

TITLE 8. PUBLIC RETIREMENT SYSTEMS
SUBTITLE F. TEXAS COUNTY AND DISTRICT RETIREMENT SYSTEM
CHAPTER 844. BENEFITS
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 844.001. TYPES OF BENEFITS. The types of benefits payable by the retirement system are:

- (1) service retirement annuities;
- (2) disability retirement annuities;
- (3) survivor annuity death benefits;
- (4) supplemental death benefits; and
- (5) refunds of accumulated contributions.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 20, eff. Dec. 31, 2001.

Sec. 844.002. COMPOSITION OF RETIREMENT ANNUITY. (a) Each retirement annuity payable under this subtitle consists of a basic annuity and a supplemental annuity.

(b) A basic annuity is an amount payable from the current service annuity reserve fund and is actuarially determined from the sum of a member's:

- (1) accumulated contributions; and
- (2) current service credit, accumulated at interest as

provided by Section 843.403(d).

(c) A supplemental annuity is an amount payable from the subdivision accumulation fund, subject to reduction under Section 842.054, 842.055, 842.056, 842.057, or 845.307(c), and is actuarially determined from the sum of:

- (1) a member's allocated prior service credit, accumulated at interest as provided by Section 843.105(d); and
- (2) a member's multiple matching credit, accumulated at interest as provided by Section 843.403(d).

(d) Any increase in the annuity granted by a participating subdivision after December 31, 1978, is payable from the subdivision accumulation fund as part of the supplemental annuity.

(e) A separate retirement annuity is payable for each participating subdivision from which a person retires under this subtitle or is considered to have retired.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 15, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.002 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 22, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 21, eff. Dec. 31, 2001; Acts 2005, 79th Leg., ch. 506, Sec. 16, eff. Jan. 1, 2006.

Sec. 844.003. EFFECTIVE DATE OF RETIREMENT. (a) Except as provided by Subsections (b) and (d), the effective date of a member's service retirement is the date the member designates at the time the member applies for retirement under Section 844.101, but the date must be the last day of a calendar month and may not precede the date the member terminates employment with the subdivision from which the member seeks to retire.

(b) If a member who is eligible under Section 844.407 to select an optional retirement annuity dies before retirement, the member is considered to have retired on the last day of the month before the month in which death occurred.

(c) Except as provided by Subsection (b), the effective date of a member's disability retirement is the date designated on the application for retirement filed by or for the member as provided by Section 844.301, but the date must be the last day of a calendar month and may not precede the date the member terminates employment with all participating subdivisions.

(d) A member who is eligible for service retirement and who terminates employment with a participating subdivision may apply for and receive a service retirement annuity based on service for that subdivision despite the fact that the member is or becomes an employee of another participating subdivision. Credited service with the member's new employer may be used in determining eligibility for service retirement. A member who is eligible for service retirement using combined credited service for two or more subdivisions may simultaneously apply for and receive a service retirement annuity for service to one subdivision and a refund of accumulated contributions for service to another subdivision. A person who retires under this subsection is considered for all purposes to be a retiree who resumes service with a different

employer under Section 842.110.

(e) Notwithstanding Subsections (a), (b), and (c), the effective retirement date of a member may not precede the first anniversary of the earlier of the effective date of the person's membership in the retirement system or the effective date of participation of the subdivision from which the member had most recently earned credited service.

(f), (g) Repealed by Acts 1997, 75th Leg., ch. 309, Sec. 33, eff. Dec. 31, 1997.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 63, Sec. 7, eff. May 6, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 8, eff. Jan. 1, 1994; Acts 1993, 73rd Leg., ch. 536, Sec. 1, Jan. 1, 1994; Acts 1995, 74th Leg., ch. 245, Sec. 9, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 8, 33, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 65, Sec. 1, eff. May 10, 1999; Acts 1999, 76th Leg., ch. 427, Sec. 23, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 22, eff. Dec. 31, 2001; Acts 2005, 79th Leg., ch. 506, Sec. 17, eff. Jan. 1, 2006.

Sec. 844.005. WHEN ANNUITY IS PAYABLE; CHANGES BEFORE FIRST PAYMENT. (a) A retiree may revoke an application for retirement, change the retiree's choice of retirement annuity payment plans, or change the designation of beneficiary after the retiree's effective date of retirement by filing written notice with the retirement system not later than the last day of the month following the month that includes the effective date of retirement. After that day, a retiree may not revoke the application for retirement, change the annuity payment plan selected, or change the designated beneficiary except under Section 844.006.

(b) A retiree who dies before the first day of the second month following the month that includes the effective date of retirement and who did not select an optional retirement annuity is considered to have selected an optional annuity under Section 844.104(c)(7) or Section 844.305(c)(7), as applicable. Alternatively, the decedent's beneficiary may elect to receive a refund of the decedent's accumulated contributions under Section 844.401.

(c) An annuity under this subtitle is payable to a retiree or beneficiary through the month in which the retiree or beneficiary dies. A continuation of an optional annuity begins with payment for the month following the month in which death occurs.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 10, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 122, Sec. 23, eff. Dec. 31, 2001.

Sec. 844.006. CHANGE OF BENEFICIARY OR DIVISION OF BENEFIT FOR CERTAIN PERSONS RECEIVING MONTHLY BENEFITS. (a) A retiree who is receiving payments of a standard service or disability retirement annuity or of an annuity for the retiree's life but with payments to continue after the retiree's death until a determined number of payments have been made may revoke any existing selection and designation of beneficiary nominated to receive any payments that may become due under the annuity after the retiree's death and may select a new beneficiary to whom payments may be made.

(b) A person who, as beneficiary of a deceased retiree, is receiving monthly payments of any fixed-term annuity described by Subsection (a) may select and designate a person to whom shall be paid any monthly payments that may become due under the annuity after the death of the beneficiary making the designation.

(c) A retiree who selected an optional annuity under Section 844.104(c)(1), (c)(2), (c)(5), or (c)(6) or Section 844.305(c)(1), (c)(2), (c)(5), or (c)(6) may revoke the designation of the beneficiary to receive the annuity on the death of the retiree, if a court of competent jurisdiction in a divorce proceeding involving the retiree and beneficiary awards to the retiree the entire retirement benefit earned by the retiree. The order awarding the retirement benefit may be set forth in the divorce decree or in an order approving the terms of a property settlement agreement incident to the divorce of the retiree and beneficiary but must be dated on or after December 31, 1999. The revocation takes effect when the retirement system receives it and cancels the optional

annuity selection made by the retiree. Beginning with the month following the month in which the retirement system receives the notice of revocation, the retiree is entitled to receive a standard service or disability retirement annuity, as applicable, in the same amount that the retiree would receive for the same month if the retiree had originally retired with a standard service or disability retirement annuity.

(d) If a qualified domestic relations order, as that term is defined by Section 804.001, so provides, the benefit payable to a retiree who is receiving payments of an annuity for the retiree's life with payments to continue after the retiree's death until the death of another person may be divided by the retirement system into two annuities if:

(1) the person who was designated to receive the continued payment after the retiree's death is the same person as the alternate payee;

(2) the order specifies that one of the two annuities is payable over the remaining life of the retiree, with no payments to be made under that annuity after the death of the retiree;

(3) the order specifies that the annuity payable to the alternate payee is payable over the remaining life of that person, with no payments to be made under that annuity after the death of the alternate payee named in the order; and

(4) the annuity that would be payable to the person as the alternate payee under the order would not exceed the annuity that would be payable to that person as the retiree's surviving beneficiary under the option selected if the retiree were deceased.

(e) The division of an annuity under Subsection (d) is effective when the order is determined by the retirement system to be a qualified domestic relations order, and the amount of each of the two annuities shall be computed by the retirement system at that time, based on tables that have been adopted by the retirement system and in effect at that time, so that the two annuities are actuarially equivalent at the time of division to the annuity being divided.

(f) The retirement system by rule may establish requirements for forms, documentation, and procedures necessary or desirable for the administration of this section.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 11, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 9, 10, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 427, Sec. 24, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 24, eff. Dec. 31, 2001.

Sec. 844.007. ADJUSTMENTS APPLICABLE TO MIDYEAR RETIREMENTS. (a) The adjustments prescribed in this section shall be made in computing the benefits of and to the accounts of any member who retires effective at the end of any month other than December.

(b) Interest will be credited on the balance in the member's individual account in the employees saving fund on January 1 of the year of retirement from that date to the effective date of retirement.

(c) An amount equal to the interest computed under Subsection (b) will be credited to the account in the subdivision accumulation fund for the subdivision that employed the member.

(d) to (g) Repealed by Acts 1999, 76th Leg., ch. 427, Sec. 64(6), eff. Dec. 31, 1999.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 11, eff. Jan. 1, 1992. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 11, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 25, 64(6), eff. Dec. 31, 1999.

