

GOVERNMENT CODE
CHAPTER 842. MEMBERSHIP

SUBCHAPTER A. SUBDIVISION PARTICIPATION

Sec. 842.001. SUBDIVISION PARTICIPATION. (a) A subdivision, in the manner required for official actions of the subdivision, may elect to join the retirement system and be subject to the provisions of this subtitle.

(b) The governing body of a subdivision shall notify the board of trustees of an election under this section before the 11th day after the date of election.

(c) A political subdivision other than a county may participate in the retirement system only upon approval of the board of trustees of the system.

(d) Subject to the approval of the board of trustees, an electing subdivision under this section may begin participation in the retirement system on the first day of any month designated by the subdivision's governing body.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 4, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 842.002. RULES FOR PARTICIPATING SUBDIVISIONS. The board of trustees may adopt rules concerning:

(1) notices, information, and reports the board of trustees requires from a subdivision that elects to participate in the retirement system;

(2) the time that a subdivision that elects to participate in the retirement system may begin participation; and

(3) the powers and duties of a participating subdivision to adopt orders or resolutions, make elections, and otherwise exercise decision-making authority concerning the rights and benefits of the members and annuitants under a plan adopted or assumed by the subdivision.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 5, eff. Dec. 31, 2001.

Sec. 842.003. ADDITIONAL MEMBERSHIP CLASSES. If a class of employees becomes eligible for membership in the retirement system as a result of amendment of this subtitle after a subdivision has elected to participate, the subdivision may include that class as members of the retirement system on the same terms as are applicable to employees eligible for optional coverage under Subchapter C.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 842.004. SUPPLEMENTAL DEATH BENEFITS FUND. (a) A subdivision participating in the retirement system may elect to participate in the supplemental death benefits fund.

(b) A subdivision that elects to participate in the fund may elect coverage providing postretirement death benefits in addition to coverage providing in-service death benefits.

(c) Before a subdivision that has fewer than 10 employees who are members of the retirement system is permitted to participate in the fund, the board of trustees may require the subdivision to provide evidence that is satisfactory to the board that the members are in good health. The board of trustees may allow participation in the fund by those subdivision employees who are in good health on the effective date of participation and exclude those subdivision employees who are not in good health at that time.

(d) A subdivision that elects to participate in the fund may begin participation on the first day of any month after the month in which the subdivision gives notice of its election to the board of trustees.

(e) If before November 1 of any year a subdivision gives written notice of its intention to the retirement system, the subdivision may terminate coverage under and discontinue participation in the supplemental death benefits fund. A termination under this subsection is effective on January 1 of the year following the year in which notice is given.

(f) If a subdivision has previously discontinued participation in the fund, the board of trustees in its discretion may restrict the right of the subdivision to participate again.

Added by Acts 1981, 67th Leg., 1st C.S., p. 208, ch. 18, Sec. 40,

eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.0031 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 1, eff. Jan. 1, 1992; Acts 1999, 76th Leg., ch. 427, Sec. 2, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 6, eff. Dec. 31, 2001.

Sec. 842.006. MERGER. A local pension system established for employees of a subdivision may merge into the retirement system on conditions prescribed by the board of trustees.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 842.007. SUBDIVISION NOT AGENT OF SYSTEM. Neither a subdivision that participates in the retirement system nor any employee or officer of a participating subdivision has authority to act as an agent of the retirement system. An action or inaction on the part of a participating subdivision or its employee or officer is not binding on the retirement system.

Added by Acts 1993, 73rd Leg., ch. 175, Sec. 2, eff. Jan. 1, 1994.

Sec. 842.0075. ASSUMPTION BY SUCCESSOR SUBDIVISION. (a) The governing body of a participating subdivision may, with the consent of the board of trustees and on terms approved by the board, assume the subdivision account and pension liabilities of a subdivision that no longer exists, is in the process of dissolution, is changing its operational form, or no longer has employees. The account and pension liabilities of a subdivision described by this subsection may not be assumed if the subdivision has executed a voluntary termination agreement under Section 842.052 or if the board has specified a date under Section 842.053 for the involuntary termination of the subdivision's participation in the retirement system.

(b) Subject to any limitation set by the board of trustees, the governing body of the assuming subdivision may exercise any authority with respect to plan provisions applicable to members and annuitants of the subdivision plan being assumed that the governing body of that subdivision could have exercised.

(c) Except as otherwise provided by this section, all retirement plan provisions in effect on the assumption date remain in effect until changed by the governing body of the assuming subdivision.

