

## CHAPTER 602

## S.B. No. 105

An Act relating to the provision, administration, and financing of programs of retirement and death benefits for certain state-paid judges and to the assignment of persons to sit as judicial officers; providing for a Judicial Retirement System of Texas Plan Two, changing the name of the present retirement system to Judicial Retirement System of Texas Plan One; providing penalties; amending Title 110B, Public Retirement Systems, Revised Statutes, by adding Subtitle H; by amending the following subsections and sections: Subsection (a), Section 12.002; Subdivision (3), Section 13.001; Subsection (a), Section 22.002; Subsection (b), Section 22.003; Subdivisions (3) and (5), Section 41.001; Subsection (a), Section 45.101; Sections 41.003, 42.001, 42.002, 42.103; Subsection (b), Section 52.106; by adding Section 45.103; and by repealing Sections 42.101, 42.102, 42.104, and 44.005; amending the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code) by amending Subdivision (2), Subsection (a), Section 3, and Paragraph (A), Subdivision (5), Subsection (a), Section 3; amending Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon's Texas Civil Statutes), by adding Sections 1a, 4a, 4b, and 4c and amending Sections 5a and 5b; amending Section 2, Chapter 376, Acts of the 62nd Legislature, Regular Session, 1971 (Article 200b, Vernon's Texas Civil Statutes); amending Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), by adding Subsection (e) and amending Subsection (c), Section 3; Subsection (b), Section 4; Subsection (b), Section 6; Subsections (a), (b), and (d), Section 9; amending Subsection (d), Section 3, Chapter 475, Acts of the 64th Legislature, 1975, as amended (Article 1933a, Vernon's Texas Civil Statutes); amending Section 4, Chapter 552, Acts of the 64th Legislature, 1975, as amended (Article 2338-1c, Vernon's Texas Civil Statutes); and amending Section 1, Chapter 217, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 6252-8a, Vernon's Texas Civil Statutes).

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Title 110B, Revised Statutes, is amended by adding Subtitle H to read as follows:

**“SUBTITLE H. JUDICIAL RETIREMENT SYSTEM OF TEXAS PLAN TWO**

**“CHAPTER 71. GENERAL PROVISIONS**

**“SUBCHAPTER A. GENERAL PROVISIONS**

*Section 71.001. DEFINITIONS*

*Section 71.002. PURPOSE OF SUBTITLE*

*Section 71.003. RETIREMENT SYSTEM*

*Section 71.004. EXEMPTION FROM EXECUTION*

*Section 71.005. POWERS AND PRIVILEGES**Section 71.006. DIVERSION OF MONEY PROHIBITED*

“[Sections 71.007-71.100 reserved for expansion]

“SUBCHAPTER B. PENAL PROVISIONS

*Section 71.101. CONVERSION OF MONEY; FRAUD**Section 71.102. PENALTIES*

“SUBTITLE H. JUDICIAL RETIREMENT SYSTEM OF TEXAS PLAN TWO

“CHAPTER 71. GENERAL PROVISIONS

“SUBCHAPTER A. GENERAL PROVISIONS

“Section 71.001. DEFINITIONS. In this subtitle:

“(1) ‘Accumulated contributions’ means the total of amounts in a member’s individual account in the retirement system, including:

“(A) amounts deducted from the compensation of the member;

“(B) other member deposits required to be placed in the member’s individual account; and

“(C) interest credited to amounts in the member’s individual account.

“(2) ‘Annuity’ means an amount of money payable in monthly installments for life or for another period as provided by this subtitle.

“(3) ‘Board of trustees’ means the entity given responsibility under Section 75.001 of this subtitle for the administration of the retirement system.

“(4) ‘Executive director’ means the person appointed under Section 25.202 of this title.

“(5) ‘Judicial officer’ means a person who presides over a court or a commission to a court named in Section 72.001 of this subtitle and who has never been a member of the Judicial Retirement System of Texas or the Judicial Retirement System of Texas Plan One.

“(6) ‘Medical board’ means the entity designated under Section 75.202 of this subtitle.

“(7) ‘Retiree’ means a person who receives from the retirement system an annuity based on service that was credited to the person.

“(8) ‘Retirement system’ means the Judicial Retirement System of Texas Plan Two.

“(9) ‘Service credit’ means the amount of membership, military, and equivalent membership service ascribed by the retirement system to a person and for which the person has made required contributions.

“(10) ‘Supreme court’ means the Supreme Court of Texas.