Sec. 844.008. LIMITATION ON PAYMENT OF BENEFITS. (a) Notwithstanding any other provision of this subtitle, the benefit payable to a retiree of the retirement system may not exceed the maximum benefit permitted under Section 415(b) of the Internal Revenue Code of 1986 (26 U.S.C. Section 415(b)) as adjusted in accordance with Section 415(d) of that code. Any adjustments are applicable to the postretirement benefits of retirees as well as to the benefits of retiring members. For the purpose of determining whether the benefit of a retiring member or retiree exceeds the limitations provided in this section, all defined benefit plans of the employer and of entities required to be aggregated with the employer for purposes of Section 415 of the Internal Revenue Code of 1986 are to be treated as one defined benefit plan and all defined contribution plans of the employer and of entities required to be aggregated with the employer for purposes of Section 415 of that

code are to be treated as one defined contribution plan. The limitation year for determining maximum benefits is the calendar year.

(b) An employer may not provide employee retirement or deferred benefits under a plan other than the retirement system to the extent that the provision of the benefits, when considered together with the benefits provided under the retirement system, would result in the failure of the retirement system to meet any of the limitation requirements of Section 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415), and the benefits of the other plan will automatically be reduced, eliminated, or adjusted to the extent necessary to prevent the failure.

Added by Acts 1993, 73rd Leg., ch. 175, Sec. 11, eff. Jan. 1, 1994. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 12 to 14, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 9, eff. Dec. 1, 1997.

Sec. 844.009. PARTIAL LUMP-SUM DISTRIBUTION ON SERVICE RETIREMENT. (a) The governing body of a contributing subdivision with a member contribution rate of at least four percent that has not elected to discontinue enrolling employees may adopt the provisions of this section:

(1) on the terms provided by Subchapter H; or

(2) if the board of trustees determines that, based on computations by the retirement system's actuary, the adoption would not impair the ability of the subdivision to fund all obligations against its account in the subdivision accumulation fund before the 20th anniversary of the subdivision's most recent actuarial valuation date.

(b) A member who is eligible and applies for service retirement may simultaneously apply for a partial lump-sum distribution under this section.

(c) The amount of a lump-sum distribution under this section may not exceed 100 percent of the total accumulated contributions in the member's individual account in the employees saving fund attributable to the credited service on which the member has applied for retirement.

(d) The lump-sum distribution will be made as a single payment paid at the same time as the first monthly annuity payment.

(e) For all purposes, the member's basic annuity is the annuity actuarially determined from the sum remaining under Section 844.002(b) after deducting the amount of the lump-sum distribution.

(f) The amount of a lump-sum distribution made under this section is considered to be an annuity payment for the purpose of determining whether the amount in the retiree's individual account in the employees saving fund available for distribution at the time of retirement exceeds the total amount of annuity payments made.

(g) A member's guardian, attorney in fact, conservator, or trustee may make an application for the member under Subsection (b).

(h) No portion of a benefit awarded to an alternate payee under a qualified domestic relations order may be distributed in the form of a lump sum under this section, except that if the member and the alternate payee agree in writing that the alternate payee will receive all or a portion of the lump-sum distribution payable under this section instead of benefits awarded under the qualified domestic relations order, the amount of the lump-sum distribution described in the agreement may be paid directly to the alternate payee in complete satisfaction of the alternate payee's marital property rights and interest in the member's benefit.

(i) Repealed by Acts 2001, 77th Leg., ch. 122, Sec. 56(2), eff. Dec. 31, 2001.

Added by Acts 1999, 76th Leg., ch. 901, Sec. 1, eff. Dec. 31, 1999; Amended by Acts 2001, 77th Leg., ch. 122, Sec. 25, 56(2), eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 19, eff. Jan. 1, 2004.

Sec. 844.010. CERTAIN BENEFICIARY DESIGNATIONS. (a) A beneficiary designation that names a former spouse as beneficiary is invalid for purposes of this subtitle unless the designation:

(1) is made or confirmed in writing after the date of divorce; or

(2) was made by a retiree who, at the time of divorce, is receiving payments under an optional service or disability retirement with payments to continue to the beneficiary for the beneficiary's life.

(b) In addition to the authority provided by Section 804.051, the board of trustees may adopt rules to require consent of a member's spouse to:

(1) the member's designation of a beneficiary who is not the member's spouse;

(2) the member's selection of an optional form of retirement benefit; or

(3) the member's election of a withdrawal of contributions.

(c) A benefit payable under this subtitle is not subject to a will, other testamentary document, or the law of intestacy to the extent that the member, retiree, or other former member has a different beneficiary under the retirement system than under the testamentary document or law of intestacy.

Added by Acts 2003, 78th Leg., ch. 621, Sec. 20, eff. Jan. 1, 2004.

SUBCHAPTER B. SERVICE RETIREMENT BENEFITS

Sec. 844.101. APPLICATION FOR SERVICE RETIREMENT ANNUITY. A member may apply for a service retirement annuity by filing an application for retirement with the retirement system on or before the member's effective retirement date designated on the application.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.102 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 15, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 26, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 26, eff. Dec. 31, 2001.

Sec. 844.102. ELIGIBILITY FOR SERVICE RETIREMENT ANNUITY. (a) A member is eligible to apply for and receive a service retirement annuity if the member:

(1) is at least 60 years old and has at least 12 years of credited service in the retirement system;

(2) has at least 30 years of credited service in the retirement system; or

(3) has met the eligibility requirements for service retirement under Section 844.207, 844.210, 844.211, or 844.212.

(b) A person who has retired with a service retirement annuity is eligible, without regard to any age or credited service requirement, to apply for and receive a service retirement annuity based on service for another participating subdivision from which the person has terminated employment.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 27, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 26, eff. Dec. 31, 2001.

Sec. 844.103. STANDARD SERVICE RETIREMENT ANNUITY. (a) The standard service retirement annuity payable under this subtitle is discounted for the possibility of payment of a benefit under Section 844.402 and is the actuarial equivalent of the sum of a member's:

(1) accumulated contributions;

(2) current service credit, accumulated at interest as provided by Section 843.403(d);

(3) allocated prior service credit, accumulated at interest as provided by Section 843.105(d); and

(4) multiple matching credit, accumulated at interest as provided by Section 843.403(d).

(b) A standard service retirement annuity is payable throughout the life of a retiree.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 210, ch. 18, Sec. 48, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 844.104. OPTIONAL SERVICE RETIREMENT ANNUITY. (a) Instead of the standard service retirement annuity payable under Section 844.103, a retiring member may elect to receive an optional service retirement annuity under this section.

(b) An optional service retirement annuity is payable throughout the life of the retiree and is actuarially reduced from the standard service retirement annuity to its actuarial equivalent under the option selected under Subsection (c).

(c) An eligible person may select any of the following optional annuities that are the actuarial equivalent of the annuity to which the person is entitled and that provide that:

(1) after the retiree's death, the reduced annuity is

payable throughout the life of a person designated by the retiree;

(2) after the retiree's death, one-half of the reduced annuity is payable throughout the life of a person designated by the retiree;

(3) if the retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to the retiree's beneficiary or, if one does not exist, to the retiree's spouse or, if no surviving spouse exists, to the retiree's estate;

(4) if the retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to the retiree's beneficiary or, if one does not exist, to the retiree's spouse or, if no surviving spouse exists, to the retiree's estate;

(5) after the retiree's death, the reduced annuity is payable throughout the life of a person designated by the retiree, except that if the beneficiary predeceases the retiree, the annuity payable throughout the remaining life of the retiree is the annuity that would be payable if the retiree had chosen a standard service retirement annuity;

(6) after the retiree's death, three-fourths of the reduced annuity is payable throughout the life of a person designated by the retiree; or

(7) if the retiree dies before 180 monthly annuity payments have been made, the remainder of the 180 payments are payable to the retiree's beneficiary or, if one does not exist, to the retiree's spouse or, if no surviving spouse exists, to the retiree's estate.

(d) to (n) Repealed by Acts 2001, 77th Leg., ch. 122, Sec. 56(3), eff. Dec. 31, 2001.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1989, 71st Leg., ch. 769, Sec. 4, eff. Aug. 28, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.04(d), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 175, Sec. 12, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 245, Sec. 16, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 28, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 27, 56(3), eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 21, eff. Jan. 1, 2004.

SUBCHAPTER C. OPTIONAL RETIREMENT BENEFITS

Sec. 844.202. VESTED ELIGIBILITY TO FUTURE RETIREMENT. A member of the retirement system is a vested member and may terminate employment with all participating subdivisions and remain eligible to retire and receive a service retirement annuity at any time after the member attains the age of 60, if the member leaves the member's accumulated contributions on deposit with the retirement system and:

(1) has at least 12 years of credited service;

(2) has at least 10 years of Section 844.207 credited service; or

(3) has at least 8 years of Section 844.210 credited service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 29, eff. Dec. 31, 1999.