(d) As of the assumption date, the account in the subdivision accumulation fund being assumed and the account of the assuming subdivision will be treated as one account for the purposes of receiving allocations under this subtitle and paying benefits accrued with respect to either subdivision.

(e) The retirement system is not liable to any person for any claim or loss of benefits resulting from the assumption by another participating subdivision of the account and pension liabilities of a subdivision described by Subsection (a).

(f) The board of trustees by rule may establish standards, definitions, and procedures it considers necessary to administer this section and shall take reasonable actions and exercise its discretion in a fair and equitable manner on a case-by-case basis to preserve accrued benefits.

Added by Acts 2005, 79th Leg., ch. 506, Sec. 5, eff. Jan. 1, 2006.

SUBCHAPTER A-1. TERMINATION OF PARTICIPATION BY SUBDIVISIONS

Sec. 842.051. GENERAL PROVISIONS. (a) Notwithstanding any provision of this subchapter to the contrary, to the extent required by applicable provisions of the Internal Revenue Code of 1986, on termination of a subdivision's participation in the retirement system or on complete discontinuance of contributions, each member becomes fully vested in the member's accrued benefit with respect to the subdivision to the extent funded as of the date of termination or contribution discontinuance.

(b) The retirement system is not liable to any person for any claim or loss of benefits resulting from the termination of a subdivision's participation in the system or the failure of a subdivision to make required contributions or payments under a termination agreement.

(c) The board of trustees by rule may establish standards, definitions, and procedures it considers necessary to administer this subchapter and shall take reasonable actions and exercise its discretion in a fair and equitable manner on a case-by-case basis to preserve accrued benefits.

Added by Acts 2005, 79th Leg., ch. 506, Sec. 6, eff. Jan. 1, 2006.

Sec. 842.052. VOLUNTARY TERMINATION OF PARTICIPATION. (a)

With the consent of the board of trustees, a subdivision other than a county may voluntarily terminate its participation in the retirement system if the subdivision agrees to be contractually and legally bound, on terms approved by the board, to fund:

(1) all benefits accrued before the date specified in the termination agreement and payable on or after that date in accordance with Subsection (e); and

(2) all supplemental annuities.

(b) Beginning with the date specified in the termination agreement, additional employee contributions or deposits may not be made to a member's account and additional service with the subdivision may not be credited to a member, except as authorized by the board. Except as otherwise provided by this section, all other retirement plan provisions then in effect remain in effect.

(c) Beginning with the date specified in the termination agreement, the subdivision's account in the subdivision accumulation fund ceases to receive allocations under this subtitle for any prior, current, or future plan year, except as authorized by the board.

(d) On full performance of the termination agreement, the subdivision is released from all liability for its accrued benefits and supplemental annuities. The retirement system shall make transfers from the subdivision's account to the appropriate funds within the system in amounts actuarially equivalent to the accrued benefits and supplemental annuities. The retirement system shall pay any amounts remaining in the subdivision's account after satisfaction of all the subdivision's pension liabilities to the subdivision or its successor in interest in accordance with Section 845.317(b).

(e) On full performance of the termination agreement, each member who has not received a refund of accumulated contributions becomes fully vested in the member's accrued benefits with respect to the subdivision and is immediately eligible to retire with a service retirement annuity or to take a distribution of the accrued benefits in a lump sum, regardless of age, service, or employment.

(f) A member vested under Subsection (e) or Section 842.051(a) is an eligible member under Section 844.407. For the purpose of determining any death benefit payable under Section 844.402, the member's individual account consists only of the deposits and contributions made by the member and the accumulated interest attributable to those amounts.

Added by Acts 2005, 79th Leg., ch. 506, Sec. 6, eff. Jan. 1, 2006.

Sec. 842.053. INVOLUNTARY TERMINATION OF PARTICIPATION. (a) The board of trustees by order may terminate the participation of a subdivision other than a county if the board determines that:

(1) the subdivision has failed to perform in accordance with a termination agreement under Section 842.052;

(2) the subdivision has ceased to exist, is in the process of dissolving, or is changing its operational form;

(3) benefits accrued for service with the subdivision may be at risk of forfeiture;

(4) the retirement system no longer serves as an effective program for providing retirement, disability, and death benefits to the employees of the subdivision because of the action or inaction of the subdivision or because of a significant change in covered payroll, number of contributing members, workforce composition, general revenues, or other circumstances of the subdivision; or

(5) the continued participation of the subdivision is not in the best interest of the retirement system, the subdivision, the employees of the subdivision, or the other participating subdivisions.