“Section 71.002. PURPOSE OF SUBTITLE. The purpose of this subtitle is to establish a program of benefits for members, retirees, and other beneficiaries of the retirement system and to establish rules for the management and operation of the retirement system.

“Section 71.003. RETIREMENT SYSTEM. The retirement system is an entity of the state. The Judicial Retirement System of Texas Plan Two is the name in which all its business shall be transacted and all its property held.

“Section 71.004. EXEMPTION FROM EXECUTION. All annuity and other benefit payments from the retirement system, contribution refunds, and rights accrued or accruing under this subtitle to any person are exempt from garnishment, attachment, state and local taxation, levy, sale, and any other process and are unassignable.

“Section 71.005. POWERS AND PRIVILEGES. The retirement system has the powers, privileges, and immunities of a corporation, as well as the powers, privileges, and immunities conferred by this subtitle.

“Section 71.006. DIVERSION OF MONEY PROHIBITED. Except as provided by Subsection (b) of Section 75.101 and Subsection (c) of Section 75.305 of this subtitle, no part of the money contributed to the retirement system under Sections 75.102 or 75.104 of this subtitle and no part of the contribution described by Subdivision (2) of Subsection (b) of Section 75.103 of this subtitle may be used for or diverted to any purpose other than the exclusive benefit of members, their beneficiaries, and annuitants of the retirement system.

“[Sections 71.007-71.100 reserved for expansion]

“SUBCHAPTER B. PENAL PROVISIONS

“Section 71.101. CONVERSION OF MONEY; FRAUD. (a) A person commits an offense if the person knowingly or intentionally confiscates, misappropriates, or converts money representing deductions from a member’s salary either before or after the money is received by the retirement system.

“(b) A person commits an offense if the person knowingly or intentionally makes a false statement or falsifies or permits to be falsified any record of the retirement system in an attempt to defraud the retirement system.

“(c) A member commits an offense if the member accepts as a salary money that the member knows should have been deducted as provided by this subtitle from the member’s salary.

“Section 71.102. PENALTIES. (a) An offense under Subsection (a) or (c) of Section 71.101 of this subtitle is punishable in the manner provided by Section 31.03, Penal Code, for the punishment of the offenses included in that section.

“(b) An offense under Subsection (b) of Section 71.101 of this subtitle is punishable in the manner provided by Section 37.10, Penal Code, for the punishment of the offenses included in that section.

“CHAPTER 72. MEMBERSHIP

“SUBCHAPTER A. MEMBERSHIP

Section 72.001. ELIGIBILITY FOR MEMBERSHIP

Section 72.002. TERMINATION OF MEMBERSHIP

Section 72.003. WITHDRAWAL OF CONTRIBUTIONS

[Sections 72.004-72.100 reserved for expansion]

“SUBCHAPTER B. RESUMPTION OF JUDICIAL SERVICE BY RETIREE

Section 72.101. JUDICIAL ASSIGNMENT

Section 72.102. RESUMPTION OF FULL-TIME JUDICIAL SERVICE

“CHAPTER 72. MEMBERSHIP

“SUBCHAPTER A. MEMBERSHIP

“Section 72.001. ELIGIBILITY FOR MEMBERSHIP. (a) Except as provided by Subsection (b) of this section, membership in the retirement system is limited to persons who have never been eligible for membership in the Judicial Retirement System of Texas or the Judicial Retirement System of Texas Plan One and who at any time on or after the effective date of this Act are judges, justices, or commissioners of:

- “(1) the supreme court;
- “(2) the court of criminal appeals;
- “(3) a court of appeals;
- “(4) a district court; or
- “(5) a commission to a court specified in this subsection.

“(b) Except as provided by Section 72.101 of this subtitle, membership in the retirement system includes persons who are appointed under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon’s Texas Civil Statutes), and who have never been members of the Judicial Retirement System of Texas or the Judicial Retirement System of Texas Plan One. A member appointed under that Act is a judicial officer for purposes of this subtitle.

“(c) Membership in the retirement system is mandatory for eligible persons.

“(d) Membership in the retirement system begins on the first day an eligible person holds a judicial office specified in Subsection (a) of this section.

“Section 72.002. TERMINATION OF MEMBERSHIP. A person’s membership in the retirement system is terminated by:

- “(1) death of the person;
- “(2) retirement based on service credited in the retirement system;
- “(3) withdrawal of all of the person’s accumulated contributions; or
- “(4) transfer of the person’s accumulated contributions under Subsection (f) of Section 75.401 of this subtitle.

