEES. The board of trustees is composed of nine members. Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.002. TRUSTEES APPOINTED BY GOVERNOR. (a) The governor shall appoint, with the advice and consent of the senate and as provided by this section, seven members of the board of trustees.

(b) The governor shall appoint three members of the board to hold office for staggered terms, with the term of one trustee expiring on August 31 of each odd-numbered year. These members must be persons who have demonstrated financial expertise, who have worked in private business or industry, and who have broad investment experience, preferably in investment of pension funds. None of the members appointed under this subsection may be a member or annuitant of the retirement system.

(c) The governor shall appoint two members of the board from a slate of three members of the retirement system who are currently employed by a public school district and who have been nominated in accordance with Subsection (f) by the members of the retirement system whose most recent credited service was performed for a public school district. The two members hold office for staggered terms.

(d) The governor shall appoint one member of the board from a slate of three former members of the retirement system who have retired and are receiving benefits from the retirement system and who have been nominated in accordance with Subsections (f) and (g) by the persons who have retired and are receiving benefits from the retirement system.

(e) The governor shall appoint one member from a slate of three members of the retirement system who are currently employed by an institution of higher education and who have been nominated in accordance with Subsection (f) by the members of the retirement system whose most recent credited service was performed for an institution of higher education.

(f) Persons considered for nomination under Subsection (c), (d), or (e) must have been nominated by written ballot at an election conducted under rules adopted by the board of trustees.

(g) To provide for the nomination of persons for appointment under Subsection (d), the board shall send to each retiree of the retirement system:

- (1) notice of the deadline for filing as a candidate for nomination;
- (2) information on procedures to follow in filing as a candidate; and
- (3) a written ballot.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 5101, ch. 927, Sec. 1, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.002 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 30, eff. Sept. 1, 1995.

Sec. 825.003. TRUSTEES APPOINTED BY GOVERNOR FROM NOMINEES OF BOARD OF EDUCATION. The governor shall appoint two members of the board of trustees, subject to confirmation by two-thirds of the senate, from lists of nominees submitted by the State Board of Education. These members must be persons who have demonstrated financial expertise, have worked in private business or industry, and have broad investment experience, preferably in investment of pension funds.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 31, eff. Sept. 1, 1995.

Sec. 825.0031. NONDISCRIMINATION IN APPOINTMENTS. Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 12, eff. Sept. 1, 1993.

Sec. 825.0032. INELIGIBILITY FOR BOARD AND OF CERTAIN EMPLOYEES. (a) Except as provided by Subsection (b), a person is

not eligible for appointment to the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the retirement system;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the retirement system; or

(3) uses or receives a substantial amount of tangible goods, services, or funds from the retirement system, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

(b) Subsection (a) does not apply to employment by, participation in the management of, or ownership or control of an interest in a business entity or other organization on behalf of the retirement system. Subsection (a)(3) does not apply to a person who is nominated for appointment under Section 825.002(c), (d), or (e).

(c) A paid officer, employee, or consultant of a Texas trade association in the field of investment or insurance may not be a trustee or an employee of the retirement system who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(d) A person who is the spouse of a paid officer, manager, or consultant of a Texas trade association in the field of investment or insurance may not be a trustee and may not be an employee of the retirement system who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(e) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(f) A person may not serve as a trustee or act as the general counsel to the board or the retirement system if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business or an association related to the operation of the board.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 12, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 32, eff. Sept. 1, 1995.

Sec. 825.004. TERMS OF OFFICE; FILLING VACANCIES. (a) Members of the board of trustees hold office for terms of six years.

(b) A vacancy in the office of a trustee shall be filled for the unexpired term in the same manner that the office was previously filled.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.0041. BOARD MEMBER TRAINING. (a) Before a member of the board may assume the member's duties and, if applicable, before the member may be confirmed by the senate the member must complete at least one course of the training program established under this section.

(b) A training program established under this section shall provide information to the member regarding:

(1) the enabling legislation that created the retirement system and its policy-making body to which the member is appointed to serve;

(2) the programs operated by the system;

(3) the role and functions of the system;

(4) the rules of the system with an emphasis on the rules that relate to disciplinary and investigatory authority;

(5) the current budget for the system;

(6) the results of the most recent formal audit of the system;

(7) the requirements of the:

(A) open meetings law, Chapter 551;

(B) open records law, Chapter 552; and

(C) administrative procedure law, Chapter 2001;

(8) the requirements of the conflict of interest laws

and other laws relating to public officials; and

(9) any applicable ethics policies adopted by the system or the Texas Ethics Commission.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 33, eff. Sept. 1, 1995.

Sec. 825.005. OATH OF OFFICE. Before taking office as a trustee, a person shall take the constitutional oath prescribed for officers of the state.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.006. SUNSET PROVISION. The board of trustees of the Teacher Retirement System of Texas is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2007 are reviewed or, if the retirement system's operating expenses are not subject to the appropriations process on September 1, 1995, the board shall be reviewed during the period in which state agencies abolished in 1997 are reviewed. This section expires September 1, 2007.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 479, Sec. 219, eff. Sept. 1, 1985; Acts 1985, 69th Leg., ch. 729, Sec. 27, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.006 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 580, Sec. 3, eff. Sept. 1, 1989; Acts 1989, 71st Leg., ch. 889, Sec. 4, eff. Sept. 1, 1989; Acts 1991, 72nd Leg., 1st C.S., ch. 17, Sec. 1.26, eff. Nov. 12, 1991; Acts 1993, 73rd Leg., ch. 812, Sec. 13, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 34, eff. Sept. 1, 1995.

Sec. 825.007. COMPENSATION; EXPENSES. Trustees serve without compensation but are entitled to reimbursement from the expense account of the retirement system for all necessary expenses that they incur in the performance of official board duties.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.007 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.008. VOTING. Each trustee is entitled to one vote. Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.008 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.009. LEAVE FOR MEMBER TRUSTEES. (a) A trustee appointed from a slate of members nominated by members of the retirement system under Section 825.002 is entitled to leave with pay from the trustee's public school employer to attend to the official business of the retirement system.

(b) The retirement system may enter into an agreement with the public school employer to adequately compensate the employer for the loss of services of the trustee.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 14, eff. Nov. 12, 1991.

Sec. 825.010. GROUNDS FOR REMOVAL OF TRUSTEE. (a) It is a ground for removal from the board if a trustee:

(1) does not have at the time of appointment the qualifications required for the trustee's position;

(2) does not maintain during service on the board the qualifications required for the trustee's position;

(3) violates a prohibition established by Section 825.002(b) or 825.0032;

(4) cannot because of illness or disability discharge the trustee's duties for a substantial part of the term for which the trustee is appointed; or

(5) is absent from more than one-third of the regularly scheduled board meetings that the person is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a trustee exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the ground. The presiding officer shall then notify the appropriate appointing officer and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the

executive director shall notify the next highest officer of the board, who shall notify the appropriate appointing officer and the attorney general that a potential ground for removal exists. Added by Acts 1993, 73rd Leg., ch. 812, Sec. 14, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 35, eff. Sept. 1, 1995.

SUBCHAPTER B. POWERS AND DUTIES OF BOARD OF TRUSTEES

Sec. 825.101. GENERAL ADMINISTRATION. The board of trustees is responsible for the general administration and operation of the retirement system. Notwithstanding any other law, the board of trustees has exclusive control over all assets held in trust by the retirement system and all operations funded by trust assets and shall administer the retirement system for the sole and exclusive benefit of the members and participants.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2005, 79th Leg., ch. 1359, Sec. 20, eff. Sept. 1, 2005.

Sec. 825.102. RULEMAKING. Subject to the limitations of this subtitle, the board of trustees may adopt rules for:

- (1) eligibility for membership;
- (2) the administration of the funds of the retirement system; and
- (3) the transaction of business of 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. 35.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.103. ADMINISTERING SYSTEM ASSETS. (a) The board of trustees is the trustee of all assets of the retirement system.

(b) The board may invest and reinvest the retirement system's assets as authorized by Article XVI, Section 67, of the Texas Constitution.

(c) Except as provided herein, Chapter 412, Labor Code, does not apply to the retirement system. The board of trustees may acquire services described by that chapter in any manner or amount the board considers reasonable. The State Office of Risk Management shall provide services for the retirement system as requested by the retirement system, and the retirement system may use the services of the State Office of Risk Management to obtain insurance and perform risk management and workers' compensation claim services. In accordance with terms mutually agreed upon by both parties, the retirement system shall be subject to the relevant requirements of Chapter 412, Labor Code, only for the specific programs or services the board elects to obtain from or through the State Office of Risk Management. The State Office of Risk Management shall pay to the retirement system any amounts collected on behalf of the system through subrogation of claims, regardless of the budget biennium in which the office receives the amounts. The State Office of Risk Management shall pay these amounts directly to the retirement system instead of to the general revenue fund.

(d) Notwithstanding any other law, the retirement system has exclusive authority over the purchase of goods and services using money other than money appropriated from the general revenue fund, including specifically money from trusts under the administration of the retirement system, and Subtitle D, Title 10, does not apply to the retirement system with respect to that money. The retirement system shall acquire goods or services by procurement methods approved by the board of trustees or the board's designee. For purposes of this subsection, goods and services include all professional and consulting services and utilities as well as supplies, materials, equipment, skilled or unskilled labor, and insurance. The Texas Building and Procurement Commission shall procure goods or services for the retirement system at the request of the retirement system, and the retirement system may use the services of that commission in procuring goods or services.

(e) Chapters 2054 and 2055 do not apply to the retirement system. The board of trustees shall control all aspects of information technology and associated resources relating to the retirement system, including computer, data management, and telecommunication operations, procurement of hardware, software, and middleware, and telecommunication equipment and systems, location, operation, and replacement of computers, computer systems, and telecommunication systems, data processing, security,

disaster recovery, and storage. The Department of Information Resources shall assist the retirement system at the request of the retirement system, and the retirement system may use any service that is available through that department.

(f) Subchapter C, Chapter 2260, does not apply to the retirement system. The acceptance of benefits by the retirement system under a contract does not waive immunity from suit or immunity from liability.

(g) Notwithstanding any other law, Chapters 2261 and 2262 do not apply to the retirement system. The Contract Advisory Team shall assist the retirement system at the request of the retirement system. The retirement system may use the training program for contract management provided under Chapter 2262.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.103 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2005, 79th Leg., ch. 1359, Sec. 21, eff. Sept. 1, 2005.