(b) Beginning with a date specified by the board, additional employee deposits or contributions may not be made to a member's account with the subdivision and additional service with the subdivision may not be credited to a member, except as authorized by the board. Except as otherwise provided by this subchapter, all other retirement plan provisions then in effect remain in effect.

(c) Beginning with a date specified by the board, the subdivision's account in the subdivision accumulation fund ceases to receive allocations under this subtitle for any prior, current, or future plan year except as authorized by the board.

(d) Beginning with a date specified by the board, the retirement system shall value the accrued benefits and supplemental

annuities with respect to the subdivision's participation as immediately payable under this subchapter. If the assets in the subdivision's account exceed the actuarial equivalent value of pension benefits, the subdivision is released from all liability with respect to the accrued benefits and supplemental annuities. The retirement system shall make transfers from the subdivision's account to the appropriate funds within the system in amounts actuarially equivalent to all accrued benefits and supplemental annuities. The retirement system shall pay any amount remaining in the subdivision's account after satisfaction of all the subdivision's pension liabilities to the subdivision or its successor in interest in accordance with Section 845.317(b).

(e) If the actuarial equivalent value of pension benefits exceeds the assets in the subdivision's account, the subdivision or its successor in interest may make a contribution in any amount to the subdivision's account. The retirement system shall transfer the assets of the subdivision's account in the subdivision accumulation fund to appropriate funds within the system and allocate the assets as provided by Sections 842.054-842.057.

Added by Acts 2005, 79th Leg., ch. 506, Sec. 6, eff. Jan. 1, 2006.

Sec. 842.054. CLASS A. In a case of involuntary termination under Section 842.053, the retirement system shall make a proportionate transfer to the individual account of each member of the subdivision eligible to retire based on the ratio that the member's current service credit bears to the total current service credit of the class. The transfer to a member's individual account may not exceed 100 percent of the member's current service credit.

Added by Acts 2005, 79th Leg., ch. 506, Sec. 6, eff. Jan. 1, 2006.

Sec. 842.055. CLASS B. If any assets remain after the transfers are made under Section 842.054, the retirement system shall make a proportionate transfer to the individual account of each member of the subdivision not eligible to retire based on the ratio that the member's current service credit bears to the total current service credit of the class. The transfer to a member's individual account may not exceed 100 percent of the member's current service credit.

Added by Acts 2005, 79th Leg., ch. 506, Sec. 6, eff. Jan. 1, 2006.

Sec. 842.056. CLASS C. If any assets remain after the transfers are made under Sections 842.054 and 842.055, the retirement system shall make a transfer to the current service annuity reserve fund in an amount computed as necessary to fund the supplemental annuities of the annuitants of the subdivision and a transfer to the individual account of each member of the class eligible to retire in an amount that equals the multiple matching credits and prior service credits of the member. If necessary, the retirement system shall proportionately reduce an individual's total credits or supplemental annuity, as applicable, based on the ratio that the individual's total actuarial equivalent of benefits described by this section bears to the aggregate total actuarial equivalent of all those benefits of the class.

Added by Acts 2005, 79th Leg., ch. 506, Sec. 6, eff. Jan. 1, 2006.

Sec. 842.057. CLASS D. If any assets remain after the transfers are made under Sections 842.054, 842.055, and 842.056, the retirement system shall make a proportionate transfer to the individual account of each member not eligible to retire based on the ratio that the sum of the member's multiple matching credits and prior service credits bears to the total multiple matching credits and prior service credits of the class. The transfer to a member's individual account may not exceed 100 percent of the member's multiple matching credits and prior service credits.

Added by Acts 2005, 79th Leg., ch. 506, Sec. 6, eff. Jan. 1, 2006.

Sec. 842.058. BENEFITS. (a) After the transfers, allocations, and any necessary reductions described by Sections 842.054-842.057 have been made, each member who has not received a refund of accumulated contributions becomes fully vested in the member's accrued benefits with respect to the subdivision to the extent funded and is immediately eligible to retire with a service retirement annuity or to take a distribution of the accrued benefits in a lump sum, regardless of age, service, or employment.

(b) A member vested under this section or Section 842.051(a) is an eligible member under Section 844.407. For the purpose of determining any death benefit payable under Section 844.402, the member's individual account consists only of the deposits and contributions made by the member and the accumulated interest attributable to those amounts.