“Section 72.003. WITHDRAWAL OF CONTRIBUTIONS. (a) If a member resigns a judicial office or otherwise ceases to be a judicial officer, the member may withdraw all of the member’s accumulated contributions in the retirement system.

“(b) A withdrawal of contributions cancels the person’s service credit in the retirement system and terminates the person’s rights to benefits based on the credit.

“(c) A member initiates a withdrawal of contributions by filing an application for a refund with the retirement system.

“(d) Deposits representing interest or membership fees that are required of a member to establish service credit under Section 73.102 or 73.103 of this subtitle are not refundable.

“[Sections 72.004-72.100 reserved for expansion]

**“SUBCHAPTER B. RESUMPTION OF JUDICIAL SERVICE BY RETIREE**

“Section 72.101. **JUDICIAL ASSIGNMENT.** A retiree who makes an election under Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon’s Texas Civil Statutes), or who is appointed under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon’s Texas Civil Statutes), may not rejoin or receive credit in the retirement system for the period of an appointment or for any service performed under assignment.

“Section 72.102. **RESUMPTION OF FULL-TIME JUDICIAL SERVICE.** (a) A retiree who resumes service as a judicial officer other than by appointment or assignment described in Section 72.101 of this subtitle may not rejoin or receive credit in the retirement system for the resumed service.

“(b) The retirement system shall suspend annuity payments to a retiree who resumes service described by this section. A suspension of payments begins on the date a retiree takes the oath of office and ends on a date when:

“(1) the retiree no longer holds the office; and

“(2) the retiree, or the retiree’s beneficiary if the retiree has died, has applied to the retirement system for resumption of payments.

“(c) Time during which annuity payments are suspended as provided by this section does not reduce the number of months payments are to be made under an optional benefit plan providing for a specific amount of benefits for a guaranteed number of months after retirement.

“(d) Before a retiree takes the oath of office for a position as a judicial officer other than under appointment or assignment described by Section 72.101 of this subtitle, the retiree shall notify the retirement system in writing of the resumption of office and the projected dates of service.

**“CHAPTER 73. CREDITABLE SERVICE**

**“SUBCHAPTER A. GENERAL PROVISIONS**

**Section 73.001. TYPES OF CREDITABLE SERVICE**

[Sections 73.002-73.100 reserved for expansion]

**“SUBCHAPTER B. ESTABLISHMENT OF SERVICE**

**Section 73.101. CURRENT SERVICE**

**Section 73.102. SERVICE CREDIT PREVIOUSLY CANCELED**

**Section 73.103. MILITARY SERVICE**

**Section 73.104. SERVICE ON DOMESTIC RELATIONS OR SPECIAL JUVENILE COURT**

**“CHAPTER 73. CREDITABLE SERVICE**

**“SUBCHAPTER A. GENERAL PROVISIONS**

“Section 73.001. **TYPES OF CREDITABLE SERVICE.** The types of service creditable in the retirement system are:

“(1) membership service;

“(2) military service; and

“(3) equivalent membership service.

“[Sections 73.002-73.100 reserved for expansion]

**“SUBCHAPTER B. ESTABLISHMENT OF SERVICE**

“Section 73.101. **CURRENT SERVICE.** Membership service is credited in the retirement system for each month in which a member holds a judicial office and for which the member makes the required contribution.

“Section 73.102. **SERVICE CREDIT PREVIOUSLY CANCELED.** If a person who has withdrawn contributions to the retirement system and canceled service credit under Section 72.003 of this subtitle subsequently rejoins the retirement system, the member may not become eligible for retirement benefits from the retirement system unless the person redeposits with the system the amount withdrawn, plus all membership fees due, plus interest computed on the basis of the state fiscal year at an annual rate of five percent from the date of withdrawal to the date of redeposit. Payment under this section reestablishes the service credit canceled by the refund.

**Section 73.103. MILITARY SERVICE.** (a) An eligible member may establish service credit in the retirement system for military service performed that is creditable in the retirement system.

**(b)** A member eligible to establish military service credit is one who:

**(1)** currently contributes to the retirement system;

**(2)** has at least eight years of service credit in the retirement system;

**(3)** does not receive and is not eligible to receive federal retirement payments based on 20 years or more of active federal military duty or its equivalent; and

**(4)** has been released from military duty under conditions not dishonorable.

**(c)** Military service creditable in the retirement system is active duty federal military service performed during a time that the United States is or was engaged in armed conflict. The board of trustees by rule shall determine the periods recognized for purposes of this subtitle as times of armed conflict.