Sec. 844.207. OPTIONAL BENEFIT ELIGIBILITY PLAN. (a) This section applies to all subdivisions that begin participation in the retirement system after September 1, 1985, and to all other subdivisions that have adopted the plan provisions of this section. The governing body of a participating subdivision may adopt the plan provisions of this section only on the terms provided by Subchapter H.

(b) In this section "eligible credited service" means credited service performed for one or more participating subdivisions that have adopted the plan provisions of this section or Section 844.210.

(c) A member is eligible to apply for and receive a service retirement annuity if the member:

(1) is at least 60 years old and has at least 10 years of eligible credited service in the retirement system;

(2) is less than 60 years old, except as provided by Subsection (e), and has a sufficient amount of eligible credited

service in the retirement system that, when added to the member's attained age, equals or exceeds the number 80; or

(3) is eligible for service retirement under any other provision of this subtitle.

(d) A member who has 10 years or more of eligible credited service is a vested member for purposes of Sections 844.202, 844.302, and 844.303.

(e) A member who on December 31, 1999, had any eligible credited service, whose membership in the retirement system continues after that date without interruption, and who accumulates four years or more of eligible credited service is eligible to receive a service retirement annuity regardless of age when the amount of eligible credited service added to the member's attained age equals or exceeds the number 80.

Added by Acts 1985, 69th Leg., ch. 491, Sec. 21, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.207 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 13, eff. Jan. 1, 1992; Acts 1993, 73rd Leg., ch. 536, Sec. 3, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 427, Sec. 30, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 28, eff. Dec. 31, 2001.

Sec. 844.208. OPTIONAL INCREASE IN RETIREMENT ANNUITIES. (a) The governing body of a participating subdivision, from time to time but not more frequently than once in each 12-month period, may provide for increased annuities to be paid to retirees and beneficiaries of deceased retirees of the subdivision. An annuity increased under this section replaces any annuity or increased annuity previously granted to the same person.

(b) The amount of annuity increase under this section is computed as the sum of the basic and supplemental annuities on the effective date of retirement of the person on whose service the annuities are based or, if the person's current annuity has been increased under Section 844.006(c) or (d), 844.104(c)(5), or 844.305(c)(5), the sum of the basic and supplemental annuities is computed as if the person had selected a standard service or disability retirement annuity on the person's effective date of retirement, multiplied by:

(1) the percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics of the United States Department of Labor, from December of the year immediately preceding the effective date of the person's retirement to the December that is 13 months before the month in which the effective date of the order or resolution providing the increase occurs; and

(2) a fraction, specified by the governing body in the order or resolution, that is not less than 30 percent nor more than 100 percent and is a multiple of 10 percent.

(c) Except as provided by Subsection (g), the effective date of an order or resolution under this section is January 1 of the year that begins after the year in which the governing body adopts and notifies the retirement system of the order or resolution.

(d) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(e) If a computation under Subsection (b) does not result in an increase in the amount of annuity, the amount of the annuity may not be changed under this section.

(f) The amount by which an increase under this section exceeds all previously granted increases to an annuitant is payable as a supplemental annuity, is an obligation of the subdivision's account in the subdivision accumulation fund, and is subject to reduction under Section 845.307(c).

(g) The governing body of a subdivision may not adopt an order or resolution under this section except on the terms provided by Subchapter H of this chapter.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 14, eff. Jan. 1, 1992. Amended by Acts 2003, 78th Leg., ch. 621, Sec. 22, eff. Jan. 1, 2004; Acts 2005, 79th Leg., ch. 506, Sec. 18, eff. Jan. 1, 2006.

Sec. 844.209. ALTERNATIVE OPTIONAL INCREASE IN RETIREMENT ANNUITIES. (a) The governing body of a participating subdivision, from time to time but not more frequently than once in each 12-month period, may provide for increased annuities to be paid to retirees and beneficiaries of deceased retirees of the subdivision. The governing body of the subdivision may not elect an increase in retirement annuities under Section 844.208 and under this section

in the same 12-month period.

(b) An increase under this section applies to all annuities for which the effective retirement date is at least twelve months before the effective date of the increase.

(c) The amount of annuity increase under this section is computed as the sum of the person's basic and supplemental annuities on the effective date of the increase multiplied by the integer percentage increase specified by the governing body for all annuitants in the order or resolution adopting the increase. The specified percentage increase may not exceed the percentage established by the board of trustees as the maximum allowable percentage increase.

(d) Except as provided by Subsection (g), the effective date of an order or resolution under this section is January 1 of the year that begins after the year in which the governing body adopts and notifies the retirement system of the order or resolution.

(e) An increase in an annuity that was reduced because of an option selection is reducible in the same proportion and in the same manner that the original annuity was reduced.

(f) The amount of an increase under this section is payable as a supplemental annuity, is an obligation of the subdivision's account in the subdivision accumulation fund, and is subject to reduction under Section 845.307(c).

(g) The governing body of a subdivision may not adopt an order or resolution under this section except on the terms provided by Subchapter H.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 14, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 13, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 245, Sec. 18, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 10, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 31, eff. Dec. 31, 1999; Acts 2005, 79th Leg., ch. 506, Sec. 19, eff. Jan. 1, 2006.

Sec. 844.210. OPTIONAL BENEFIT ELIGIBILITY PLAN TWO. (a) The governing body of a participating subdivision may adopt the plan provisions of this section only on the terms provided by Subchapter H.

(b) In this section "eligible credited service" means credited service performed for one or more participating subdivisions that have adopted the plan provisions of this section.

(c) A member is eligible to apply for and receive a service retirement annuity if the member:

(1) is at least 60 years old and has at least eight years of eligible credited service in the retirement system;

(2) is less than 60 years old, except as provided by Subsection (e), and has a sufficient amount of eligible credited service in the retirement system that, when added to the member's attained age, equals or exceeds the number 80; or

(3) is eligible for service retirement under any other provision of this subtitle.

(d) A member who has eight years or more of eligible credited service in the retirement system is a vested member for purposes of Sections 844.202, 844.302, and 844.303.

(e) A member who on December 31, 1999, had any eligible credited service, whose membership in the retirement system continues after that date without interruption, and who accumulates four years or more of eligible credited service is eligible to receive a service retirement annuity regardless of age when the amount of eligible credited service added to the member's attained age equals or exceeds the number 80. For purposes of this subsection, eligible credited service also includes credited service performed for one or more subdivisions that have adopted the plan provisions of Section 844.207.

Added by Acts 1993, 73rd Leg., ch. 536, Sec. 4, eff. Jan. 1, 1994. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 32, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 28, eff. Dec. 31, 2001.

Sec. 844.211. OPTIONAL BENEFIT ELIGIBILITY PLAN THREE. (a) The governing body of a participating subdivision may adopt the plan provisions of this section only on the terms provided by Subchapter H.

(b) In this section "eligible credited service" means credited service performed for one or more participating subdivisions that have adopted the plan provisions of this section.

(c) A member is eligible to apply for and receive a service retirement annuity if the member:

(1) is less than 60 years old, except as provided by

Subsection (d), and has a sufficient amount of eligible credited service in the retirement system that, when added to the member's attained age, equals or exceeds the number 75; or

(2) is eligible for service retirement under any other provision of this subtitle.

(d) A member who on December 31, 1999, had any eligible credited service, whose membership in the retirement system continues after that date without interruption, and who accumulates four years or more of eligible credited service is eligible to receive a service retirement annuity regardless of age when the amount of eligible credited service added to the years of the member's attained age equals or exceeds the number 75.

Added by Acts 1993, 73rd Leg., ch. 536, Sec. 5, eff. Jan. 1, 1994. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 33, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 28, eff. Dec. 31, 2001.

Sec. 844.212. OPTIONAL BENEFIT ELIGIBILITY PLAN FOUR. (a) In this section, "eligible credited service" means credited service performed for one or more participating subdivisions that have adopted the plan provisions of this section.

(b) Subject to Subsection (d), the governing body of a participating subdivision may adopt the plan provisions under Subsection (c).

(c) A member is eligible to apply for and receive a service retirement annuity if the member has at least 20 years of eligible credited service in the retirement system.

(d) The governing body of a subdivision may not adopt the plan provisions of Subsection (c) except on the terms provided by Subchapter H.

Added by Acts 2001, 77th Leg., ch. 122, Sec. 29, eff. Dec. 31, 2001.

SUBCHAPTER D. DISABILITY RETIREMENT BENEFITS

Sec. 844.301. APPLICATION FOR DISABILITY RETIREMENT ANNUITY. (a) A member may apply for a disability retirement annuity by:

(1) filing an application for retirement with the retirement system; or

(2) having an application filed with the system by the member's employer or legal representative.