Sec. 825.104. DESIGNATION OF AUTHORITY TO SIGN VOUCHERS. (a) The board of trustees shall file with the comptroller of public accounts an attested copy of a board resolution that designates the persons authorized to sign vouchers for payment from accounts of the retirement system.

(b) A filed copy of the resolution required by Subsection (a) evidences the comptroller's authority to issue warrants for payment from 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. 35.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.105. ADOPTING RATES AND TABLES. The board of trustees shall adopt rates and mortality, service, and other tables the board considers necessary for the retirement system after considering the results of the actuary's investigation of the mortality, service, and compensation experience of the system's members and beneficiaries.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.105 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.107. RECORDS OF BOARD OF TRUSTEES. (a) The board of trustees shall keep, in convenient form, data necessary for:

(1) actuarial valuation of the accounts of the retirement system; and

(2) checking the system's expenses.

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

(c) Except as otherwise provided by this title, records of the board are open to public inspection.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.107 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.108. REPORTS. (a) No later than December 15 of each year, the board of trustees shall publish a report in the Texas Register containing the following information:

(1) the retirement system's fiscal transactions for the preceding fiscal year;

(2) the amount of the system's accumulated cash and securities; and

(3) the rate of return on the investment of the system's cash and securities during the preceding fiscal year.

(b) No later than March 1 of each year, the board of trustees shall publish a report in the Texas Register containing the balance sheet of the retirement system as of August 31 of the preceding fiscal year. The report must contain an actuarial valuation of the system's assets and liabilities, including the extent to which the system's liabilities are unfunded.

(c) A copy of the report required by Subsection (a) must be filed with the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension Review Board, the legislative audit committee, and the state auditor no later than December 15 of each year.

(d) A copy of the report required by Subsection (b) must be filed with the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension Review Board, the legislative audit committee, and the state auditor no later than March 1 of each year.

(e) The board shall prepare annually a complete and detailed

written report accounting for all funds received and disbursed by the retirement system during the preceding fiscal year. The annual report must meet the reporting requirements applicable to financial reporting provided in the General Appropriations Act.

(f) The board shall prepare biennially a complete and detailed written report describing and explaining any use of appropriated amounts, retirement system assets, or other resources for governmental relations, member counseling, or official publications. The report must be filed with the committees of the senate and the house of representatives having jurisdiction over appropriations, with the committees of the senate and the house of representatives having principal jurisdiction over legislation governing the retirement system, and with the Legislative Budget Board at the time the retirement system submits its budget request for the next state fiscal biennium.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 929, Sec. 4, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.108 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.06(d), eff. Aug. 26, 1991; Acts 1995, 74th Leg., ch. 555, Sec. 36, eff. Sept. 1, 1995.

Sec. 825.109. CORRECTION OF ERRORS. If an error in the records of the retirement system results in a person's receiving more or less money than the person is entitled to receive under this subtitle, the board of trustees shall correct the error and so far as practicable shall adjust future payments so that the actuarial equivalent of the benefit to which the person is entitled is paid.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.109 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.110. DETERMINATION OF ANNUAL COMPENSATION. The board of trustees shall adopt rules to exclude from annual compensation all or part of salary and wages in the final years of a member's employment that reasonably can be presumed to have been derived from a conversion of fringe benefits, maintenance, or other payments not includable in annual compensation to salary and wages. The board of trustees shall adopt rules that include a percentage limitation on the amount of increases in annual compensation that may be subject to credit and deposit during a member's final years of employment.

Added by Acts 1981, 67th Leg., 1st C.S., p. 205, ch. 18, Sec. 29, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 556, Sec. 3, eff. Aug. 26, 1985; Acts 1989, 71st Leg., ch. 835, Sec. 7, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.110 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.05(g), eff. Aug. 26, 1991; Acts 2005, 79th Leg., ch. 1359, Sec. 22, eff. Sept. 1, 2005.

Sec. 825.111. MANAGEMENT AUDIT. (a) The legislative audit committee may contract with an independent and internationally recognized accounting firm with substantial experience in auditing retirement or pension plans to conduct a managerial audit of the retirement system.

(b) The state auditor shall pay the costs of each management audit under this section from money appropriated to the state auditor and approved for that purpose by the legislative audit committee. Not later than the 30th day after the date the retirement system receives a statement of audit costs paid by the state auditor under this subsection, the retirement system shall reimburse the state auditor for the costs from money in the expense account.

(c) The legislative audit committee may determine the frequency of the audits authorized by this section and may determine the programs and operations to be covered by the audits. The accounting firm selected to conduct the audits shall report the results of those audits directly to the committee.

(d) No later than 30 days after the legislative audit committee receives an audit report, the committee shall file a copy of the report with the retirement system, the governor, the lieutenant governor, the speaker of the house of representatives, the State Pension Review Board, the state auditor, and the secretary of state for publication in the Texas Register. Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.06(e), eff. Aug. 26, 1991.

Sec. 825.112. INSURANCE. Notwithstanding any other law, the board of trustees may self-insure or purchase any insurance, including fiduciary and liability coverage for trust assets or for the trustees, employees, and agents of the board of trustees, in amounts the board of trustees considers reasonable and prudent. Added by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 15, eff. Nov. 12, 1991. Amended by Acts 2005, 79th Leg., ch. 1359, Sec. 23, eff. Sept. 1, 2005.

Sec. 825.113. MISCELLANEOUS BOARD DUTIES. (a) The executive director or the executive director's designee shall provide to its trustees and employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the executive director and the staff of the retirement system.

(c) The board shall prepare information of interest to the retirement system's members describing the functions of the system and the system's procedures by which complaints are filed with and resolved by the system. The system shall make the information available to the system's members and appropriate state agencies.

(d) The board by rule shall establish methods by which members are notified of the name, mailing address, and telephone number of the retirement system for the purpose of directing complaints to the system.

(e) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(f) The retirement system shall comply with federal and state laws related to program and facility accessibility. The executive director shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 15, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 37, eff. Sept. 1, 1995.

Sec. 825.114. ADVISORY COMMITTEES. (a) The board of trustees may establish advisory committees as it considers necessary to assist it in performing its duties. Members of advisory committees established under this section serve at the pleasure of the board.

(b) Notwithstanding any other law to the contrary, the board of trustees by rule shall determine the amount and manner of any compensation or expense reimbursement to be paid members of an advisory committee performing service for the retirement system for performing the work of the advisory committee. All compensation and expense reimbursements for an advisory committee established under this section are payable from the expense account or the retired school employees group insurance fund, as applicable.

(c) Notwithstanding any other law to the contrary, the size and composition of advisory committees created by statute for the retirement system or required by statute to be created by the retirement system are as provided by the statute creating or providing for the creation of the particular committee.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 15, eff. Sept. 1, 1993.

Sec. 825.115. APPLICABILITY OF CERTAIN LAWS. (a) Except as provided by this section, the board of trustees is subject to the open meetings law, Chapter 551, and the administrative procedure law, Chapter 2001.

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

executive director, and the executive director may delegate the authority to another employee of the retirement system.

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

Added by Acts 1995, 74th Leg., ch. 555, Sec. 38, eff. Sept. 1, 1995. Amended by Acts 2005, 79th Leg., ch. 1359, Sec. 24, eff. Sept. 1, 2005.

SUBCHAPTER C. OFFICERS AND EMPLOYEES OF BOARD OF TRUSTEES

Sec. 825.201. PRESIDING OFFICER. The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor. Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 39, eff. Sept. 1, 1995.

Sec. 825.202. EXECUTIVE DIRECTOR. (a) The board of trustees, by a majority vote of all members, shall appoint an executive director.

(b) The executive director may not be a member of the board of trustees.

(c) To be eligible to serve as the executive director, a person must have been a citizen of this state for the three years immediately preceding the appointment.

(d) The executive director shall recommend to the board actuarial and other services necessary to administer the retirement system.

(e) Annually, the executive director shall prepare an itemized expense budget for the following fiscal year and shall submit the budget to the board for review 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. 35.202 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 16, eff. Sept. 1, 1993.

Sec. 825.203. LEGAL ADVISER. The attorney general of the state is the legal adviser of the board of trustees. The attorney general shall represent the board 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. 35.203 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.204. MEDICAL BOARD. (a) The board of trustees shall appoint 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 this 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. 35.204 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.205. OTHER PHYSICIANS. The board of trustees may employ physicians in addition to the medical board to report on special cases.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.205 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.206. ACTUARY. (a) The board of trustees shall designate an actuary as its technical adviser.

(b) At least once every five years the actuary, on authorization of the board of trustees, shall:

(1) investigate the mortality, service, and compensation experience of the members and beneficiaries of the

retirement system;

(2) on the basis of the investigation made under Subdivision (1), recommend to the board of trustees tables and rates that are required; and

(3) on the basis of tables and rates adopted by the board of trustees under Section 825.105, evaluate the assets and liabilities of the retirement system.

(c) The board of trustees annually shall evaluate the performance of the actuary during the previous year. At least once every three years, the board shall redesignate its actuary after advertising for and reviewing proposals from providers of actuarial services.

(d) Each actuarial experience study must include a review of all actuarial assumptions in light of relevant experience, important trends, and economic projections. Interrelated actuarial assumptions shall be reviewed carefully to ensure that adjustments in one assumption are reflected appropriately in related assumptions.

(e) Each actuarial valuation must include a detailed analysis comparing experience factors to their actuarial assumptions. The analysis shall be developed and reported to identify significant variations in actual experience from what was assumed. A material variation should be the focus of an actuarial experience study.

(f) An actuarial audit shall be performed in conjunction with an actuarial experience study or at least once every five years. The audit must include:

(1) an analysis of the appropriateness of the actuarial assumptions;

(2) a review of the assumptions and methodology for compliance with the funding standards;

(3) verification of demographic data; and

(4) confirmation of the valuation results, including a determination of actuarial accrued liability, normal cost, expected employee contributions, and the effects of any recent legislation.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.206 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 17, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 40, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1416, Sec. 22, eff. Sept. 1, 1997.

Sec. 825.207. COMPTROLLER. (a) Except as provided by Section 825.302 or 825.303 or by Subsection (e) of this section, the comptroller is the custodian of all securities and cash of the retirement system, including securities held in the name of a nominee of the retirement system.

(b) The comptroller shall pay money from the accounts of the retirement system on warrants drawn by the comptroller and authorized by vouchers signed by the executive director or other persons designated by the board of trustees.

(c) The comptroller annually shall furnish to the board of trustees a sworn statement of the amount of the retirement system's assets in the comptroller's custody.