Added by Acts 2005, 79th Leg., ch. 506, Sec. 6, eff. Jan. 1, 2006.

SUBCHAPTER B. MEMBERSHIP

Sec. 842.101. GENERAL MEMBERSHIP REQUIREMENT. (a) Except as otherwise provided by this subchapter, a person who is not a member becomes a member of the retirement system on the latest of:

(1) the date the subdivision's participation in the retirement system becomes effective, if the person is a subdivision employee on that date;

(2) the date the person becomes a subdivision employee; or

(3) January 1, 2006, if the person is an employee of a participating subdivision on that date and was previously excluded from retirement system membership.

(b) Except as otherwise provided by this subtitle, the rights and benefits of a member are determined separately with respect to each subdivision with which the member has credited service.

(c) If a person's status as a temporary employee ceases, and the person becomes an employee within the meaning of this subtitle, the subdivision shall certify the change to the retirement system, and the person becomes a member effective on the date of the certification, but without credit for the period during which the person was a temporary employee.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 209, ch. 18, Sec. 42, eff. Nov. 10, 1981; Acts 1985, 69th Leg., ch. 491, Sec. 6, eff. June 12, 1985; Acts 1987, 70th Leg., ch. 63, Sec. 3, eff. May 6, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 2, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 621, Sec. 5, eff. Jan. 1, 2004; Acts 2005, 79th Leg., ch. 506, Sec. 7, eff. Jan. 1, 2006.

Sec. 842.104. COUNTY HOSPITAL EMPLOYEES. (a) If a county elects to participate in the retirement system, the commissioners court of the county may elect to deny membership to the employees of a county hospital governed by Chapter 263, Health and Safety Code.

(b) After making an election under this section, the commissioners court may at any time reverse its decision and require that county hospital employees become members on a date fixed by order of the commissioners court.

(c) If the commissioners court reverses an election under this section and requires the employees of a county hospital to become members of the retirement system, for the purposes of this subtitle the employees of the county hospital comprise a separate subdivision from other county employees.

(d) If on the effective date of participation in the retirement system a county is not operating a county hospital, the order or resolution of the commissioners court electing to participate in the system does not include employees of a hospital later established or operated by the county. The commissioners court may elect to have the employees of a hospital later established or operated by the county participate in the retirement system as a unit, which for purposes of this subtitle comprises a subdivision separate from other county employees.

(e) The commissioners court is the governing body of a county hospital for the purposes of this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 2, eff. Jan. 1, 1992; Acts 2001, 77th Leg., ch. 122, Sec. 7, eff. Dec. 31, 2001.

Sec. 842.105. STATUS AS AN EMPLOYEE. For the purposes of this subtitle, a person has the standing of an employee in a participating subdivision if the person is an employee, other than a temporary employee, of a community supervision and corrections department that has executed a contract with the participating subdivision under Section 76.006, Government Code.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.105 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 6, eff. Dec. 31, 1999; Acts 2005, 79th Leg., ch. 506, Sec. 8, eff. Jan. 1, 2006.

Sec. 842.106. MULTIPLE RETIREMENT SYSTEM MEMBERSHIP. (a) A person who is an employee eligible for membership and eligible to receive credit in this retirement system for service performed for

a participating subdivision is not eligible for credit for that service in another public retirement system described by Section 801.001 that is at least partly supported by the subdivision at public expense. It is the responsibility of the subdivision to enforce this provision.

(b) A person may simultaneously be a member of this retirement system and another state or local retirement system authorized under Section 67, Article XVI, Texas Constitution. However, a person may receive a benefit from this system only to the extent that the amount of the benefit is computed solely on the member's compensation and accumulated contributions in the system. Service credited by another retirement system may not be used to determine eligibility for a benefit in this retirement system except as provided by Chapter 803.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 602, Sec. 14, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.106 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 709, Sec. 1, eff. Aug. 26, 1991; Acts 1999, 76th Leg., ch. 427, Sec. 7, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 8, eff. Dec. 31, 2001.

Sec. 842.107. OPTIONAL MEMBERSHIP. (a) A subdivision may authorize to be a member of the retirement system a person who is accruing benefits in another statewide retirement system for service in an elected or appointed judicial or district office or as an employee of the state or a governmental unit of the state during the same period the person is receiving supplemental compensation from the subdivision. A person described by this subsection who is first included for optional membership after December 31, 2005, may not contribute to the employees saving fund or receive any service credit for any supplemental compensation received before the date the subdivision makes the person eligible to become a member.