(b) An application for a disability retirement annuity must be filed on or before the member's effective retirement date designated on the application.

(c) An applicant must submit to medical examination as required by the medical 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. 54.301 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 19, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 34, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 30, eff. Dec. 31, 2001.

Sec. 844.302. ELIGIBILITY FOR DISABILITY RETIREMENT ANNUITY. (a) Except as provided by Subsection (c), a member who is not a vested member under Section 844.202 is eligible to apply for and receive a disability retirement annuity if the member is the subject of a certification issued as provided by Section 844.303(b)(1).

(b) Except as provided by Subsection (c), a member who is a vested member under Section 844.202 is eligible to apply for and receive a disability retirement annuity if the member is the subject of a certification issued as provided by Section 844.303(b)(2). A member eligible to receive a disability retirement annuity under this subsection may, if the member is eligible for service retirement, elect to receive a service retirement annuity but may not receive both annuities.

(c) A member is not eligible to retire for disability before the first anniversary of the earlier of the effective date of the person's membership or the effective date of participation of the subdivision from which the member had most recently earned credited service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 15, eff. Jan. 1, 1992; Acts 1999, 76th Leg., ch. 427, Sec. 35, eff. Dec. 31, 1999.

Sec. 844.303. CERTIFICATION OF DISABILITY. (a) As soon as practicable after an application for disability retirement is filed, the medical board shall evaluate the medical and other

pertinent information concerning the member's application.

(b) The medical board shall issue a certification of disability and submit it to the board of trustees, if the medical board finds:

(1) in the case of a member who is not a vested member under Section 844.202, that:

(A) the member is mentally or physically incapacitated for any gainful occupation;

(B) the incapacity is the direct result of injuries sustained during membership by external and violent means as a direct and proximate result of the performance of duty;

(C) the incapacity is likely to be permanent; and

(D) the member should be retired; or

(2) in the case of a member who is a vested member under Section 844.202, that:

(A) the member is mentally or physically incapacitated for any gainful occupation;

(B) the incapacity is likely to be permanent; and

(C) the member should be retired.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 22, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.303 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 16, eff. Jan. 1, 1992; Acts 1999, 76th Leg., ch. 427, Sec. 36, eff. Dec. 31, 1999.

Sec. 844.304. STANDARD DISABILITY RETIREMENT ANNUITY. (a) The standard disability retirement annuity is discounted for the possibility of payment of a benefit under Section 844.402 and is the actuarial equivalent of the sum of a member's:

(1) accumulated contributions;

(2) current service credit, accumulated at interest as provided by Section 843.403(d);

(3) allocated prior service credit, accumulated at interest as provided by Section 843.105(d); and

(4) multiple matching credit, accumulated at interest as provided by Section 843.403(d).

(b) A standard disability retirement annuity is payable throughout the life of a retiree.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 211, ch. 18, Sec. 50, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.304 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 31, eff. Dec. 31, 2001.

Sec. 844.305. OPTIONAL DISABILITY RETIREMENT ANNUITY. (a) Instead of the standard disability retirement annuity payable under Section 844.304, a retiring member may elect to receive an optional disability retirement annuity under this section.

(b) An optional disability retirement annuity is payable throughout the life of the retiree and is actuarially reduced from the standard disability retirement annuity to its actuarial equivalent under the option selected under Subsection (c).

(c) An eligible person may select any of the following optional annuities that are the actuarial equivalent of the annuity to which the person is entitled and that provide that:

(1) after the retiree's death, the reduced annuity is payable throughout the life of a person designated by the retiree;

(2) after the retiree's death, one-half of the reduced annuity is payable throughout the life of a person designated by the retiree;

(3) if the retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to the retiree's beneficiary or, if one does not exist, to the retiree's spouse or, if no surviving spouse exists, to the retiree's estate;

(4) if the retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to the retiree's beneficiary or, if one does not exist, to the retiree's spouse or, if no surviving spouse exists, to the retiree's estate;

(5) after the retiree's death, the reduced annuity is payable throughout the life of a person designated by the retiree, except that if the beneficiary predeceases the retiree, the annuity

payable throughout the remaining life of the retiree is the annuity that would be payable if the retiree had chosen a standard service retirement annuity;

(6) after the retiree's death, three-fourths of the reduced annuity is payable throughout the life of a person designated by the retiree; or

(7) if the retiree dies before 180 monthly annuity payments have been made, the remainder of the 180 payments are payable to the retiree's beneficiary or, if one does not exist, to the retiree's spouse or, if no surviving spouse exists, to the retiree's estate.

(d) to (m) Repealed by Acts 2001, 77th Leg., ch. 122, Sec. 56(4), eff. Dec. 31, 2001.

Added by Acts 1981, 67th Leg., 1st C.S., p. 211, ch. 18, Sec. 51, eff. Nov. 10, 1981. Amended by Acts 1989, 71st Leg., ch. 769, Sec. 5, eff. Aug. 28, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.3041 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.04(e), eff. Aug. 26, 1991; Acts 1993, 73rd Leg., ch. 175, Sec. 14, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 245, Sec. 20, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 37, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 32, 56(4), eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 23, eff. Jan. 1, 2004.

Sec. 844.3051. ANNUITIES NOT SUBJECT TO DISCONTINUANCE. (a) After the earlier of the date a disability retiree attains age 60 or the date the disability retiree would otherwise have become eligible for service retirement under this subtitle, the retiree's disability retirement annuity may not be revoked or discontinued under this subtitle, and the retiree is not subject to further medical examinations or required to submit annual earnings reports.

(b) A disability retirement annuity that is not subject to revocation or discontinuance is considered a service retirement annuity if the retiree returns to employment with a participating subdivision.

Added by Acts 2001, 77th Leg., ch. 122, Sec. 33, eff. Dec. 31, 2001.

Sec. 844.306. MEDICAL EXAMINATION OF DISABILITY RETIREE. (a) Once each year during the first five years after a person retires for disability, and once in each three-year period after that, the board of trustees may require a disability retiree to undergo a medical examination.

(b) An examination under this section may be held at the retiree's residence or at any place mutually agreed to by the board and the retiree. The board shall designate a physician to perform the examination.

(c) If a disability retiree refuses to submit to a medical examination as provided by this section, the board of trustees shall suspend the retiree's annuity payments until the retiree submits to an examination. If a retiree has not submitted to an examination as provided by this section before the first anniversary of the date of first refusal, the board shall revoke all rights of the retiree to an annuity.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.305 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 34, eff. Dec. 31, 2001.

Sec. 844.307. CERTIFICATION OF END OF DISABILITY. (a) If the medical board finds that a disability retiree is no longer mentally or physically incapacitated for the performance of duty or is engaged in or able to engage in gainful occupation, it shall certify its findings and submit them to the board of trustees.

(b) If the board of trustees concurs in a certification under this section, it shall discontinue annuity payments to the retiree.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.306 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 17, eff. Jan. 1, 1992; Acts 2001, 77th Leg., ch. 122, Sec. 35, eff. Dec. 31, 2001.

Sec. 844.308. RETURN OF DISABILITY RETIREE TO MEMBERSHIP. If the disability annuity of a person is discontinued under Section 844.306(c) or 844.307, the person automatically resumes membership in the retirement system, and the board of trustees shall terminate the person's annuity payments.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.

Amended by Acts 1987, 70th Leg., ch. 63, Sec. 9, eff. May 6, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.307 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 18, eff. Jan. 1, 1992; Acts 2001, 77th Leg., ch. 122, Sec. 36, eff. Dec. 31, 2001.

Sec. 844.309. ADJUSTMENTS AT ANNUITY DISCONTINUANCE. (a) If a person's membership resumes under Section 844.308, the retirement system shall transfer:

(1) from the current service annuity reserve fund and credit to the person's individual account in the employees saving fund an amount equal to the amount of accumulated contributions transferred to the current service annuity reserve fund at the time of retirement reduced by one percent for each year or part of a year during which disability annuity payments were made; and

(2) from the current service annuity reserve fund to the subdivision accumulation fund an amount equal to the amount transferred from the subdivision accumulation fund to the current service annuity reserve fund at the time of retirement reduced by one percent for each year or part of a year during which disability annuity payments were made.

(b) If a person whose membership resumes under Section 844.308 was receiving a supplemental annuity based in whole or in part on prior service credit, the retirement system shall restore to effect as the person's maximum prior service credit an amount equal to the person's maximum prior service credit at the time of disability retirement reduced by one percent for each year or part of a year during which disability annuity payments were made.

(c) A person who resumes membership under Section 844.308 is entitled to restoration of credited service in the number of months accumulated and allowed before disability retirement.