(d) The comptroller is not responsible, under either civil or criminal law, for any action or losses with respect to assets of the retirement system while the assets are in the custody of a commercial bank as provided by Section 825.302 or 825.303 or by Subsection (e) of this section.

(e) The board of trustees may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of all or part of the retirement system's assets.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 205, ch. 18, Sec. 30, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.207 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 5, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 812, Sec. 18, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1416, Sec. 23, eff. Sept. 1, 1997; Acts 1997, 75th Leg., ch. 1423, Sec. 8.51, eff. Sept. 1, 1997.

Sec. 825.208. COMPENSATION OF EMPLOYEES; PAYMENT OF EXPENSES. (a) Notwithstanding any other law, the board of trustees

shall approve the rate of compensation of all persons it employs and the amounts necessary for other expenses for operation of the retirement system. If expenditures are paid from money appropriated from the general revenue fund rather than from trust funds, the rates and amounts may not exceed those paid for similar services for the state.

(b) The retirement system is exempt from Chapter 660 and Subchapter K, Chapter 659, to the extent the board of trustees determines an exemption is necessary for the performance of fiduciary duties.

(c) The board of trustees may compensate employees of the retirement system, whether subject to or exempt from the overtime provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), at the rate equal to the employees' regular rate of pay for work performed on a legal holiday or for other compensatory time accrued, when taking compensatory time off would be disruptive to the system's normal business functions.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.208 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2005, 79th Leg., ch. 1359, Sec. 25, eff. Sept. 1, 2005.

Sec. 825.210. INTEREST IN INVESTMENT PROFITS PROHIBITED. Except for an interest in the retirement assets as a member of the retirement system, a trustee or employee of the board of trustees may not have a direct or indirect interest in the gains from investments made with the system's assets and may not receive any compensation for service other than designated salary and authorized expenses.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.210 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.211. CERTAIN INTERESTS IN LOANS, INVESTMENTS, OR CONTRACTS PROHIBITED. (a) Except as provided by Subsection (c), a person described by Subsection (b) may not participate in or be the beneficiary of, directly or indirectly, a loan, commitment to lend, a guarantee or endorsement to lend, or investment by the retirement system or a contract to advise the system or manage property or investments for the system.

(b) The prohibition provided by Subsection (a) applies to a trustee or employee of the retirement system, a consultant or advisor to the retirement system, and a person related within the second degree by consanguinity or affinity to a trustee, employee, consultant, or advisor.

(c) The prohibition provided by Subsection (a) does not apply to actions taken by a trustee or employee of the retirement system within the scope of that person's official duties for the system or actions taken by a consultant or advisor within the scope of the services for which the person is being compensated by the retirement system, if the actions do not involve a relationship required to be disclosed under Section 825.212. The prohibition provided by Subsection (a) does not apply to an indirect benefit received resulting from retirement system membership.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 20, eff. Sept. 1, 1993.

Sec. 825.212. RETIREMENT SYSTEM ETHICS POLICY. (a) In addition to any other requirements provided by law, the board of trustees shall enforce an ethics policy as provided by this section for employees of and consultants and advisors to the retirement system.

(b) Each employee of the retirement system who exercises significant decisionmaking or fiduciary authority, as determined by the board, shall file financial disclosure statements with a person designated by the board. The content of a financial disclosure statement must comply substantially with the requirements of Subchapter B, Chapter 572. A statement must be filed not later than the 30th day after the date a person is employed in a significant decisionmaking or fiduciary position and annually after employment not later than April 30. The filing deadline may be postponed by the executive director for not more than 60 days on written request or for an additional period for good cause, as determined by the chairman of the board. The retirement system shall maintain a financial disclosure statement for at least five years after the date of its filing.

(c) An employee who has a business or commercial relationship that could reasonably be expected to diminish the employee's independence of judgment in the performance of the

employee's responsibilities to the retirement system shall disclose that relationship in writing to a person designated by the board.

(d) An employee who files a disclosure statement under Subsection (c) shall refrain from giving advice or making decisions about matters affected by the conflict of interest unless the board, after consultation with the general counsel of the retirement system, expressly waives this prohibition. The retirement system shall maintain a written record of each waiver and the reasons for it. The board may delegate the authority to waive prohibitions under this subsection to one or more designated employees on a vote of a majority of the members of the board at an open meeting called and held in compliance with Chapter 551. The board shall have any order delegating authority to waive prohibitions under this section entered into the minutes of the meeting. The board may adopt criteria for designated employees to use to determine the kinds of relationships that do not constitute a material conflict of interest for purposes of this subsection.

(e) The board by rule shall adopt standards of conduct applicable to consultants and advisors to the retirement system who may reasonably be expected to receive more than \$10,000 compensation from the system for a fiscal year or who render important investment advice to the retirement system.

(f) A consultant or advisor who, directly or indirectly, has a personal or private commercial or business relationship, unrelated to the services that the consultant or advisor performs for the retirement system, with any other party to a transaction with the system that could reasonably be expected to diminish the person's independence of judgment in the performance of the person's responsibilities to the system shall disclose that relationship in writing to the executive director.

(g) The board by rule shall require consultants and advisors to the retirement system and brokers to file regularly with the system a report detailing any expenditure of more than \$50 made on behalf of a trustee or employee of the system.

(h) The board shall prescribe forms for financial disclosure statements, disclosure statements of conflicts of interest, and waivers of the prohibition against involvement in a matter affected by a conflict of interest. The statements and waivers are open records. The board shall designate an employee to be the custodian of the statements and waivers for purposes of public disclosure.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 20, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 76, Sec. 5.95(43), (79), eff. Sept. 1, 1995.

Sec. 825.213. EMPLOYMENT PRACTICES. (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program that addresses opportunities for mobility and advancement for employees within the retirement system. The program shall require intra-agency posting of all positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations that are based on documented employee performance. All merit pay for system employees must be based on the system established under this subsection.

(c) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of Chapter 21, Labor Code;

(2) a comprehensive analysis of the retirement system's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made about the extent of underuse in the retirement system's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of underuse.

(d) A policy statement prepared under Subsection (c) must

cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (c), and be filed with the governor's office.

(e) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (d). The report may be made separately or as a part of other biennial reports made to the legislature.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 20, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 41, eff. Sept. 1, 1995.

Sec. 825.214. FINANCIAL AUDITOR. A person employed to perform a financial audit of the retirement system must be selected by and report to the board of trustees.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 20, eff. Sept. 1, 1993.

Sec. 825.215. ADVOCACY PROHIBITED. An employee of the retirement system may not advocate increased benefits or engage in activities to advocate or influence legislative action or inaction. Advocacy or activity of this nature is grounds for dismissal of an employee.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 42, eff. Sept. 1, 1995.

SUBCHAPTER D. MANAGEMENT OF ASSETS

Sec. 825.301. INVESTMENT OF ASSETS. (a) The board of trustees shall invest and reinvest 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, "securities" means any investment instrument within the meaning of the term as defined by Section 4, The Securities Act (Article 581-4, Vernon's Texas Civil Statutes), 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10). An interest in a limited partnership or investment contract is considered a security without regard to the number of investors or the control, access to information, or rights granted to or retained by the retirement system. Any instrument or contract intended to manage transaction or currency exchange risk in purchasing, selling, or holding securities is considered to be a security. Investment decisions are subject to the standard provided in the Texas Trust Code by Section 117.004(b), Property Code.

(a-1) Expired.

(b) The board of trustees may contract with private professional investment managers to assist the board in investing the assets of the retirement system.

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

(d) The board of trustees may invest assets of the retirement system in obligations issued, assumed, or guaranteed by the Inter-American Development Bank, the International Bank for Reconstruction and Development (the World Bank), the African Development Bank, the Asian Development Bank, and the International Finance Corporation.

(e) The board of trustees shall develop written investment objectives concerning the investment of the assets of the retirement system. The objectives may address desired rates of return, risks involved, investment time frames, and any other relevant considerations.

Added by Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 5098, ch. 925, Sec. 4, eff. Aug. 29, 1983; Acts 1983, 68th Leg., p. 5100, ch. 926, Sec. 4, eff. Aug. 29, 1983; Acts 1985, 69th Leg., ch. 542, Sec. 6, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 167, Sec. 5.01(a)(64), eff. Sept. 1, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.301 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 408, Sec. 3, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 1416, Sec. 25, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 17, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1103, Sec. 11, eff. Jan. 1, 2004.

Sec. 825.302. CUSTODY AND INVESTMENT OF ASSETS PENDING TRANSACTIONS. The retirement system may, in the exercise of its

constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's cash or securities pending completion of an investment transaction and may authorize such custodian to invest the cash so held in such short-term securities as the board of trustees determines.

Added by Acts 1981, 67th Leg., 1st C.S., p. 205, ch. 18, Sec. 31, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.3011 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 6, eff. Aug. 28, 1989.

Sec. 825.3021. APPRAISAL AND SALE OF REAL PROPERTY. If the retirement system acquires, through foreclosure or conveyance of deed in lieu of foreclosure, real property assets or stock in an entity the major asset of which is real property, the retirement system shall, not later than the 90th day after the date of acquisition:

(1) have the real property appraised by an appraiser who is not a trustee or employee of the retirement system and who has received MAI or SRA;

(2) acquire a foreclosure endorsement to the mortgagee's title insurance policy; and

(3) if the real property contains improvements, employ an individual who is not, or a property management company that is not owned by, a trustee or employee of the retirement system and who is, or that employs, a CPM, CAM, or RAM to manage the property.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 21, eff. Sept. 1, 1993.

Sec. 825.303. SECURITIES CUSTODY AND SECURITIES LENDING. (a) The retirement system may, in the exercise of its constitutional discretion to manage the assets of the retirement system, select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of the system's securities and to lend the securities under rules adopted by the board of trustees and as required by this section. The retirement system may select one or more commercial banks, depository trust companies, or other entities to act independently of the custodian and lend the securities under board rules and as required by this section.

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

(1) be experienced in the operation of a fully secured securities loan program;

(2) maintain adequate capital 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 loss resulting from borrower default or the failure of the bank or brokerage firm to properly execute the responsibilities of the bank or brokerage firm under the applicable securities lending agreement;

(4) require any securities broker or dealer to whom it lends securities belonging to the retirement system to deliver to and maintain with the custodian collateral in the form of cash or government securities eligible for book entry in either the Federal Reserve System or the Participants Trust Company, in an amount equal to not less than 100 percent of the market value, from time to time, of the loaned securities; and

(5) comply with guidelines the board of trustees may adopt concerning the investment of cash collateral, borrower limits, and other items.