(b) The board by rule may establish reasonable restrictions and limitations on the granting of membership and service credit under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 209, ch. 18, Sec. 44, eff. Nov. 10, 1981; Acts 1987, 70th Leg., ch. 63, Sec. 4, eff. May 6, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.107 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 8, eff. Dec. 31, 2001; Acts 2005, 79th Leg., ch. 506, Sec. 9, eff. Jan. 1, 2006.

Sec. 842.108. WITHDRAWAL OF ACCUMULATED CONTRIBUTIONS. (a) A person, or the beneficiary of a person, whose membership terminated before January 1, 2005, as a result of absence from service may submit an application to withdraw all of the person's accumulated contributions attributable to the terminated membership.

(a-1) The accumulated contributions attributable to a terminated membership described by Subsection (a) are held by the retirement system in a noninterest-bearing account and may not be considered deposits under Section 843.003 or 843.0031 until the person:

- (1) again becomes a member;
- (2) is eligible under Section 843.003 or 843.0031;

and

- (3) submits an application to the system.

(b) A member who has separated from employment with a participating subdivision may submit an application to withdraw the member's accumulated contributions attributable to service with that subdivision. A withdrawal cancels the person's credited service and service credit attributable to service with that subdivision on the date the retirement system makes payment of any portion of the member's accumulated contributions. Credited service that has been canceled may not be used to determine eligibility for a later retirement unless it is reestablished under Section 803.203, 843.003, or 843.0031.

(c) Except for a terminated membership described by Subsection (a), interest is computed on the balance in the member's individual account in the employees saving fund on January 1 of the year of withdrawal through the month before the month in which the withdrawal occurs for a person described by Subsection (b).

(d) If a person eligible to receive a withdrawal under this section or Section 844.401 elects to have all or a portion of the accumulated contributions paid directly to an eligible retirement

plan and specifies the plan to which the contributions are to be paid on forms approved by the board of trustees, the retirement system shall make the payment in the form of a direct trustee-to-trustee transfer but is under no obligation to determine whether the other plan in fact is an eligible retirement plan for that purpose.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.108 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 4, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 427, Sec. 8, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 8, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 6, eff. Jan. 1, 2004; Acts 2005, 79th Leg., ch. 506, Sec. 10, eff. Jan. 1, 2006.

Sec. 842.109. TERMINATION OF MEMBERSHIP. (a) A person terminates membership in the retirement system by:

- (1) death;
- (2) retirement from all participating subdivisions with which the person has service credit; or
- (3) withdrawal of all of the person's accumulated contributions.

(b) A person's membership in the retirement system may not extend beyond the required beginning date determined in accordance with Section 841.010.

(c) A member of the retirement system who leaves employment with a participating subdivision to perform and does perform qualified military service in the uniformed services, as that term is defined in the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), that meets the requirements of that Act is not absent from service and continues to accumulate credited service with that subdivision if:

(1) the person applies for reemployment with the same subdivision not later than the 90th day after the date the person is discharged from military service under honorable conditions or released from hospitalization continuing after being discharged under honorable conditions for a period of not more than two years; and

(2) the person is reemployed by the same participating subdivision.

(d) On any termination of membership in the retirement system, a person forfeits all credited service established in 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. 52.109 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 3, eff. Jan. 1, 1992; Acts 1999, 76th Leg., ch. 427, Sec. 9, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 8, eff. Dec. 31, 2001; Acts 2005, 79th Leg., ch. 506, Sec. 11, eff. Jan. 1, 2006.

Sec. 842.110. RESUMPTION OF SERVICE BY RETIREE. (a) Except as provided by Subsection (b), a person who has retired from a participating subdivision with a service retirement annuity based on a bona fide termination of employment and with a break in service of not less than one calendar month resumes membership in the retirement system without suspension of the person's annuity if the person becomes an employee of any participating subdivision.

(b) A person who resumes employment with the same subdivision from which the person was previously employed and does not meet the requirements of Subsection (a) is considered not to have retired with respect to that subdivision. The person's service retirement annuity will be discontinued, the person's membership will be restored, and the person must return any payments received. Appropriate adjustments will be made for any amounts not returned.

(c) A membership established under the requirements of Subsection (a) is considered to be a new membership for the purposes of beneficiary determinations and benefit selections.

(d) After terminating employment with a participating subdivision, a member who has previously retired with a service retirement annuity under this subtitle and who meets the requirements of Subsection (a) is eligible to apply for and receive an additional standard or optional service retirement annuity or a refund of the member's accumulated contributions for service with the subdivision, without regard to any age or credited service requirement, except as provided by Subsection (f).