(d) The board of trustees may adopt rules for the computation and transfer of amounts and credits for a membership resumed under this subchapter.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.308 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 18, eff. Jan. 1, 1992; Acts 2001, 77th Leg., ch. 122, Sec. 36, eff. Dec. 31, 2001.

Sec. 844.310. REPORT OF EARNINGS OF DISABILITY RETIREE. (a) The retirement system may require a disability retiree to submit annually to the retirement system a report of earnings. The retirement system shall examine each report and may require at any time that a disability retiree undergo a medical examination by one or more physicians the retirement system designates, if the retiree has reported earnings that the board of trustees considers to show an ability to engage in gainful employment.

(b) The board of trustees may adopt rules establishing limits on the annual earnings of disability retirees and such other rules as are necessary to administer this section.

(c) If a disability retiree refuses to submit an annual report of earnings, the retirement system shall discontinue the retiree's annuity payments until the retirement system receives that annual report and, if so requested, the retiree submits to a medical examination by one or more physicians designated by the retirement system.

Added by Acts 1995, 74th Leg., ch. 245, Sec. 21, eff. Sept. 1, 1995. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 37, eff. Dec. 31, 2001.

SUBCHAPTER E. DEATH BENEFITS

Sec. 844.401. RETURN OF ACCUMULATED CONTRIBUTIONS. (a) Except as provided by Subsection (c), if a member dies before retirement, a lump-sum death benefit is payable from the employees saving fund in the amount of:

(1) the decedent's accumulated contributions; plus
(2) interest computed on the decedent's accumulated contributions on January 1 of the year of death from the beginning of that year through the end of the month before the month in which death occurs.

(b) The benefit provided by this section is payable to the decedent's beneficiary or, if no surviving beneficiary exists, to the decedent's spouse or, if no surviving spouse exists, to the decedent's estate.

(c) A benefit is not payable under this section if an annuity based on the same service with the subdivision is payable under 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. 54.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 11, eff. Dec. 1, 1997; Acts 2001, 77th Leg., ch. 122, Sec. 38, eff. Dec. 31, 2001.

Sec. 844.402. RETURN OF EXCESS CONTRIBUTIONS. (a) After the death of a member or former member and after the final payment has been made under any service, disability, or survivor annuity, a lump-sum death benefit is payable in an amount, if any, by which the amount in the person's individual account in the employees saving fund on which the annuity was computed exceeds the amount of annuity payments made.

(b) The benefit provided by this section is payable to the person entitled to receive the final monthly payment of the annuity. If that person is deceased, the benefit provided by this section is payable to the person's beneficiary or, if no surviving beneficiary exists, to the person's spouse or, if no surviving spouse exists, to the person's estate.

(c) The benefit provided by this section is payable from the current service annuity reserve fund and the subdivision accumulation fund in the ratio that the parts of the retirement annuity that were payable from the funds bear to the entire benefit as determined on the effective date of retirement.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.402 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 38, eff. Dec. 31, 2001.

Sec. 844.404. PERSON CAUSING DEATH OF MEMBER OR ANNUITANT. (a) A benefit payable on the death of a member or annuitant may not be paid to a person convicted of causing that death but instead is payable to a person who would be entitled to the benefit had the convicted person predeceased the decedent. If no person would be entitled to the benefit, the benefit is payable to the decedent's estate.

(b) The retirement system is not required to pay a benefit under Subsection (a) unless it receives actual notice of the conviction of the person who would have been entitled to the benefits. However, the retirement system may delay payment of a benefit payable on the death of a member or annuitant pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

(c) The retirement system shall convert the remainder of any annuity that would otherwise have been payable throughout the life of the convicted person to an actuarially equivalent annuity payable to the decedent's estate in 60 monthly annuity payments. The time of the actuarial equivalence is the earlier of the time the retirement system receives the notice of the conviction under Subsection (b) or the time the retirement system begins the delay in payment of a benefit under Subsection (b).

(d) For the purposes of this section, a person has been convicted of causing the death of a member or annuitant if the person:

(1) has pleaded guilty or nolo contendere to or has been found guilty by a court of an offense at the trial of which it is established that the person's intentional, knowing, or reckless act or omission resulted in the death of a person who was a member or annuitant, regardless of whether sentence is imposed or probated; and

(2) has no appeal of the conviction pending and the time provided for appeal has expired.

Added by Acts 1995, 74th Leg., ch. 245, Sec. 22, eff. Sept. 1, 1995.

Sec. 844.405. TRUST AS BENEFICIARY. (a) Except as provided by Subsection (b), a member or retiree may designate a trust as beneficiary for the payment of benefits from the retirement system. If a trust is designated beneficiary, the beneficiary of the trust is considered the designated beneficiary for the purpose of determining eligibility for and the amount and duration of benefits. The trustee is entitled to exercise any rights granted a designated beneficiary to elect benefit options and name subsequent beneficiaries.

(b) A trust having more than one beneficiary may not receive benefits to which multiple designated beneficiaries are not eligible under this chapter.

Added by Acts 1995, 74th Leg., ch. 245, Sec. 23, eff. Sept. 1, 1995.

Sec. 844.406. SIMULTANEOUS DEATH OF MEMBER AND

BENEFICIARY. When a member or retiree and the spouse or beneficiary of the member or retiree have died within a period of less than 120 hours of each other, the member or retiree is considered to have survived the spouse or beneficiary for the purpose of determining the rights to amounts payable under this subtitle on the death of the member or retiree.

Added by Acts 1995, 74th Leg., ch. 245, Sec. 24, eff. Sept. 1, 1995.

Sec. 844.407. SURVIVOR ANNUITY DEATH BENEFIT. (a) In this section "eligible member" means:

(1) a member who has four or more years of credited service with one or more subdivisions that are participating in the retirement system and that are not exempted from the application of this subdivision;

(2) a vested member described by Section 844.202 who is at least 60 years of age or has 20 or more years of credited service in the retirement system; or

(3) a member who is receiving a service retirement annuity.

(b) An annuity described by this section may be selected and paid on the death of an eligible member before the effective date of the member's retirement instead of any other benefit allowed under this subtitle, except that a supplemental death benefit under Subchapter F may also be paid.

(c) An eligible member may, before the effective date of the member's retirement, file with the board of trustees on a form prescribed by the board a selection of an optional service retirement annuity available under Section 844.104 and a designation of beneficiary.

(d) A member who is entitled under this section to select one of the optional service retirement annuities authorized by Section 844.104 may elect instead to name a beneficiary who, on the death of the member before retirement, will be allowed to choose any benefit that the member could have chosen to be paid to the beneficiary, with like effect as if the selection had been made by the member.

(e) If no application for deferred service retirement was on file with the retirement system on December 31, 1999, an unrevoked form executed by the member and filed with the system naming a beneficiary to whom the member's accumulated contributions are to be paid in the event of death before retirement is considered a selection of a beneficiary under Subsection (d).

(f) A member may change a selection of an optional annuity or a designation of beneficiary at any time before the member's retirement or death in the same manner that the original selection or designation was made.

(g) If an eligible member dies before retirement without having made a selection under Subsection (c), (d), or (e), the member's surviving spouse is considered to be the beneficiary and may select an optional annuity in the same manner as if the member had made the selection.

(h) If no surviving spouse exists, the executor or administrator of the member's estate may elect for an estate beneficiary to receive the optional annuity under Section 844.104(c)(7).

(i) Any annuity payable under this section shall be computed on the assumption that the member had actually retired under the annuity selected and with the same beneficiary determined under the applicable provision of this section, effective on the last day of the calendar month before the month in which death of the member occurred.

(j) A survivor annuity under this section shall be paid from the same accounts and is subject to the same conditions as are applicable to a service retirement benefit for the same member.

Added by Acts 1999, 76th Leg., ch. 427, Sec. 38, eff. Dec. 31, 1999. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 39, eff. Dec. 31, 2001.

Sec. 844.408. NO SURVIVING SPOUSE, EXECUTOR, OR ADMINISTRATOR. (a) In this section "heirs" has the meaning assigned by Section 3, Texas Probate Code, except that the term excludes any person who has filed a proper disclaimer or renunciation with the retirement system.

(b) If a surviving spouse or the executor or administrator of a deceased member's estate would be entitled to make an election under Section 842.110, or if a beneficiary or the executor or administrator of a deceased member's estate would be entitled to

make an election under Section 844.407 because of the death of the member, the heirs of the deceased member may make that election if:

(1) no surviving spouse exists, or, if Section 844.407 is applicable, no surviving beneficiary exists;

(2) no petition for the appointment of a personal representative of the member is pending or has been granted;

(3) 30 days have elapsed since the date of death of the member;

(4) the value of the entire assets of the member's estate, excluding homestead and exempt property, does not exceed \$50,000; and

(5) on file with the retirement system is a certified copy of a small estates affidavit that has been approved and filed in accordance with Section 137, Texas Probate Code, or an original affidavit described by Subsection (c).