Added by Acts 1981, 67th Leg., 1st C.S., p. 205, ch. 18, Sec. 31, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.3012 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 7, eff. Aug. 28, 1989; Acts 1993, 73rd Leg., ch. 812, Sec. 22, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 1540, Sec. 18, 19, eff. Sept. 1, 1999.

Sec. 825.304. NOMINEE TO HOLD SECURITIES. (a) 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.

(b) The records and all relevant reports or accounts of the retirement system must show the ownership interest of the retirement system in these assets and the facts regarding the

system's holdings.

(c) A trustee or employee of the retirement system shall have no personal economic interest in any entity listed in Subsection (a), but shall undertake such action and duties with respect to these entities as the board of trustees determines to be in the interest of the retirement system. This subsection does not prohibit:

(1) an interest in the assets as a member of the retirement system;

(2) the right to receive expense reimbursements at the same rate that the board member or employee would have received as a board member or employee; and

(3) such indemnification as is authorized by the board of trustees.

(d) The records of an agent, nominee, or other entity that are maintained by the retirement system are subject to audit by the state auditor.

Added by Acts 1981, 67th Leg., 1st C.S., p. 205, ch. 18, Sec. 31, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.3013 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 251, Sec. 8, eff. Aug. 28, 1989.

Sec. 825.305. AVAILABLE CASH. The board of trustees may keep on deposit with the comptroller available cash not exceeding 10 percent of the total assets of the retirement system, to pay annuity and other disbursements.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.302 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.53, eff. Sept. 1, 1997.

Sec. 825.306. CREDITING SYSTEM ASSETS. The assets of the retirement system shall be credited, according to the purpose for which they are held, to one of the following accounts:

- (1) member savings account;
- (2) state contribution account;
- (3) retired reserve account;
- (4) interest account;
- (5) expense account; or
- (6) deferred retirement option account.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 43, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1416, Sec. 26, eff. Sept. 1, 1997.

Sec. 825.307. MEMBER SAVINGS ACCOUNT. (a) The retirement system shall deposit in a member's individual account in the member savings account:

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

(2) the portion of a deposit made on or after resumption of membership that represents the amount of retirement benefits received;

(3) the portion of a deposit to reinstate service credit previously canceled that represents the amount withdrawn or refunded;

(4) the portion of a deposit to establish military service credit required by Section 823.302(c);

Text of subsec. (a)(5) effective until January 1, 2009

(5) the portion of a deposit to establish equivalent membership service credit required by Section 823.401(d), 823.402(e)(1) or (e)(2), 823.404(c), 823.405, or 823.3021(f)(1); and

Text of subsec. (a)(5) effective January 1, 2009

(5) the portion of a deposit to establish equivalent membership service credit required by Section 823.401(d), 823.402(e)(1) or (e)(2), or 823.404(c); and

(6) interest earned on money in the account as provided by Subsections (b) and (c) and Section 825.313(c).

(b) Interest on a member's contribution is earned monthly and computed at the rate of five percent a year. Except as provided by Subsection (c), interest is computed based on the mean balance in the member's account during that fiscal year and shall be credited on August 31 of each year.

(c) If a person's membership in the retirement system is terminated during a fiscal year, the interest on the member's

account is computed based on the mean balance in the account from September 1 of the fiscal year until:

(1) the last day of the month that preceded the month in which the membership termination occurred if termination was caused by the member's death or the withdrawal of contributions; or

(2) the effective date of retirement if membership termination was caused by retirement.

(d) Accumulated contributions in an individual's account on the date that the individual's membership in the retirement system is terminated do not earn interest after that date.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 835, Sec. 8, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.304 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.05(h), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 785, Sec. 2, eff. Aug. 30, 1993; Acts 1999, 76th Leg., ch. 1118, Sec. 3, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1122, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1229, Sec. 15, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 1312, Sec. 1, eff. Jan. 1, 2009; Acts 2005, 79th Leg., ch. 1359, Sec. 26, eff. Jan. 1, 2009.

Sec. 825.308. STATE CONTRIBUTION ACCOUNT. The retirement system shall deposit in the state contribution account:

(1) all state contributions to the retirement system required by Section 825.404;

(2) amounts from the interest account as provided by Section 825.313(b)(2);

(3) retirement annuities waived or forfeited in accordance with Section 824.601 or 824.004;

(4) fees collected under Section 825.403(h);

(5) fees and interest for reinstatement of service credit or establishment of membership service credit as provided by Section 823.501;

(6) the portion of a deposit required by Section 823.302 to establish military service credit that represents a fee; and

(7) employer contributions required under Section 825.4092.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 207, ch. 18, Sec. 32, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 832, Sec. 7, eff. June 15, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.305 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1229, Sec. 16, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 1359, Sec. 27, eff. Sept. 1, 2005.

Sec. 825.309. RETIRED RESERVE ACCOUNT. (a) The retirement system shall transfer to the retired reserve account:

(1) from the member savings account, an amount equal to the accumulated contributions in a member's individual account when the member retires or when the retirement system approves the payment of any benefit authorized under this subtitle on the member's retirement or death;

(2) from the state contribution account, an amount certified by the actuary or determined under actuarial tables adopted by the board of trustees pursuant to Section 825.105 as necessary to provide for the payment of the benefit as it becomes due; and

(3) from the interest account, the amount required by Section 825.313(b)(1).

(b) The retirement system shall use money in the retired reserve account to pay all retirement annuities and all death or survivor benefits, including postretirement benefit increases and other adjustments to annuities.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 61, Sec. 8, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.306 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 44, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1118, Sec. 4, eff. Sept. 1, 1999.

Sec. 825.311. INTEREST ACCOUNT. In the interest account the retirement system shall:

(1) deposit all income, interest, and dividends from deposits and investments of assets of the retirement system;

(2) accumulate net capital gains and losses resulting

from the sale, call, maturity, conversion, or recognition of changes in carrying values of investments of the retirement system; and

(3) accumulate net income or losses from other investments.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.308 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 23, eff. Sept. 1, 1993.

Sec. 825.312. EXPENSE ACCOUNT. (a) The retirement system shall deposit in the expense account:

(1) money transferred from the interest account under Section 825.313(d) and

(2) money received from the Texas Public School Employees Group Insurance Program for service performed for the program by the retirement system.

(b) The retirement system shall pay from the account all administrative expenses of the retirement system that exceed the amounts appropriated under Section 825.404(d) and that are required to perform the fiduciary duties of the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 207, ch. 18, Sec. 33, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.309 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 785, Sec. 3, eff. Aug. 30, 1993; Acts 1993, 73rd Leg., ch. 812, Sec. 24, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 45, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1118, Sec. 5, eff. Sept. 1, 1999.

Sec. 825.3121. DEFERRED RETIREMENT OPTION ACCOUNT. (a) The retirement system shall deposit in the deferred retirement option account the amounts required to be deposited in the account by Section 824.804(a) and interest as required by Section 824.807.

(b) The retirement system shall pay from the account all benefits accrued during participation in the deferred retirement option plan.

Added by Acts 1997, 75th Leg., ch. 1416, Sec. 27, eff. Sept. 1, 1997.

Sec. 825.313. TRANSFERS FROM INTEREST OR STATE CONTRIBUTION ACCOUNT. (a) Annually, the retirement system shall transfer from the interest account to the state contribution account amounts accumulated under Section 825.311(2).

(b) On August 31 of each year, the retirement system shall make the following transfers from the interest account:

(1) to the retired reserve account, an amount equal to 4-3/4 percent of the average balance of the retired reserve account for that fiscal year or, if the transfer is authorized by resolution of the board, an amount computed at a greater rate if the actuary recommends the greater rate to adequately fund the retired reserve account; and

(2) to the state contribution account, the amount remaining in the interest account after the other transfers required or authorized by this section are made.

(c) On August 31 of each year, the retirement system shall transfer from the interest account to the member savings account an amount computed under Section 825.307(b) unless membership is terminated in that fiscal year. If membership is terminated during the fiscal year, the retirement system shall transfer from the interest account to the member savings account an amount computed under Section 825.307(c).

(d) The board of trustees, by resolution recorded in its minutes, may transfer from the interest account to the expense account an amount necessary to cover the expenses of the retirement system for the fiscal year that exceed the amount of operating expenses appropriated under Section 825.404(d) and that are required to perform the fiduciary duties of the board, including the expense of servicing mortgages insured by the Federal Housing Administration under the National Housing Act (12 U.S.C. Section 1701 et seq.).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.310 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 45, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1118, Sec. 6, eff. Sept. 1, 1999.

Sec. 825.314. USE AND REPORTING OF STATE CONTRIBUTIONS AND

OTHER APPROPRIATIONS AND ASSETS. (a) The retirement system shall use all assets contributed by the state, other than operating expenses appropriated under Section 825.404(d), to pay benefits authorized by this subtitle.

(b) The staff of the retirement system shall report to the board at each board meeting the amounts and uses since the preceding board meeting of any money expended by the system from amounts transferred under Section 825.313(d) and include an explanation of why the amounts were needed to perform the fiduciary duties of the board. The retirement system annually shall prepare and issue to each contributing member and annuitant and to the governor, lieutenant governor, and speaker of the house of representatives a summary of the reports presented during the preceding year to the board.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.311 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 45, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 1118, Sec. 7, eff. Sept. 1, 1999.

Sec. 825.315. PROHIBITED USE OF ASSETS. Assets of the retirement system may not be used to advocate or influence the outcome of an election or the passage or defeat of any legislative measure. This prohibition may not be construed to prevent any trustee or employee from furnishing information in the hands of the trustee or employee that is not considered confidential under law to a member or committee of the legislature, to any other state officer or employee, or to any private citizen, at the request of the person or entity to whom the information is furnished. This prohibition does not apply to the incidental use of retirement system facilities by groups of members or retirees or by officers or employees of state agencies.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 46, eff. Sept. 1, 1995.