(e) On the death of a member who meets the requirement of Subsection (d), a person may apply for and receive an optional service retirement annuity or a refund of the decedent's accumulated contributions in the manner provided by Subsection (d), except as provided by Subsection (f).

(f) The waiver of an age or credited service requirement under this section does not apply to a person who becomes eligible to retire solely as a result of a subdivision's termination of participation under Subchapter A-1, Chapter 842.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 7, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 52.110 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 5, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 245, Sec. 3, 4, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 10, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 8, eff. Dec. 31, 2001; Acts 2005, 79th Leg., ch. 506, Sec. 12, eff. Jan. 1, 2006.

Sec. 842.112. CORRECTION OF ERRORS. (a) The retirement system may correct an error caused by an act or omission of the retirement system by any appropriate means.

(b) If an act or omission of a participating subdivision causes a person to receive more or less credited service, service credit, or benefits than the person is entitled to receive, the correction of the error is the responsibility of the subdivision.

(c) An error caused by an act or omission of a participating subdivision may be corrected:

(1) by the subdivision on its own motion if approved by the retirement system and if satisfactory proof of the error is submitted to the retirement system; or

(2) through a judicial or quasi-judicial proceeding between the person and the participating subdivision resulting in a judgment, order, or settlement agreement that meets the requirements of Section 842.113.

(d) A person seeking the correction of an error relating to membership, rights, benefits, or benefit payments under the retirement system must timely provide to the appropriate subdivision or the retirement system written notice specifically describing the error. The written notice must be received before the first anniversary of the earlier of the date the person discovers the error or the date a reasonable, diligent person should have discovered the error.

(e) If the act of a third person causes the retirement system to make a payment to someone other than the person entitled to the payment, the system shall, after receiving credible evidence of an erroneous payment, determine the person entitled to the benefit and, if necessary, adjust future payments to the extent practicable to ensure that the present value of the remainder of the benefit will be paid to the person entitled to it.

(f) The retirement system is not liable for any payments made before the date the system receives credible evidence of an erroneous payment. Any payments made before that date are a complete discharge of the system's responsibility for those payments and benefits.

(g) A recipient who receives a payment to which the recipient is not entitled holds the payment in constructive trust for the person entitled to the payment.

Added by Acts 1995, 74th Leg., ch. 245, Sec. 5, eff. Sept. 1, 1995. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 12, eff. Dec. 31, 1999; Acts 1999, 76th Leg., ch. 427, Sec. 13, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 9, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 7, eff. Jan. 1, 2004; Acts 2005, 79th Leg., ch. 506, Sec. 13, eff. Jan. 1, 2006.

Sec. 842.113. JUDGMENTS, ORDERS, AND SETTLEMENT AGREEMENTS. (a) If, as a result of a suit against a participating subdivision in a court of competent jurisdiction or as a result of a complaint or grievance against a participating subdivision filed with the United States Equal Employment Opportunity Commission, the civil rights division of the Texas Workforce Commission, or a county civil service commission, a judgment or order is issued or a settlement agreement is executed, the terms of which require that a person's membership record be adjusted with respect to the person's account balance, service credit, or credited service, the retirement system shall make appropriate adjustments if:

(1) the judgment or order has become final and is no

longer subject to appeal;

(2) a certified copy of the judgment, order, or settlement agreement accompanies the application; and

(3) the retirement system receives payment on behalf of the person in an amount equal to the contributions the person would have made to the system if the acts or omissions that resulted in the order, judgment, or settlement agreement requiring an adjustment to the person's membership record had not occurred or, if restoration of a refunded account is required, the system receives payment on behalf of the person in an amount equal to the amount withdrawn.

(b) The retirement system may not implement an order, judgment, or settlement agreement in a manner that would grant a person a status, right, or benefit not otherwise available under this subtitle.

(c) The retirement system may seek, or require the parties to seek, clarification or modification of any judgment or order, or may require the parties to provide a binding agreement as to the interpretation of any settlement if the director determines that the terms of the judgment, order, or agreement are unclear or cannot be feasibly implemented by the system.

Added by Acts 1999, 76th Leg., ch. 427, Sec. 13, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 9, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 7, eff. Jan. 1, 2004. Redesignated from V.T.C.A., Government Code Sec. 842.112(b) and amended by Acts 2005, 79th Leg., ch. 506, Sec. 13, eff. Jan. 1, 2006.