(c) If no affidavit has been filed with the clerk of the court having jurisdiction and venue as provided by Section 137, Texas Probate Code, the retirement system may accept instead an affidavit sworn to by two disinterested witnesses and by those heirs who have legal capacity and, if the facts warrant, by the natural guardian or next of kin of any minor or incompetent who is also an heir. The affidavit must include the names and addresses of the heirs and witnesses, establish the facts listed in Subsection (b), include a list of the assets and liabilities of the estate, show the facts that constitute the basis for the right of the heirs to receive the estate, and show the fractional interests of the heirs in the estate as a result of those facts.

(d) If the retirement system, acting through the director or a person designated by the director, approves the affidavit, the heirs may make the election if each heir agrees to it.

Added by Acts 1999, 76th Leg., ch. 427, Sec. 39, eff. Dec. 31, 1999. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 40, eff. Dec. 31, 2001; Acts 2005, 79th Leg., ch. 506, Sec. 20, eff. Jan. 1, 2006.

SUBCHAPTER F. OPTIONAL DEATH BENEFITS

Sec. 844.501. COVERAGE IN SUPPLEMENTAL DEATH BENEFIT PROGRAM. (a) An employee of a participating subdivision is included within the coverage of the supplemental death benefit program on that day in the first month in which:

(1) the employing subdivision is participating in the supplemental death benefits fund for coverage of all members it employs;

(2) the employee is a member of the retirement system; and

(3) the employee is required to make a contribution to the retirement system.

(b) Once established, coverage of a person in the supplemental death benefit program continues until the last day of a month in which a requirement of Subsection (a) is not met.

(c) The supplemental death benefit program constitutes "group term life insurance purchased for employees" as described by Section 79, Internal Revenue Code of 1986.

Added by Acts 1981, 67th Leg., 1st C.S., p. 212, ch. 18, Sec. 53, eff. Nov. 10, 1981. Amended by Acts 1987, 70th Leg., ch. 63, Sec. 10, eff. May 6, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.501 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 41, eff. Dec. 31, 2001.

Sec. 844.502. EXTENDED SUPPLEMENTAL DEATH BENEFIT COVERAGE. (a) A member included in the coverage of the supplemental death benefit program who fails to earn compensation in a month for service to a subdivision participating in the supplemental death benefits fund may be eligible to receive extended coverage in the program under this section.

(b) A member who dies within 24 months after the date the member last made a required contribution to the retirement system is considered to have received extended program coverage if the retirement system receives at its office after the member's death:

(1) evidence that the retirement system considers satisfactory to establish that, as a result of illness or injury, the member was unable to engage in gainful employment throughout the period beginning with the date of the last required contribution and ending on the date of death;

(2) a statement from the subdivision, on a form approved by the board of trustees, that the member was on leave of absence under the Family and Medical Leave Act of 1993 (Pub. L.

103-3) throughout the period beginning with the date of the last required contribution and ending on the date of death; or

(3) a statement from the subdivision, on a form approved by the board of trustees, that the member was on leave of absence under the Family and Medical Leave Act of 1993 (Pub. L. 103-3) during part of the period beginning with the date of the last required contribution and ending on the date of death, with evidence that the retirement system considers satisfactory to establish that, throughout the rest of the period, the member was unable to engage in gainful employment as a result of illness or injury.

(c) Repealed by Acts 2001, 77th Leg., ch. 122, Sec. 56(6), eff. Dec. 31, 2001.

(e), (f) Repealed by Acts 1999, 76th Leg., ch. 427, Sec. 64(16), eff. Dec. 31, 1999.

Added by Acts 1981, 67th Leg., 1st C.S., p. 212, ch. 18, Sec. 53, eff. Nov. 10, 1981. Amended by Acts 1985, 69th Leg., ch. 491, Sec. 23, eff. June 12, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.502 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 25, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 40, 64(16), eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 56(6), eff. Dec. 31, 2001.

Sec. 844.503. MEMBER SUPPLEMENTAL DEATH BENEFIT. (a) In this section, the terms "regular rate of pay," "hours worked," "salary basis," and "regular salary" have meanings that are consistent with the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.).

(b) If a person included in the coverage or extended coverage of the supplemental death benefit program dies, a lump-sum supplemental death benefit is payable from the supplemental death benefits fund in an amount equal to the current annual compensation of the member at the time of death.

(c) The current annual compensation of a member who is not exempt from the minimum wage and maximum hour requirements of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) is computed by converting to an annual basis the regular rate of pay of the member for the most recent hour worked and proportionately reducing that annual basis if the member is not employed in a full-time position. The current annual compensation of a member who is exempt from those minimum wage and maximum hour requirements and who is paid on a salary basis is computed by converting to an annual basis the regular salary paid to the member for the most recent pay period of active employment.

(d) If a member, because of a change in employment, makes contributions to the retirement system during the same month as an employee of more than one subdivision participating in the supplemental death benefits fund, a death benefit is payable only on the basis of the member's most recent employment. If a member, because of simultaneous employment by more than one subdivision, makes contributions to the retirement system during the same month as an employee of more than one subdivision participating in the supplemental death benefits fund, a death benefit is payable on the basis of the member's employment by each subdivision participating in the fund.

(e) The board of trustees by rule may require such proof of compensation and periods of employment as it finds necessary.

Added by Acts 1981, 67th Leg., 1st C.S., p. 212, ch. 18, Sec. 53, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.503 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 122, Sec. 42, eff. Dec. 31, 2001.

Sec. 844.504. RETIREE SUPPLEMENTAL DEATH BENEFIT. If a retiree dies who was receiving a retirement annuity based on service for a subdivision that has elected to provide, and continues to provide, postretirement supplemental death benefits, a lump-sum supplemental death benefit is payable from the fund in the amount of \$5,000.

Added by Acts 1981, 67th Leg., 1st C.S., p. 212, ch. 18, Sec. 53, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.504 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 245, Sec. 26, eff. Sept. 1, 1995; Acts 2001, 77th Leg., ch. 122, Sec. 43, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 24, eff. Jan. 1, 2004.

Sec. 844.505. BENEFICIARY OF SUPPLEMENTAL DEATH BENEFIT. (a) Unless a member has directed otherwise on a form prescribed by the board of trustees and filed with the retirement system:

(1) a supplemental death benefit under Section 844.503 is payable to the person entitled to receive the decedent's accumulated contributions, unless the decedent was eligible under Section 844.407 to select an optional service retirement annuity, in which case the benefit is payable to the beneficiary designated by the decedent or, if no designation was made, to the person entitled under that section to receive an optional annuity; and

(2) a supplemental death benefit under Section 844.504 is payable to a person entitled to receive any remaining payments of the decedent's annuity.

(b) If a person entitled under this section to receive a supplemental death benefit does not survive the member or retiree covered by the supplemental death benefit program, the benefit is payable to the person to whom a benefit under Subchapter B or D is payable, or if no benefit is payable under those subchapters, to the person to whom a benefit under Subchapter E is or would be payable. Added by Acts 1981, 67th Leg., 1st C.S., p. 212, ch. 18, Sec. 53, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.505 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1999, 76th Leg., ch. 427, Sec. 41, eff. Dec. 31, 1999.

SUBCHAPTER G. OPTIONAL ADDITIONAL SUBDIVISION CONTRIBUTIONS OR DECREASE IN CREDITS

Sec. 844.605. SUPPLEMENTAL CONTRIBUTION RATE FOR CERTAIN SUBDIVISIONS. (a) If the actuary determines that the obligations of a participating subdivision to the subdivision accumulation fund cannot be amortized within a period of 30 years or determines that subdivision contributions at the rate in accordance with Section 845.404(a)(2) and any supplemental contribution rate adopted by the subdivision under this section are inadequate to fund all obligations charged against the subdivision's account in the subdivision accumulation fund, the governing body of the subdivision may by order or resolution provide additional contributions by adopting a supplemental contribution rate under this section to reduce the funding period.

(b) A supplemental contribution rate is the rate of contribution by a subdivision to its account in the subdivision accumulation fund, in addition to the contributions provided under Section 845.404(a)(2), that the actuary determines and certifies is required, together with the contributions provided under Section 845.404(a)(2), to amortize the obligations of the subdivision to the subdivision accumulation fund within a period of 20 years. A supplemental contribution rate may exceed the rate determined by the actuary.

(c) A supplemental contribution rate adopted by a participating subdivision may not be increased unless the actuary subsequently makes the determination described by Subsection (a). If the actuary subsequently makes the determination specified by this subsection, the governing body of the subdivision may adopt another supplemental contribution rate under this section.