SUBCHAPTER E. COLLECTION OF MEMBERSHIP FEES AND CONTRIBUTIONS

Sec. 825.402. RATE OF MEMBER CONTRIBUTIONS. The rate of contributions for each member of the retirement system is:

(1) five percent of the member's annual compensation or \$180, whichever is less, for service rendered after August 31, 1937, and before September 1, 1957;

(2) six percent of the first \$8,400 of the member's annual compensation for service rendered after August 31, 1957, and before September 1, 1969;

(3) six percent of the member's annual compensation for service rendered after August 31, 1969, and before the first day of the 1977-78 school year;

(4) 6.65 percent of the member's annual compensation for service rendered after the last day of the period described by Subdivision (3) and before September 1, 1985; and

(5) 6.4 percent of the member's annual compensation for service rendered after August 31, 1985.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 228, Sec. 2, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.403. COLLECTION OF MEMBER'S CONTRIBUTIONS. (a) Each payroll period, each employer shall deduct from the compensation of each member employed by the employer an amount equal to 6.4 percent of the member's compensation for that period.

(b) Each employer or the employer's designated disbursing officer, at a time and in a form prescribed by the retirement system, shall send to the executive director all deductions and a certification of earnings of each member employed by the employer. An employer shall use electronic fund transfer to send deductions required by this section or shall certify to the retirement system either that the employer is unable to establish a qualifying account at a financial institution or that payment by electronic fund transfer would be impractical or more costly than payment by paper check.

(c) The executive director shall deposit with the comptroller all deductions received by the executive director.

(d) After the deductions are deposited with the comptroller, the money shall be used as provided by this subtitle.

(e) The county superintendent or ex officio county superintendent, in accordance with this section, shall collect contributions of members employed in common school or other school

districts under the superintendent's jurisdiction.

(f) Employers 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.

(g) 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 payment period.

(h) If deductions were previously required but not paid, the member shall pay the amount of those deductions plus a fee computed at a rate of five percent a year on the unpaid amount from the end of the school year in which the deductions first became due or the end of the 1974-75 school year, whichever is later, to the date of payment. The board of trustees shall:

(1) prescribe terms for payments under this subsection;

(2) credit the member for prior service to which the member is entitled under this subtitle; and

(3) deposit the fee required by this subsection in the state contribution account.

(i) Contributions required by Section 825.402 shall be deducted from the funds regularly appropriated by the state for the current maintenance of any educational institution supported in whole or part by the state and not otherwise covered by this section.

(j) If deductions were previously required of a member but not paid, proof of service must be made before service credit is granted or payment for the credit is required. Proof of service is sufficient if the member's employer documents that the employer has records made at or near the time of service that establish the amount of time worked and salary earned. A member may submit in lieu of employer documentation internal revenue, social security, bank, or other written records that were made at or near the time of service and that establish the amount of time worked and salary earned. An affidavit based on memory without written records made at or near the time of service is not sufficient documentation for the establishment of service credit. The retirement system may audit records used for documentation under this subsection.

(k) Reporting entities and the commissioner of education shall inform the retirement system of changes in status of a school district or charter school that affect the reporting responsibilities of the entity.

(l) The commissioner of education shall notify the retirement system in writing:

(1) of the revocation, denial of renewal, or surrender of a charter issued by the State Board of Education, within 10 business days of the date of the event;

(2) that an open-enrollment charter school or other reporting entity no longer is receiving state funds, within 10 business days of the date on which funding ceases; and

(3) when an open-enrollment charter school or other reporting entity resumes receiving state funds, within 10 business days of the date on which funding resumes.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 228, Sec. 3, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.403 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 25, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 47, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1423, Sec. 8.54, eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 1359, Sec. 28, eff. Sept. 1, 2005.

Sec. 825.404. COLLECTION OF STATE CONTRIBUTIONS AND APPROPRIATED OPERATING EXPENSES. (a) During each fiscal year, the state shall contribute to the retirement system an amount equal to at least six and not more than 10 percent of the aggregate annual compensation of all members of the retirement system during that fiscal year.

(b) Before November 2 of each even-numbered year, the board of trustees shall certify to the comptroller of public accounts for review and adoption an estimate of the amount necessary to pay the state's contributions to the retirement system for the following biennium.

(c) The amount certified under Subsection (b) shall be included in the state budget that the governor submits to the

legislature.

(d) The legislature shall appropriate from the general revenue fund a specified amount of money to be used to pay operating expenses of the retirement system for each fiscal year.

(e) All money appropriated by the state to the retirement system shall be paid to the state contribution account in equal monthly installments as provided by Section 403.093(c), Government Code, except money appropriated under Subsection (d), which remains in the general revenue fund until expenses are approved under Chapter 2103.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 207, ch. 18, Sec. 34, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 228, Sec. 4, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 61, Sec. 10, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 16, Sec. 6, eff. Aug. 31, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.404 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 48, 49, eff. Sept. 1, 1995; Acts 2005, 79th Leg., ch. 899, Sec. 17.01, eff. Aug. 29, 2005.

Sec. 825.4041. EMPLOYER PAYMENTS. (a) For purposes of this section, a new member is a person first employed on or after September 1, 2005, including a former member who withdrew retirement contributions under Section 822.003 and is reemployed on or after September 1, 2005.

(b) During each fiscal year, an employer shall pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of the retirement system, as described by Subsection (a), during their first 90 days of employment.

(c) On a monthly basis an employer shall:

(1) report to the retirement system, in a form prescribed by the system, a certification of the total amount of salary paid during the first 90 days of employment of a new member and the total amount of employer payments due under this section for the payroll periods; and

(2) retain information, as determined by the retirement system, sufficient to allow administration of this section, including information for each employee showing the applicable salary as well as aggregate compensation for the first 90 days of employment for new employees.

(d) A person who was hired before September 1, 2005, and was subject to a 90-day waiting period for membership in the retirement system becomes eligible to participate in the retirement system as a member starting September 1, 2005. For the purpose of this section, the member shall be treated as a new member for the remainder of the waiting period.

(e) The employer must remit the amount required under this section to the retirement system at the same time the employer remits the member's contribution. In computing the amount required to be remitted, the employer shall include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

(f) At the end of each school year, the retirement system shall certify to the commissioner of education and to the state auditor:

(1) the name of each employer that has failed to remit, within the period required by Section 825.408, all payments required under this section for the school year; and

(2) the amounts of the unpaid required payments.

(g) If the commissioner of education or the state auditor receives a certification under Subsection (f), the commissioner or the state auditor shall direct the comptroller to withhold the amount certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the employer. The amount withheld shall be deposited to the credit of the appropriate accounts of the retirement system.

(h) The board of trustees shall take this section into consideration in adopting the biennial estimate of the amount necessary to pay the state's contributions to the retirement system.

Added by Acts 2005, 79th Leg., ch. 899, Sec. 19.01, eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 1359, Sec. 29, eff. Sept. 1, 2005.

Sec. 825.405. CONTRIBUTIONS BASED ON COMPENSATION ABOVE STATUTORY MINIMUM. (a) For members entitled to the minimum salary

for certain school personnel under Section 21.402, Education Code, and for members who would have been entitled to the minimum salary for certain school personnel under former Section 16.056, Education Code, as that section existed on January 1, 1995, the employing district shall pay the state's contribution on the portion of the member's salary that exceeds the statutory minimum or former statutory minimum, as applicable.

(b) For purposes of this section, the statutory minimum salary is the salary provided by Section 21.402 or the former Sections 16.056 and 16.058, Education Code, multiplied by the cost of education adjustment applicable under Section 42.102, Education Code, to the district in which the member is employed.

(b-1) Expired.

(c) Monthly, employers shall:

(1) report to the retirement system in a form prescribed by the system a certification of the total amount of salary paid above the statutory minimum salary and the total amount of employer contributions due under this section for the payroll period; and

(2) retain information, as determined by the retirement system, sufficient to allow administration of this section, including information for each employee showing the applicable minimum salary as well as aggregate annual compensation.

(d) The employer must remit the amount required under this section to the executive director at the same time that the employer remits the member's contribution.

(e) After the end of each school year, the retirement system shall certify to the commissioner of education:

(1) the names of any employing districts that have failed to remit, within the period required by Section 825.408, all contributions required under this section for the school year; and

(2) the amounts of the unpaid contributions.

(f) If the commissioner of education receives a certification under Subsection (e), the commissioner shall direct the comptroller of public accounts to withhold the amount certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the school district. The amount withheld shall be deposited to the credit of the appropriate accounts of the retirement system.

(g) The board of trustees shall take this section into consideration in adopting the biennial estimate of the amount necessary to pay the state's contributions to the system.

(h) This section does not apply to state contributions for members employed by a school district in a school year if the district's effective tax rate for maintenance and operation revenues for the tax year that ended in the preceding school year equals or exceeds 125 percent of the statewide average effective tax rate for school district maintenance and operation revenues for that tax year. For a tax year, the statewide average effective tax rate for school district maintenance and operation revenues is the tax rate that, if applied to the statewide total appraised value of taxable property for every school district in the state determined under Section 403.302, would produce an amount equal to the statewide total amount of maintenance and operation taxes imposed in the tax year for every school district in the state.

(i) Not later than the seventh day after the final date the comptroller certifies to the commissioner of education changes to the property value study conducted under Subchapter M, Chapter 403, the comptroller shall certify to the Teacher Retirement System of Texas:

(1) the effective tax rate for school district maintenance and operation revenues for each school district in the state for the immediately preceding tax year; and

(2) the statewide average effective tax rate for school district maintenance and operation revenues for the immediately preceding tax year.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. 2, Sec. 19, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.4041 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 722, Sec. 1 to 3, eff. Sept. 1, 1991; Acts 1991, 72nd Leg., 2nd C.S., ch. 6, Sec. 65, eff. Sept. 1, 1991; Acts 1993, 73rd Leg., ch. 347, Sec. 8.19, eff. Sept. 1, 1993; Acts 1993, 73rd Leg., ch. 812, Sec. 26, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 260, Sec. 37, eff. May 30, 1995; Acts 1995, 74th Leg., ch. 579, Sec. 3, eff. Jan.

1, 1996; Acts 1997, 75th Leg., ch. 165, Sec. 6.23, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 20, eff. Sept. 1, 1999.

Sec. 825.406. COLLECTION OF CONTRIBUTIONS FROM FEDERAL OR PRIVATE SOURCES; OFFENSE; PENALTY. (a) If an employer applies for money provided by the United States, an agency of the United States, or a privately sponsored source, and if any of the money will pay part or all of an employee's salary, the employer shall apply for any legally available money to pay state contributions required by Section 825.404 or 830.201.

(b) When an employer receives money for state contributions from an application made in accordance with Subsection (a), the employer shall immediately send the money to the retirement system for deposit in the general revenue fund of the state treasury.