**(d)** A member may not establish more than 48 months of service credit in the retirement system for military service.

**(e)** A member may establish credit under this section by depositing with the retirement system in a lump sum a contribution computed for each month of military service claimed at the rate of six percent of the member's current monthly state compensation, plus, if the member does not establish the credit before the first anniversary of the date of first eligibility, interest computed on the basis of the state fiscal year at an annual rate of 10 percent from the date of first eligibility to the date of deposit.

**(f)** The state shall contribute for each month of military service established under this section an amount computed on the basis of the member's current monthly state compensation at the rate of state contribution, as provided by Subsection (a) of Section 75.103 of this subtitle, for the fiscal year in which the credit is established.

**(g)** The board of trustees may require members applying for credit under this section to submit any information the board considers necessary to enable it to determine eligibility for credit, amount of service, or amounts of required contributions.

**(h)** The retirement system shall use military service credit in computing death benefits and in determining eligibility to select an optional death benefit plan.

**(i)** The retirement system shall use military service credit in computing service or disability retirement benefits only if the member has, without military service credit, enough service credit to entitle the member to retire for service or disability, as applicable.

**Section 73.104. SERVICE ON DOMESTIC RELATIONS OR SPECIAL JUVENILE COURT.** (a) An eligible member may establish equivalent membership service credit in the retirement system for service performed as judge of a domestic relations or special juvenile court.

**(b)** A member eligible to establish credit under this section is one who serves or served as judge:

**(1)** of a domestic relations or special juvenile court on the date that the court is or was abolished by the Family District Court Act (Article 1926a, Vernon's Texas Civil Statutes); or

**(2)** of a district or appellate court on the date that a domestic relations or special juvenile court is or was abolished by the Family District Court Act (Article 1926a, Vernon's Texas Civil Statutes), but formerly served as judge of a court abolished by that Act.

**(c)** A member may establish credit under this section by depositing with the retirement system a contribution in an amount, except as provided by Subsection (f) of this section, computed at the rate of six percent of the state salary of a district judge for the member's full tenure on the abolished court, plus interest computed at the rate of interest credited to a person's account in the Texas County and District Retirement System for the period of the service or, for service performed before January 1, 1968, at the rate of six percent a calendar year.

**(d)** A member who establishes credit under this section forfeits all rights to benefits based on the claimed service in the Texas County and District Retirement System, except rights to benefits based on the amount paid by the county for the service that exceeds the amount of state salary that would have been paid for the service.

**(e)** The Texas County and District Retirement System shall transfer to the retirement system the amount credited to the member's account, whether contributed by the member or the member's employer, plus accumulated interest, except any amount representing contributions or interest on salary that exceeds the state salary that would have been paid for the service.

**(f)** The retirement system shall credit the amount transferred by the Texas County and District Retirement System against the member's required payment under this section. If the total of the amount transferred and the amount paid by the member exceeds the amount required by this section, the retirement system shall leave the excess in the retirement system trust fund.

**(g)** The amount of contributions credited in the retirement system to a member who establishes credit under this section is the amount that the member would have contributed to the retirement system, the Judicial Retirement System of Texas, or the Judicial Retirement System of Texas Plan One as a district judge at the time the service was performed.

**“CHAPTER 74. BENEFITS**

**“SUBCHAPTER A. GENERAL PROVISIONS**

*Section 74.001. TYPES OF BENEFITS*

*Section 74.002. APPLICATION FOR RETIREMENT*

*Section 74.003. INELIGIBILITY FOR BENEFITS*

[Sections 74.004-74.100 reserved for expansion]

**“SUBCHAPTER B. SERVICE RETIREMENT BENEFITS**

*Section 74.101. ELIGIBILITY FOR SERVICE RETIREMENT ANNUITY*

*Section 74.102. SERVICE RETIREMENT ANNUITY*

*Section 74.103. OPTIONAL SERVICE RETIREMENT ANNUITY*

*Section 74.104. LIMITATION ON SERVICE RETIREMENT ANNUITY*

[Sections 74.105-74.200 reserved for expansion]

**“SUBCHAPTER C. DISABILITY RETIREMENT BENEFITS**

*Section 74.201. ELIGIBILITY FOR DISABILITY RETIREMENT ANNUITY*

*Section 74.202. DISABILITY REPORTS*

*Section 74.203. DISABILITY RETIREMENT ANNUITY*

[Sections 74.204-74.300 reserved for expansion]