(d) A supplemental contribution rate adopted by the governing body of a subdivision expires at the end of the 20th calendar year after its effective date, or at the end of any earlier calendar year in which the actuary determines and certifies, after the annual actuarial valuation under Section 845.206, that all obligations of the subdivision to the subdivision accumulation fund can be amortized within a period of 20 years on the basis of contributions provided by the subdivision under Section 845.404(a)(2).

Added by Acts 1987, 70th Leg., ch. 63, Sec. 11, eff. May 6, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.605 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 18, eff. Jan. 1, 1992; Acts 1995, 74th Leg., ch. 245, Sec. 27, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 12, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 42, eff. Dec. 31, 1999; Acts 2003, 78th Leg., ch. 621, Sec. 25, eff. Jan. 1, 2004.

Sec. 844.606. OPTIONAL DECREASE IN CREDITS. (a) If the actuary has made the determination described by Section 844.605(a), the governing body of the subdivision may by order or resolution reduce multiple matching credits for contributions made after the

effective date of the reduction.

(b) The actuary shall determine what lower percentage to be used in determining multiple matching credits under Section 843.403(c) for contributions made after the effective date of the reduction is required to amortize the obligations of the subdivision to the subdivision accumulation fund within a period of 20 years.

(c) The effective date of a reduction in the percentage used in determining multiple matching credits is January 1 of the year following the year in which the order or resolution is adopted.

(d) The governing body of a participating subdivision may reduce the percentage used in determining multiple matching credits under Section 843.403(c) to zero percent for contributions made after the effective date of the reduction, even if the resulting amortization period exceeds 20 years.

(e) The governing body of a participating subdivision may reduce the percentage used in determining multiple matching credits in conjunction with the adoption of a supplemental contribution rate under Section 844.605 in order to amortize the obligations of the subdivision to the subdivision accumulation fund within a period of 20 years.

(f) The lower percentage to be used in determining multiple matching credits provided for by Subsection (b) must be a multiple of 10 percent of the amount of member contributions.

Added by Acts 1987, 70th Leg., ch. 63, Sec. 11, eff. May 6, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 54.606 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 460, Sec. 19, eff. Jan. 1, 1992; Acts 1997, 75th Leg., ch. 309, Sec. 13, 14, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 43, eff. Dec. 31, 1999; Acts 2003, 78th Leg., ch. 621, Sec. 26, eff. Jan. 1, 2004.

Sec. 844.607. REQUIRED DECREASE IN CREDITS. (a) If the actuary has made the determination described by Section 844.605(a) and has made the determination, provided for by Section 844.606(b), of the lower percentage to be used for multiple matching credits of future member contributions that is necessary to make the financing arrangement adequate, the actuary shall give written notice of the determinations to the director, who shall give written notice to the governing body of the subdivision.

(b) If the governing body of the subdivision does not adopt an order or resolution that is approved by the board of trustees, authorizing additional subdivision contributions under Section 844.605, authorizing a reduction in multiple matching credits under Section 844.606, or authorizing both additional contributions and a reduction in multiple matching credits, and that takes effect on the first day of the first calendar year that begins at least 90 days after the date of the notice under Subsection (a), the lower percentage to be used for multiple matching credits on future member contributions as contained in the notice to the governing body becomes effective as to all members who perform current service for the affected subdivision on or after the first day of that calendar year.

(c) Repealed by Acts 1997, 75th Leg., ch. 309, Sec. 33, eff. Dec. 31, 1997.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 20, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 15, eff. Jan. 1, 1994; Acts 1997, 75th Leg., ch. 309, Sec. 15, 33, eff. Dec. 1, 1997.

Sec. 844.608. REQUIRED DECREASE IN CONTRIBUTION RATE. (a) Notwithstanding Section 845.402(c), a subdivision's member contribution rate may be reduced to one, two, three, four, five, or six percent of the current service compensation of its employees, except that the rate of member contributions may be reduced to less than four percent only if the reduction is necessary under this section.

(b) If the actuary determines that, despite all required decreases described by Section 844.607, the obligations of a participating subdivision to the subdivision accumulation fund cannot be amortized within a period of 20 years, the retirement system shall reduce the rate of member contributions to such lower rate authorized by this section as, in the opinion of the actuary, is required for the obligations of the subdivision to the subdivision accumulation fund to be able to be amortized within a period of 20 years. At the time the actuary determines that the rate of employee contributions no longer must be reduced for the obligations to be able to be amortized within 20 years, the

retirement system shall reinstate the employee contribution rate to the rate that was in effect at the time of the reduction, unless the governing body of the subdivision has elected to change to some other rate authorized by Section 845.402. Any change under this section shall be made on January 1 of the year following the applicable determination by the actuary.

(c) Notwithstanding Section 845.404(a), the contributions made by the subdivision shall be based on the rate of member contributions that was in effect before a required reduction in that rate under Subsection (b) and, if applicable, any supplemental contribution rate adopted by the subdivision under Section 844.605. Added by Acts 1995, 74th Leg., ch. 245, Sec. 28, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 309, Sec. 16, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 44, eff. Dec. 31, 1999; Acts 2003, 78th Leg., ch. 621, Sec. 27, eff. Jan. 1, 2004.

SUBCHAPTER H. ANNUALLY DETERMINED CONTRIBUTION RATE PLAN

Sec. 844.701. APPLICABILITY. (a) This subchapter applies to each subdivision that begins participation in the retirement system after December 31, 1991.

(b) The governing body of any subdivision participating before January 1, 1992, by order or resolution may adopt the plan provisions of this subchapter to be effective on January 1 of the year following the year in which the order or resolution is received by the system.

(c) Other provisions of this subtitle apply to the plan provisions of this subchapter except as modified by this subchapter.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 21, eff. Jan. 1, 1992.

Sec. 844.702. MEMBER CONTRIBUTIONS. (a) The governing body of the subdivision may designate the rate of member contributions for employees of the subdivision to take effect beginning on the effective date of adoption of the plan provisions of this subchapter. The subdivision may elect a rate of four, five, six, or seven percent of the current service compensation of its employees. The governing body of the subdivision may thereafter increase or decrease the contribution rate to take effect on the next January 1 after the date of adoption of the increase or decrease, in accordance with the provisions of Sections 845.402(b) and (c).

(b) If necessary under Section 844.703(h), a subdivision's member contribution rate may be reduced to one, two, three, four, five, or six percent of the current service compensation of its employees.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 21, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 16, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 245, Sec. 29, eff. Sept. 1, 1995; Acts 1999, 76th Leg., ch. 427, Sec. 45, eff. Dec. 31, 1999.

Sec. 844.703. SUBDIVISION CONTRIBUTIONS. (a) Each participating subdivision adopting the plan provisions of this subchapter shall pay to the subdivision accumulation fund as its normal contribution an amount equal to a percentage of the compensation of members employed by the subdivision for that month. The rate of contribution is the normal contribution rate determined annually by the actuary and approved by the board of trustees.

(b) Each subdivision adopting the plan provisions of this subchapter shall pay to the subdivision accumulation fund, as its prior service contribution, an amount equal to a percentage of the compensation of members employed by the subdivision for that month. The rate of contribution is the rate determined annually by the actuary and approved by the board of trustees as being the rate required to fund all unfunded obligations charged against the subdivision's account in the subdivision accumulation fund within the subdivision's amortization period without probable future depletion of that account or, if there are no unfunded obligations, the rate required to amortize any overfunded obligations within a period of 30 years.

(c) The combined rates of a subdivision's normal contributions and prior service contributions under this subchapter may not exceed 11 percent unless the governing body of the subdivision elects to waive this limitation. A waiver under this subsection becomes effective on January 1 of the year after the year in which it is adopted and remains effective until January 1 of the year following a repeal of the waiver by the subdivision's governing body.

(d) The actuary annually shall determine the subdivision normal contribution rate and the prior service contribution rate

for subdivisions adopting the plan provisions of this subchapter from the most recent data available at the time of determination. Before January 1 of each year, the board of trustees shall certify the rates of each subdivision that has adopted the plan provisions of this subchapter. If the combined rates of the subdivision's normal contributions and prior service contributions under this subchapter exceed the rate prescribed by Subsection (c), and if the governing body of the subdivision has not waived that maximum rate, the rate for prior service contributions must be reduced to the rate that equals the difference between the maximum rate prescribed by Subsection (c) and the normal contribution rate. The governing body may elect to contribute at a rate that is greater than the sum of the subdivision's normal contribution rate and prior service contribution rate as determined under Subsections (a) and (b). An elected rate may not exceed the maximum rate prescribed by Subsection (c), unless the governing body has elected to waive that maximum rate. An elected rate remains in effect for each subsequent calendar year until it is rescinded by the governing body. For years in which the sum of the rates determined under Subsections (a) and (b) exceeds the elected rate, the governing body must contribute the sum of the rates determined under Subsections (a) and (b). For years in which the elected rate exceeds the sum of the rates determined under Subsections (a) and (b), the prior service contribution rate is increased to the rate that equals the difference between the elected rate and the normal contribution rate prescribed by Subsection (a).