(c) Monthly, employers shall:

(1) report to the retirement system in a form prescribed by the system a certification of the total amount of salary paid from federal funds and private grants and the total amounts provided by the funds and grants for state contributions for the employees; and

(2) retain the following information:

(A) the name of each employee paid in whole or part from a grant;

(B) the source of the grant;

(C) the amount of the employee's salary paid from the grant;

(D) the amount of the money provided by the grant for state contributions for the employee; and

(E) any other information the retirement system determines is necessary to enforce this section.

(d) The retirement system may:

(1) require from employers reports of applications for money;

(2) require evidence that the applications include requests for funds available to pay state contributions to the retirement system for employees paid from the grant; and

(3) examine the records of any employer to determine compliance with this section and rules promulgated under it.

(e) A person commits an offense if the person is an administrator of an employer and knowingly fails to comply with this section.

(f) An offense under Subsection (e) is a Class C misdemeanor.

(g) An employer who fails to comply with this section may not, after the failure, apply for or spend any money from a federal or private grant. The retirement system shall report alleged noncompliance to the attorney general, the Legislative Budget Board, the comptroller of public accounts, and the governor. The attorney general shall bring a writ of mandamus against the employer to compel compliance 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. 35.405 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 8.55, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 21, eff. Sept. 1, 1999.

Sec. 825.407. COLLECTION OF CONTRIBUTIONS FROM NONEDUCATIONAL AND GENERAL FUNDS. (a) In this section:

(1) "General academic teaching institution" has the meaning assigned by Section 61.003, Education Code.

(2) "Medical and dental unit" has the meaning assigned by Section 61.003, Education Code.

(3) "Noneducational and general funds" means all funds of an institution of higher education except those funds used as a method of financing for an institutional appropriation in the General Appropriations Act or dedicated by the Constitution of the State of Texas.

(b) The governing board of each general academic teaching institution and the governing board of each medical and dental unit shall reimburse the state, from noneducational and general funds of the institution or unit, for state contributions that are made based on any portion of a member's salary that is paid from the noneducational and general funds.

(c) The designated disbursing officer of each general academic teaching institution and the designated disbursing officer of each medical and dental unit shall:

(1) submit to the retirement system, at a time and in the manner prescribed by the retirement system, a monthly report containing a certification of the total amount of salary paid from noneducational and general funds and the total amount of employer contributions due under this section for the payroll period; and

(2) maintain and retain the following information:

(A) the name of each member employed by the institution or unit who, for the most recent payroll period, was paid wholly or partly from noneducational and general funds;

(B) the amount of the employee's salary for the most recent payroll period that was paid from noneducational and general funds; and

(C) any other information the retirement system determines is necessary to administer this section.

(d) A monthly report required under Subsection (c) shall be accompanied by payment of the amount certified under Subdivision (3) of that subsection.

(e) After the end of each fiscal year, the retirement system shall report to the comptroller of public accounts and the State Auditor the name of any general academic teaching institution and any medical and dental unit delinquent in the reimbursement of contributions under this section for the preceding fiscal year and the amount by which each reported institution or unit is delinquent.

(f) Any portion of the reimbursement required under this section to be made for a fiscal year by a general academic teaching institution or a medical and dental unit that remains unpaid on the first day of the next fiscal year accrues interest, beginning on that day or the due date for the portion, whichever is later, at an annual rate, compounded monthly, equal to the rate established under Section 825.313(b)(1), plus two percent.

(g) The retirement system shall submit all money it receives under this section to the comptroller of public accounts for deposit in the general revenue fund.

Added by Acts 1985, 69th Leg., ch. 99, Sec. 1, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.4051 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1118, Sec. 8, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1540, Sec. 22, eff. Sept. 1, 1999.

Sec. 825.408. INTEREST ON CONTRIBUTIONS AND FEES; DEPOSITS IN TRUST. (a) An employing district that fails to remit, before the seventh day after the last day of a month, all member and employer deposits and documentation of the deposits required by this subchapter to be remitted by the district for the month shall pay to the retirement system, in addition to the deposits, interest on the unpaid or undocumented amounts at an annual rate compounded monthly. The rate of interest is the rate established under Section 825.313(b)(1), plus two percent. Interest required under this section is creditable to the interest account. On request, the retirement system may grant a waiver of the deadline imposed by this subsection based on a district's financial or technological resources.

(b) An employing district and its trustees hold amounts due to the retirement system under this subtitle in trust for the retirement system and its members and may not divert the amounts to any other purpose.

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 28, art. 2, Sec. 20, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.406 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 1118, Sec. 9, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1540, Sec. 23, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1229, Sec. 17, eff. Sept. 1, 2001.

Sec. 825.409. EMPLOYER PICKUP OF MEMBER CONTRIBUTIONS. (a) Each employer shall pick up the employee contribution required of each of its employees by Section 825.403 for all compensation earned after December 31, 1987. Employers shall pay to the retirement system the picked-up contributions from the same source of funds that is used in paying earnings to the employees. Such payments shall be in lieu of contributions by the employees. An employer shall pick up these contributions by a corresponding reduction in the cash salary of the employees, by an offset against a future salary increase, or by a combination of a salary reduction and offset against a future salary increase. Employees do not have

the option of choosing to receive the contributed amounts directly instead of having them paid by the employer to the retirement system.

(b) Contributions picked up as provided by Subsection (a) shall be treated as employer contributions in determining tax treatment of the amounts under the United States Internal Revenue Code; however, each employer shall continue to withhold federal income taxes on these picked-up 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 may not be included as gross income of the employee until such time as they are distributed or made available.

(c) Employee contributions picked up as provided by Subsection (a) shall be transmitted to the retirement system in the manner required by Section 825.403. Employee contributions picked up by an employer and credited to the employee's account shall be treated for all other purposes as if the amount were a part of the member's annual compensation and had been deducted pursuant to Section 825.403(a).

Added by Acts 1987, 70th Leg., ch. 642, Sec. 1, eff. June 19, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.407 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.4092. EMPLOYER CONTRIBUTIONS FOR EMPLOYED RETIREES. (a) This section applies to an employer who reports to the retirement system the employment of a retiree.

(b) Except as provided by Subsection (e), during each payroll period for which a retiree is reported, the employer shall contribute to the retirement system for each retiree reported an amount based on the retiree's salary equal to the sum of:

(1) the current contribution amount that would be contributed by the retiree if the retiree were an active, contributing member; and

(2) the current contribution amount authorized by the General Appropriations Act that the state would contribute for that retiree if the retiree were an active, contributing member.

(c) Except as provided by Subsection (e), each payroll period, for each retiree who is enrolled in the Texas Public School Employees Group Insurance Program under Chapter 1575, Insurance Code, the employer who reports the employment of a retiree shall contribute to the trust fund established under that chapter any difference between the amount the retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by the retirement system. If more than one employer reports the retiree to the retirement system during a month, the amount of the required payment shall be prorated among the employers.

(d) Contributions under this section are subject to the requirements of Section 825.408.

(e) The amounts required to be paid under Subsections (b) and (c) are not required to be paid by a reporting employer for a retiree who was reported under the retirement system rules in effect for the report month of January 2005 by:

(1) that reporting employer; or

(2) another employer, if both employers are school districts that consolidated into a consolidated school district on or before September 1, 2005.

Added by Acts 2005, 79th Leg., ch. 1359, Sec. 30, eff. Sept. 1, 2005.

Sec. 825.410. PAYROLL DEDUCTIONS OR INSTALLMENT PAYMENTS FOR SPECIAL SERVICE CREDIT. (a) Payments to establish special service credit as authorized under this subtitle, other than service credit that may only be determined and paid for at the time of retirement such as unused leave as authorized by Section 823.403, may be made in a lump sum by a monthly payroll deduction in an amount not less than one-twelfth of the contribution required to establish at least one year of service credit, or in equal monthly installments over a period not to exceed the lesser of the number of years of credit to be purchased or 60 months. Installment and payroll deduction payments are due on the first day of each calendar month in the payment period. If an installment or payroll deduction payment is not made in full within 60 days after the due date, the retirement system may refund all installment or payroll deduction payments

less fees paid on the lump sum due when installment or payroll deduction payments began. Partial payment of an installment or payroll deduction payment may be treated as nonpayment. A check returned for insufficient funds or a closed account shall be treated as nonpayment. When two or more consecutive monthly payments have a returned check, a refund may be made. If the retirement system refunds payments pursuant to this subsection, the member is not permitted to use the installment method of payment or the payroll deduction method, as applicable, for the same service for three years after the date of the refund. A member who requests and receives a refund of installment or payroll deduction payments also is not permitted to use the same method of payment for the same service for three years after the date of the refund.

(b) Service credit shall be established pursuant to the following provisions:

(1) The retirement system shall credit a member's payments made under this section to a suspense account in the trust fund until the sum of the payments equals the amount required for one year of service credit, at which time the retirement system shall deposit the payments in the appropriate accounts in the trust fund and grant the applicable amount of service credit. No credit shall be established for service pursuant to Section 823.501 or Section 825.403 until a lump sum has been paid or all payroll deduction or installment payments have been completed.

(2) No credit shall be established for other service when the cost of establishing the service has been determined by using withdrawn service to be reinstated pursuant to Section 823.501 or previously unreported service to be established pursuant to Section 825.403 until a lump sum or all payroll deductions or installments for the withdrawn or previously unreported service have been paid.

(3) All other service shall be credited when sufficient payroll deductions or installments have been completed to satisfy the cost requirements for a year of service.

(c) All installment and payroll deduction payments must be made on or before the service retirement date or the last day of the month in which the member's application for service retirement is submitted, whichever is later, or before the 31st day following the date on which the medical board certifies a member's disability. The installment payment method or payroll deduction method may not be used to establish service credit after retirement.

(d) If a member who has made at least one payroll deduction or installment payment and who is using the payroll deduction or installment method of payment dies before completing the payments, the retirement system may:

(1) return to the beneficiary determined under Sections 824.101 and 824.103 the payments less fees paid on the lump sum due when payments began and less payments which have resulted in credited service being established; or

(2) permit the beneficiary determined under Sections 824.101 and 824.103 to complete payment of the unpaid balance remaining at the time of the member's death.

(e) If the beneficiary requests a return of the installment or payroll deduction payments under Subsection (d)(1), the retirement system shall return the payments in a lump sum. No additional service credit shall be established that has not been established in compliance with this section. If service credit has been established by installment or payroll deduction payments, the retirement system shall not refund the payments, less any applicable fees, used to establish such credit unless a refund of total accumulated contributions is made to a member or beneficiary.