**“SUBCHAPTER D. DEATH BENEFITS**

*Section 74.301. SELECTION OF DEATH BENEFIT PLAN BY MEMBER*

*Section 74.302. SELECTION OF DEATH BENEFIT PLAN BY SURVIVOR OF MEMBER*

*Section 74.303. MEMBER DEATH BENEFITS GENERALLY*

*Section 74.304. RETURN OF CONTRIBUTIONS*

*Section 74.305. RETURN OF EXCESS CONTRIBUTIONS*

[Sections 74.306-74.400 reserved for expansion]

**“SUBCHAPTER E. INCREASES IN BENEFITS**

*Section 74.401. ANNUITY INCREASE AFTER DEATH OR RETIREMENT*

**“CHAPTER 74. BENEFITS**

**“SUBCHAPTER A. GENERAL PROVISIONS**

*“Section 74.001. TYPES OF BENEFITS. The types of benefits payable by the retirement system are:*

*“(1) service retirement benefits;*

*“(2) disability retirement benefits; and*

*“(3) death benefits.*

*“Section 74.002. APPLICATION FOR RETIREMENT. (a) A member may apply for service or disability retirement by filing an application for retirement with the board of trustees.*

*“(b) An application for a service retirement annuity may not be made:*

*“(1) after the date the member wishes to retire; or*

*“(2) more than 90 days before the date the member wishes to retire.*

*“Section 74.003. INELIGIBILITY FOR BENEFITS. An annuity that is based on service of a member who is removed from judicial office by impeachment, or otherwise for official misconduct, may not be paid under this subtitle.*

[Sections 74.004-74.100 reserved for expansion]

**“SUBCHAPTER B. SERVICE RETIREMENT BENEFITS**

*“Section 74.101. ELIGIBILITY FOR SERVICE RETIREMENT ANNUITY. (a) A member is eligible to retire and receive a service retirement annuity if the member:*

"(1) is at least 65 years old, currently holds a judicial office, and has at least 10 years of service credited in the retirement system, the most recently performed of which was for a continuous period of at least one year;

"(2) is at least 65 years old and has at least 12 years of service, continuous or otherwise, credited in the retirement system, regardless of whether the member currently holds a judicial office; or

"(3) has at least 25 years of service credited in the retirement system, the most recently performed of which was for a continuous period of at least 10 years, regardless of whether the member currently holds a judicial office.

"(b) A member who meets service requirements provided by Subdivision (1) or (2) of Subsection (a) of this section is eligible to retire and receive a service retirement annuity actuarially reduced as provided by Subsection (c) of Section 74.102 of this subtitle from the standard service retirement annuity, if the member is at least 60 years old.

"(c) A member's resignation from a judicial office before applying for an annuity does not make the member ineligible for the annuity unless the member applies for an annuity under Subdivision (1) of Subsection (a) of this section.

"Section 74.102. SERVICE RETIREMENT ANNUITY. (a) Except as provided by Subsections (b) and (c) of this section, the standard service retirement annuity is an amount computed on the basis of the member's average monthly compensation for the 36 highest months of compensation during the last 60 months of service, multiplied by the sum of:

"(1) one-twelfth of three percent for each month of service that is credited in the retirement system and that is performed before the month following the month that includes the member's 70th birthday; plus

"(2) one-twelfth of two percent for each month of service that is credited in the retirement system and that is performed after the month that includes the member's 70th birthday.

"(b) The standard service retirement annuity may not be more than 60 percent of the average monthly compensation computed under Subsection (a) of this section.

"(c) The standard service retirement annuity of a person qualifying for retirement under Subsection (b) of Section 74.101 of this subtitle is an amount computed as provided by Subsection (a) of this section, reduced by one-third of one percent for each whole or partial calendar month that occurs during the period from the date of retirement to the date of the retiree's 65th birthday, including the months that contain the dates of retirement and birthday.

"Section 74.103. OPTIONAL SERVICE RETIREMENT ANNUITY. (a) Instead of a service retirement annuity payable under Section 74.102 of this subtitle, a retiring member may elect to receive an optional service retirement annuity provided by the board of trustees or one of the following optional service retirement annuities, actuarially reduced to an actuarially equivalent value and consisting of:

"(1) an annuity payable during the retiring member's life and continuing after death in the same amount, throughout the life of one person designated by the retiring member before retirement;

"(2) an annuity payable during the retiring member's life and continuing after death in an amount equal to one-half of the amount payable during the retiring member's life, throughout the life of one person designated by the retiring member before retirement;

"(3) an annuity payable for the greater of the rest of the retiring member's life or 60 months; or

"(4) an annuity payable for the greater of the rest of the retiring member's life or 120 months.