(e) In addition to the normal contributions and prior service contributions under this subchapter, the subdivision shall make the picked-up employee contributions provided by Section 845.403(i), and those contributions, along with supplemental death benefit fund contributions, are not subject to the maximum subdivision contribution rates prescribed by Subsection (c).

(f) The prior service contribution rate prescribed by Subsection (b) must be based on an open or closed amortization period as recommended by the actuary and adopted by the board of trustees but may not exceed 30 years. The board of trustees may establish criteria for the circumstances under which a subdivision's amortization period, if closed, will be renewed, extended, or shortened.

(g) If the combined rates of the subdivision's normal contributions and prior service contributions under this subchapter exceed the maximum rate prescribed by Subsection (c) before the adjustment prescribed by Subsection (d), and if the governing body of the subdivision has not waived that maximum rate, the actuary shall determine what lower percentage for determining multiple matching credits of future member contributions is necessary to make the combined rates of the subdivision not exceed the maximum rate prescribed by Subsection (c). The actuary shall give written notice of the determination to the director, who shall give written notice to the governing body of the subdivision. The lower percentage determined by the actuary and specified in the notice to the governing body becomes effective as to all members who perform current service for the affected subdivision on or after the first day of the first calendar year that begins after the date of the notice, unless before the effective date, the governing body of the subdivision adopts an order or resolution, approved by the board of trustees, authorizing a reduction in the percentage used in determining multiple matching credits in accordance with Section 844.704(a) or authorizing a reduction in the rate of member contributions in accordance with Section 844.702, or authorizing both a reduction in the percentage used in determining multiple matching credits and a reduction in the rate of member contributions.

(h) If the combined rates of the subdivision's normal contributions and prior service contributions under this subchapter exceed the maximum rate prescribed by Subsection (c), and if the governing body of the subdivision has not waived that maximum rate, and if all reductions under Subsection (g), in the opinion of the actuary, result in the combined rates of the subdivision remaining in excess of the maximum rate prescribed by Subsection (c), the retirement system shall reduce the rate of member contributions to a lower rate authorized by Section 844.702 that, in the opinion of the actuary, is required to produce a combined rate that does not exceed the rate prescribed by Subsection (c). At the time the actuary determines that the rate of

employee contributions that was in existence before a reduction under this subsection no longer would result in a combined rate in excess of the maximum rate prescribed by Subsection (c), the retirement system shall reinstate the employee contribution to the rate that was in effect at the time of the reduction, unless the governing body of the subdivision has elected to change to some other rate authorized by Section 844.702(a). Any change under this section shall be made on January 1 of the year following the applicable determination by the actuary. During the time that the member contribution rate is reduced, the combined rates of the subdivision's normal contributions and prior service contributions shall be equal to the maximum rate prescribed by Subsection 844.703(c).

(i) Notwithstanding any provision in this section to the contrary and if approved by the board of trustees, a participating subdivision that has experienced or is anticipating circumstances that cause employer contributions based on covered payroll to be an unreasonable method of funding shall contribute in an actuarially approved method that is reasonable to regularly and consistently fund all of its pension liabilities in the retirement system.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 21, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 17, eff. Jan. 1, 1994; Acts 1995, 74th Leg., ch. 245, Sec. 30, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 309, Sec. 17, eff. Dec. 1, 1997; Acts 1999, 76th Leg., ch. 427, Sec. 46, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 44, eff. Dec. 31, 2001; Acts 2005, 79th Leg., ch. 506, Sec. 21, eff. Jan. 1, 2006.

Sec. 844.704. BENEFITS.

Text of subsec. (a) effective until December 31, 2006

(a) On the adoption of the plan provisions of this subchapter, the governing body of the subdivision shall select a percentage for determining multiple matching credits under Section 843.403. The governing body shall select a percentage of 0, 25, 50, 75, 100, 125, or 150 percent, or it may select the multiple matching percentage that the subdivision has in effect on the date of its adoption of the plan provisions of this subchapter. If a subdivision has a current service credit percentage in excess of 100 percent, the governing body of the subdivision may elect a percentage under this section that, when added to the current service credit percentage, is a multiple of 25 percent, except that the combined percentages may not exceed 250 percent. The governing body may thereafter increase the percentage used in determining multiple matching credits under Section 843.403 to one of the percentages specified in this subsection, to take effect on the next January 1 after the date of the increase. However, the sum of the percentage for current service credits under Section 843.403 and the percentage for multiple matching credits may not exceed 250 percent. The governing body also may thereafter reduce the percentage used in determining multiple matching credits for contributions made after the effective date of the reduction to one of the percentages specified in this subsection, to take effect on the next January 1 after the date of the reduction.

Text of subsec. (a) effective December 31, 2006

(a) On the adoption of the plan provisions of this subchapter, the governing body of the subdivision shall select a percentage for determining multiple matching credits under Section 843.403. The governing body shall select a percentage of zero or any percentage that is a multiple of five percent and that does not exceed 150 percent, or it may select the multiple matching percentage that the subdivision has in effect on the date of its adoption of the plan provisions of this subchapter. The governing body may later increase the percentage used in determining multiple matching credits under Section 843.403 to any percentage that is a multiple of five percent to take effect on the next January 1 after the date the increase is adopted, except that the sum of the percentage for current service credits under Section 843.403 and the percentage for multiple matching credits may not exceed 250 percent. In its order or resolution, the governing body may provide that the increased percentage will be used in determining multiple matching credits under Section 843.403 only for employee contributions made after the effective date of the increase or that the increased percentage will be used both prospectively and retroactively in determining the multiple matching credits for all employee contributions not otherwise matched at a higher percentage. The governing body may thereafter reduce the

percentage used in determining multiple matching credits under Section 843.403 for contributions made after the effective date of the reduction to zero or any percentage that is a multiple of five percent, to take effect on the next January 1 after the date of the reduction.

(b) On the adoption of the plan provisions of this subchapter, the governing body shall select a percentage for determining allocated prior service credits under Section 843.105. The governing body shall select a percentage that is a multiple of five percent. For a subdivision that began participation before January 1, 1992, the percentage cannot be less than the percentage in effect immediately before the adoption of the plan. The governing body may increase the percentage used in determining allocated prior service credits under Section 843.105, to take effect on the next January 1 after the date of the increase. The percentage may not exceed one-half of the percentage that results from adding 200 percent to the lowest percentage for determining multiple matching credit currently applicable to any employee contribution with respect to the subdivision.

(c) By adopting the plan provisions of this subchapter, the governing body also adopts the optional benefit eligibility plan described by Section 844.207 unless by its order it adopts the optional benefit eligibility plan described by Section 844.210 and the survivor annuity death benefit described by Section 844.407.

(d) The governing body of a subdivision that has adopted or is adopting the plan provisions of this subchapter may adopt or authorize:

- (1) an increase in retirement annuities under Section 844.209;
- (2) an increase in retirement annuities under Section 844.208;
- (3) the reestablishment of service credit previously forfeited under Section 843.003;
- (4) the establishment of credited service for military service under Section 843.601(c);
- (5) the benefit eligibility plan described by Section 844.210, 844.211, or 844.212; or
- (6) the partial lump-sum distribution on service retirement under Section 844.009.

(e) The governing body may not adopt the benefits of this section if the adoption would result in the combined rates of the subdivision's normal contributions and prior service contributions for the first calendar year following the adoption exceeding the maximum rate prescribed by Section 844.703(c) unless a waiver under that section is in effect.

(f) An order or resolution under this section must be filed with the retirement system not later than December 15 of the year preceding the year in which it will take effect and may not take effect until the order or resolution is approved by the board of trustees as meeting the requirements of this section. After approval by the board, an order or resolution may take effect only on January 1 of a year, except that an order or resolution for a subdivision that begins participation after January 1, 1992, may take effect on the date the subdivision begins participation.

Added by Acts 1991, 72nd Leg., ch. 460, Sec. 21, eff. Jan. 1, 1992. Amended by Acts 1993, 73rd Leg., ch. 175, Sec. 18, eff. Jan. 1, 1994; Acts 1993, 73rd Leg., ch. 536, Sec. 6, eff. Jan. 1, 1994; Acts 1999, 76th Leg., ch. 427, Sec. 47, eff. Dec. 31, 1999; Acts 2001, 77th Leg., ch. 122, Sec. 45, eff. Dec. 31, 2001; Acts 2003, 78th Leg., ch. 621, Sec. 28, eff. Jan. 1, 2004; Acts 2005, 79th Leg., ch. 506, Sec. 22, eff. Dec. 31, 2006.