(f) If the beneficiary elects to complete the payments under Subsection (d)(2), the beneficiary shall make full payment in a lump sum of the unpaid balance before the issuance of any warrant to him in full or partial payment of death or survivor benefits.

(g) A member seeking to establish service credit by using the installment or payroll deduction payment method shall pay an additional fee of nine percent per annum calculated on a declining balance method on the lump sum due at the time the payment process begins. For purposes of this subsection, the installment or payroll deduction payment process begins on the first business day of the month in which the first payment becomes due. None of the additional fees shall be returned to the member or a beneficiary.

(h) The board of trustees has authority to adopt rules to implement this section, including rules establishing a minimum

amount for monthly installment or payroll deduction payments and rules establishing payment under Section 823.004(b).

(i) The actuary designated by the board of trustees shall, in investigating the experience of the members of the system, note any significant increase in the establishment of special service credit and determine the extent to which any increase has been caused by the installment or payroll deduction payment method. If the actuary certifies in writing to the retirement system that sound actuarial funding of the retirement system's benefits is endangered by continuation of the installment or payroll deduction payment method, the board of trustees may determine that the payment method will not be available, other than to those who are using the method at the time of the determination.

(j) Payments to establish service credit by a member who plans to retire in less than a year may be made by payroll deduction for a period determined by the retirement system.

(k) Each employer shall establish a payroll deduction plan to facilitate the payroll deductions authorized by this section and shall cooperate with the retirement system in implementing the payroll deduction method of payment for service credit.

Added by Acts 1991, 72nd Leg., ch. 882, Sec. 2, eff. Sept. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 27, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1416, Sec. 28, eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 1359, Sec. 32, eff. Sept. 1, 2005.

Sec. 825.411. PAYROLL DEDUCTIONS FOR SERVICE CREDIT. (a) A contributing member who is otherwise eligible may establish or reestablish service creditable in the retirement system by making payments as provided by this section in lieu of lump-sum payments otherwise authorized or required by this subtitle or payments under Section 825.410. Except as provided by Subsection (c), the retirement system shall permit a member to purchase service credit over a period of up to five years under an agreement under this section.

(b) A payment authorized by this section consists of a monthly payroll deduction in an amount not less than one-twelfth of the contribution required to establish at least one year of service credit, including any required interest and membership fee, except as provided by Subsection (c).

(c) Payments to establish service credit by a member who plans to retire in less than a year may be made by payroll deduction for a period determined by the retirement system.

(d) Payroll deductions for payments under this section shall be made and submitted to the retirement system at the times and in the manner provided for member contributions under Section 825.403.

(e) The retirement system shall credit a member's payments made under this section to a suspense account in the trust fund until the sum of the payments equals the amount required for one year of service credit, at which time the retirement system shall deposit the payments in the appropriate accounts in the trust fund and grant the applicable amount of service credit.

(f) A member who, while making payments under this section, ceases to hold a position covered by the retirement system or withdraws the authority for payroll deductions may:

(1) contract with the retirement system for an alternative method of continuing the payments;

(2) receive a prorated amount of service based on the payments made; or

(3) receive a refund of payments credited to the suspense account and not transferred to a trust fund account.

(g) Payments may not be made under this section to establish service credit of a person who has retired or died, except that a beneficiary may make payment in a lump sum for the remainder of service credit for which payments were begun before the member's death.

(h) The retirement system may adopt rules to administer this section.

Added by Acts 1997, 75th Leg., ch. 964, Sec. 4, eff. Sept. 1, 1997.

SUBCHAPTER F. MISCELLANEOUS ADMINISTRATIVE PROCEDURES

Sec. 825.501. STATEMENT OF AMOUNT IN INDIVIDUAL ACCOUNTS. (a) No later than December 1 of each year, the board of trustees shall furnish to each member a statement of the amount credited to the member's individual account as of August 31 of the preceding fiscal year.

(b) In addition to the statement required by Subsection (a)

of this section, the board of trustees shall furnish, on written request, to a member of the retirement system a statement of the amount credited to the member's individual account. The board is not required to furnish more than four of these statements to each member a calendar year.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 929, Sec. 6, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.501 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.06(f), eff. Aug. 26, 1991.

Sec. 825.502. PAYMENT OF CONTRIBUTIONS TO A MEMBER ABSENT FROM SERVICE. (a) If a demand for the accumulated contributions of a member with fewer than five years of service has not been made in accordance with Section 822.005 before the seventh anniversary of the member's last day of service, the retirement system shall return to the member or to the member's heirs all accumulated contributions of the member.

(b) If the member or the member's heirs cannot be found, the member's accumulated contributions are forfeited to the retirement system. The retirement system shall credit the amount forfeited to the retired reserve account.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 835, Sec. 9, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.502 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.05(i), eff. Aug. 26, 1991.

Sec. 825.503. REPRODUCTION AND PRESERVATION OF RECORDS. (a) The retirement system may photograph, microphotograph, or film, or use electronic storage for, all records pertaining to a member's individual file, accounting records, district report records, and investment records. The retirement system may receive any record or report on paper or film or in an electronic storage format.

(b) If a record is reproduced under Subsection (a), the retirement system may destroy or dispose of the original record if the system first:

(1) places the reproduction or electronic record in a file conveniently accessible to retirement system personnel; and

(2) provides for the preservation, examination, and use of the reproduction or stored electronic record.

(c) A photograph, microphotograph, film, or electronic record of a record received or reproduced under Subsection (a) is equivalent to the original record for all purposes, including introduction as evidence in all courts and administrative agency proceedings. A duly certified or authenticated copy of such a photograph, microphotograph, film, or electronic record is admissible as evidence equally with the original photograph, microphotograph, film, or electronic record.

(d) The executive director or an authorized representative may certify the authenticity of a photograph, microphotograph, film, or electronic record of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, film, or electronic record as provided by law.

(e) Certified records shall be furnished to any person who is authorized by law to receive them.

(f) In this section:

(1) "Electronic storage" means the maintenance of record data in the form of digital electronic signals on a computer hard disk, magnetic tape, optical disk, or similar medium readable by machine.

(2) "Electronic record" means any information that is recorded in a form for computer processing.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.503 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 28, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 555, Sec. 50, eff. Sept. 1, 1995.

Sec. 825.504. EMPLOYER CERTIFICATION TO BOARD. (a) An employer annually shall certify to the board of trustees the beginning date of the contract of each member whose contract year begins after June 30 and continues after August 31 of the same calendar year.

(b) For school years after the 1994-1995 school year, an employer annually shall certify to the board of trustees the

beginning date of an oral or written work agreement that begins after June 30 and continues after August 31 of the same calendar year.

(c) Each reporting district shall cooperate with the retirement system in ascertaining a member's annual earnings during any year. The board of trustees by rule may prescribe the form of and procedures for filing certifications required by 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. 35.504 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 51, eff. Sept. 1, 1995.

Sec. 825.505. AUDITS. For the purpose of determining the propriety of contributions or credits, the records of an employer concerning the employment and compensation of its personnel are subject to examination, in the offices of the employer during regular working hours, by representatives of the retirement system designated to conduct the examination.

Added by Acts 1985, 69th Leg., ch. 556, Sec. 4, eff. Aug. 26, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.505 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 825.506. PLAN QUALIFICATION. (a) 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). Notwithstanding any other provision of this subtitle, benefits provided to a retiree, or based on the service of a member or retiree, may not exceed benefits permitted to be provided by a qualified plan by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). The board of trustees may adopt rules that modify the plan to the extent necessary for the retirement system to be a qualified plan and shall adopt rules to ensure that benefits paid to a retiree, or to a beneficiary of a member or retiree, do not exceed the limits provided by Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415). Rules adopted by the board of trustees are to be considered a part of the plan.

(b) In determining qualification status under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), the retirement system's benefit plan shall be considered primary. An employer may not provide employee retirement or deferred benefits to the extent that, when considered together with the benefits authorized by this subtitle as required by federal law, would result in the retirement system's plan failing to meet federal qualification standards as applied to public pension plans.

(c) It is intended that the retirement system administer the plan in a manner that satisfies the required minimum distribution provisions of Section 401(a)(9), Internal Revenue Code of 1986. The board of trustees may adopt rules to administer the distribution requirements, including distribution when a participant dies before the entire interest is distributed.

Added by Acts 1987, 70th Leg., ch. 642, Sec. 2, eff. June 19, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 35.506 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 52, eff. Sept. 1, 1995; Acts 2005, 79th Leg., ch. 1359, Sec. 33, eff. Sept. 1, 2005.

Sec. 825.507. RECORD CONFIDENTIALITY. (a) Records of a participant that are in the custody of the retirement system or of an administrator, carrier, attorney, consultant, or governmental agency acting in cooperation with or on behalf of the retirement system are confidential and not subject to public disclosure in a form that would identify an individual and are exempt from the public access provisions of Chapter 552, except as otherwise provided by this section. Because the records described by this subsection are exempt from the public access provisions of Chapter 552, the retirement system is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, except as otherwise provided by this section.

(b) The retirement system may release records of a participant, including a participant to which Chapter 803 applies, to:

(1) the participant or the participant's attorney or guardian or another person who the executive director determines is acting on behalf of the participant;

(2) the executor or administrator of the deceased participant's estate, including information relating to the deceased participant's beneficiary;

(3) a spouse or former spouse of the participant if the executive 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;

(4) an administrator, carrier, consultant, attorney, or agent acting on behalf of the retirement system;

(5) a governmental entity, an employer, or the designated agent of an employer, only to the extent the retirement system needs to share the information to perform the purposes of the retirement system, as determined by the executive director;

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

(7) a federal, state, or local criminal law enforcement agency that requests a record for a law enforcement purpose;

(8) the attorney general to the extent necessary to enforce child support; or

(9) a party in response to a subpoena issued under applicable law if the executive director determines that the participant will have a reasonable opportunity to contest the subpoena.

(c) The records of a participant remain confidential after release to a person as authorized by this section. This section does not prevent the disclosure or confirmation, on an individual basis, of the status or identity of a participant as a member, former member, retiree, deceased member or retiree, beneficiary, or alternate payee of the retirement system.

(d) The executive director may designate other employees of the retirement system to make the necessary determinations under this section. A determination and disclosure under this section may be made without notice to the participant.

(e) The retirement system may make not more than two mailings a year on behalf of a nonprofit association of active or retired school employees, for purposes of association membership and research only, to persons identified in information contained in records that are in the custody of the retirement system. The nonprofit association requesting a mailing shall pay the expenses of the mailing.

(f) This section does not authorize the retirement system to compile or disclose a list of participants' names, addresses, or social security numbers unless the executive director determines that a compilation or disclosure is necessary to administer the retirement system.

(g) In this section, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system.

Added by Acts 1991, 72nd Leg., ch. 16, Sec. 11.05(j), eff. Aug. 26, 1991. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 29, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(97), eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 1229, Sec. 18, 19 eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 1359, Sec. 34, eff. Sept. 1, 2005.

Sec. 825.508. POWERS OF ATTORNEY. (a) A person entitled to payment of an annuity or other benefits administered by the retirement system may direct the retirement system to treat as the authorized representative of the person concerning the disposition of the benefits an attorney-in-fact under a power of attorney that complies with Subsection (b).

(b) The system must honor a power of attorney executed in accordance with Chapter XII, Section 490, Texas Probate Code.

(c) If the power of attorney is revoked, the retirement system is not liable for payments made to or actions taken at the request of the attorney-in-fact before the date the system receives written notice that the power of attorney has been revoked.

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 29, eff. Nov. 12, 1991. Renumbered from V.T.C.A., Government Code Sec. 825.507 by Acts 1993, 73rd Leg., ch. 107, Sec. 10.01(8), eff. Aug. 30, 1993, and Acts 1993, 73rd Leg., ch. 812, Sec. 30, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 53, eff. Sept. 1, 1995.

Sec. 825.509. DIRECT ROLLOVERS. (a) This section applies to distributions made on or after January 1, 1993. Notwithstanding any law governing the retirement system that would otherwise limit

a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the executive director or the executive director's designee, to have any portion of an eligible rollover distribution from the retirement system paid directly to an eligible retirement plan specified by the distributee in a direct rollover.

(b) An eligible rollover distribution under this section is any distribution of all or a portion of the balance to the credit of the distributee, other than:

(1) a distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for:

(A) the life or life expectancy of the distributee;

(B) the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary; or

(C) a specified period of 10 years or more;

(2) a distribution to the extent the distribution is required under Section 401(a)(9), Internal Revenue Code of 1986; or

(3) the portion of a distribution that is not includable in gross income for federal income tax purposes.

(c) An eligible retirement plan under this section is an individual retirement account described by Section 408(a), Internal Revenue Code of 1986, an individual retirement annuity described by Section 408(b), Internal Revenue Code of 1986, an annuity plan described by Section 403(a), Internal Revenue Code of 1986, or a qualified trust described by Section 401(a), Internal Revenue Code of 1986, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan under this section is an individual retirement account or individual retirement annuity.

(d) In this section:

(1) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by a distributee.

(2) "Distributee" means a person who receives an eligible rollover distribution from the retirement system and includes an employee or former employee and, regarding the interest of an employee or former employee, the person's surviving spouse or alternate payee.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 31, eff. Sept. 1, 1993.

Sec. 825.510. BUDGET AND INVESTMENT INFORMATION. (a) The retirement system annually shall file with the Legislative Budget Board a report showing investments of the retirement system as of the last day of the preceding fiscal year, investments made or disposed of during that year, income or losses in the various kinds of investments, and a comparison of investment performance to nationally recognized indexes. The report required by this subsection is the only periodic report of investments required to be made by the retirement system other than a report required by Section 802.106 or a report required by the state auditor.

(b) The retirement system shall file with the Legislative Budget Board for review and comment a copy of each proposed annual budget of the retirement system.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 31, eff. Sept. 1, 1993.

Sec. 825.511. COMPLAINT FILES. (a) The retirement system shall keep an information file about each complaint filed with the system that the system has authority to resolve. The system shall provide to the person filing the complaint and the persons or entities complained about the system's policies and procedures pertaining to complaint investigation and resolution. The system, at least quarterly and until final disposition of the complaint, shall notify the person filing the complaint and the persons or entities complained about of the status of the complaint unless the notice would jeopardize an undercover investigation.

(b) The retirement system shall keep information about each complaint filed with the system. The information shall include:

(1) the date the complaint is received;

(2) the name of the complainant;

(3) the subject matter of the complaint;

(4) a record of all persons contacted in relation to the complaint;

(5) a summary of the results of the review or

investigation of the complaint; and

(6) for complaints for which the system took no action, an explanation of the reason the complaint was closed without action.

Added by Acts 1993, 73rd Leg., ch. 812, Sec. 31, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 54, eff. Sept. 1, 1995.

Sec. 825.512. INVESTMENT PRACTICES AND PERFORMANCE REPORTS. (a) The legislative audit committee biennially shall select an independent firm with substantial experience in evaluating institutional investment practices and performance to evaluate the retirement system's investment practices and performance.

(b) The legislative audit committee shall determine specific areas to be evaluated, but the first evaluation must be a comprehensive analysis of the retirement system's investment program.

(c) A report of an evaluation under this section shall be filed with the legislative audit committee not later than December 1 of each even-numbered year.

(d) The retirement system shall pay the costs of each evaluation under this section.

(e) The retirement system shall submit an annual investment performance report not later than the 45th day after the end of each fiscal year to the governor, the lieutenant governor, the speaker of the house of representatives, the executive director of the State Pension Review Board, the legislative audit committee, the committees of the senate and the house of representatives having jurisdiction over appropriations, the committees of the senate and the house of representatives having principal jurisdiction over legislation governing the retirement system, and the Legislative Budget Board. The report shall include a listing of all commissions and fees paid by the system during the reporting period for the sale, purchase, or management of system assets.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 55, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1416, Sec. 29, eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 1359, Sec. 35, 36, eff. Sept. 1, 2005.

Sec. 825.513. INFORMATION FOR PUBLICATION. The retirement system shall verify with the State Pension Review Board the accuracy of information about the effects of proposed legislation on benefits and the trust fund before including the information in an official publication of the retirement system.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 55, eff. Sept. 1, 1995.

Sec. 825.514. HISTORICALLY UNDERUTILIZED BUSINESS. The retirement system is subject to the provisions, including Chapter 2161, that relate to historically underutilized businesses.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 55, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 165, Sec. 17.19(21), eff. Sept. 1, 1997.

Sec. 825.515. INFORMATION ABOUT MEMBER POSITIONS. (a) At least annually, the retirement system shall acquire and maintain records identifying members and the types of positions they hold as members. The type of position shall be identified as Administrative/Professional, Teacher/Full-Time Librarian, Support, or Bus Driver.

(b) Information contained in records of the retirement system maintained under this section is confidential within the limits prescribed by Section 825.507.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 55, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 1540, Sec. 24, eff. Sept. 1, 1999.

Sec. 825.516. NONPROFIT ASSOCIATION DUES. (a) A retiree who is receiving an annuity from the retirement system may request the system to withhold from the retiree's monthly annuity payment membership dues for a nonprofit association of retired school employees in this state, if the association is statewide and its membership includes at least five percent of all retirees of the retirement system. The request for withholding must be on a form provided by the retirement system.

(b) After the retirement system receives a request authorized by this section, the system may make the requested deductions until the earlier of:

- (1) the date the annuity is terminated; or
- (2) the first payment of the annuity after the date the

system receives a written request signed by the retiree canceling the request for the withholding.

(c) The retirement system shall send all dues withheld under this section to the nonprofit association after each monthly payment of annuities.

Added by Acts 1997, 75th Leg., ch. 1416, Sec. 30, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 1540, Sec. 25, eff. Sept. 1, 1999.

Sec. 825.517. EXCESS BENEFIT ARRANGEMENT. (a) A separate, nonqualified, unfunded excess benefit arrangement is created outside the trust fund of the retirement system. This excess benefit arrangement shall be administered as a governmental excess benefit arrangement under Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)). The purpose of the excess benefit arrangement is to pay to annuitants of the retirement system benefits otherwise payable by the retirement system that exceed the limitations on benefits imposed by Section 415(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)(1)(A)).

(b) The board of trustees is responsible for the administration of this arrangement. Except as otherwise provided by this section, the board has the same rights, duties, and responsibilities concerning the excess benefit arrangement as it has to the trust fund.

(c) Benefits under this section are exempt from execution to the same extent as provided by Section 821.005. Contributions to this arrangement are not held in trust and may not be commingled with other funds of the retirement system.

(d) An annuitant is entitled to a monthly benefit under this section in an amount equal to the amount by which the benefit otherwise payable by the retirement system has been reduced by the limitation on benefits imposed by Section 415(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)(1)(A)). The benefit payable by this arrangement is payable at the times and in the form that the benefit payable under the trust fund is paid.

(e) The benefit payable under this section shall be paid from state contributions that otherwise would be made to the trust fund under Section 825.404. In lieu of deposit in the state contribution account, an amount determined by the retirement system to be necessary to pay benefits under this section shall be paid monthly to the credit of a dedicated account in the general revenue fund maintained only for the excess benefit arrangement. The account may include amounts needed to pay reasonable and necessary expenses of administering this arrangement. The monthly amount to be paid to the credit of the account shall be transferred to the account at least 15 days before the date of a monthly disbursement under this section.

(f) The board of trustees may adopt rules governing the excess benefit arrangement that are necessary for the efficient administration of the arrangement in compliance with Section 415(m) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(m)).

Added by Acts 1997, 75th Leg., ch. 1416, Sec. 31, eff. Sept. 1, 1997.

Sec. 825.518. ANNUAL REPORT. The Teacher Retirement System of Texas shall submit a statistical analysis based on information compiled under Section 822.005(d) not later than the 25th day of the month following the end of each fiscal year to the governor, the lieutenant governor, the speaker of the house of representatives, the executive director of the State Pension Review Board, the appropriate oversight committees of the house and senate, and the Legislative Budget Board.

Added by Acts 1999, 76th Leg., ch. 1118, Sec. 10, eff. Sept. 1, 1999.

Sec. 825.519. ELECTRONIC INFORMATION. The retirement system may provide confidential information electronically to members or other participants or employers and receive information electronically from those persons, including by use of an electronic signature or certification in a form acceptable to the retirement system. An unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by the retirement system of any law, including a rule relating to the protection of confidential information.

Added by Acts 2005, 79th Leg., ch. 1359, Sec. 37, eff. Sept. 1, 2005.

Sec. 825.520. IMMUNITY FROM LIABILITY. The trustees, executive director, and employees of the retirement system are not liable for any action taken or omission made or suffered by them in good faith in the performance of any duty in connection with any program or system administered by the retirement system. Added by Acts 2005, 79th Leg., ch. 1359, Sec. 37, eff. Sept. 1, 2005.