"(b) An annuity selected under Subdivision (3) or (4) of Subsection (a) of this section that is payable after the retiring member's death shall be paid to one or more persons designated by the retiring member before or after retirement or, if no person has been designated or all designees die before all payments are made, to the retiree's estate.

"(c) A person may apply for an optional service retirement annuity by filing an application for the annuity with the retirement system before the date of the person's retirement.

"(d) The computation of an optional service retirement annuity payable throughout the life of a named individual must include the age of that individual.

"(e) An optional service retirement annuity may not provide that more than 50 percent of the value of the annuity, as determined at the time of retirement, be used to provide a benefit to a person other than the person on whose service the annuity is based.

"Section 74.104. LIMITATION ON SERVICE RETIREMENT ANNUITY. (a) In this section, 'annual benefit' means a benefit payable annually in the form of a straight life annuity, without taking into account the value of any ancillary benefit or any portion of the benefit derived from member contributions.

“(b) Except as provided by Subsections (c), (d), (e), (g), and (i) of this section, the annual benefit payable under Section 74.102 or 74.103 of this subtitle to a retiring member may not exceed the lesser of:

“(1) \$90,000; or

“(2) 100 percent of the member's average annual state compensation, computed by taking into account only the member's state compensation for the consecutive 36-month period during which the member was contributing and had the greatest aggregate compensation from the state as a judge, justice, or commissioner of a court described in Section 72.001 of this subtitle.

“(c) If payment of a benefit under Section 74.102 or 74.103 of this subtitle begins when the retiring member is at least 55 years old but less than 62 years old, the limitation in Subdivision (1) of Subsection (b) of this section is the greater of:

“(1) \$75,000; or

“(2) the actuarial equivalent of \$90,000, beginning at age 62.

“(d) If payment of a benefit under Section 74.102 or 74.103 of this subtitle begins when the retiring member is less than 55 years old, the limitation in Subdivision (1) of Subsection (b) of this section is the greater of:

“(1) the actuarial equivalent of \$75,000, beginning at age 55; or

“(2) the actuarial equivalent of \$90,000, beginning at age 62.

“(e) If payment of a benefit under Section 74.102 or 74.103 of this subtitle begins when the retiring member is at least 66 years old, the limitation in Subdivision (1) of Subsection (b) of this section is the actuarial equivalent of \$90,000, beginning at age 65.

“(f) The interest rate assumption used to determine actuarial equivalence under Subsection (c) or (d) of this section is the greater of five percent or the rate used to determine actuarial equivalence for other purposes of the retirement system, and the interest rate assumption used to determine actuarial equivalence under Subsection (e) of this section is the lesser of five percent or the rate used to determine actuarial equivalence for other purposes of the retirement system.

“(g) The board of trustees by rule shall adjust the dollar limitations included in Subdivision (1) of Subsection (b) and Subsections (c), (d), and (e) of this section to conform to adjustments made by the federal Commissioner of Internal Revenue to the dollar limitations under Section 415, federal Internal Revenue Code.

“(h) An increase in a benefit payable under Section 74.102 or 74.103 of this subtitle that takes effect after the date payment of the benefit has begun may not result in payment of an annual benefit that exceeds the member's average annual state compensation, as computed under Subdivision (2) of Subsection (b) of this section, multiplied by a fraction, the numerator of which is the dollar limitation under Section 415(b)(1)(A), federal Internal Revenue Code, as adjusted under Section 415(d) of that code, and the denominator of which is \$90,000.

“(i) If a benefit becomes payable to a retiring member who has less than 10 years of service credit in the retirement system, the retirement system shall apply to that benefit, instead of the limitations included in Subsections (b), (c), (d), and (e) of this section, limitations computed by reducing the amounts of the limitations in Subsections (b), (c), (d), and (e) by a fraction, the numerator of which is the number of years of the person's service credit and the denominator of which is 10.

“[Sections 74.105-74.200 reserved for expansion]

### “SUBCHAPTER C. DISABILITY RETIREMENT BENEFITS

“Section 74.201. **ELIGIBILITY FOR DISABILITY RETIREMENT ANNUITY.** (a) A member is eligible, regardless of age, to retire from regular active service for disability and receive a disability retirement annuity if the member has at least seven years of service credit in the retirement system.

“(b) A member otherwise eligible may not receive a disability retirement annuity unless the chief justice of the supreme court and the medical board certify that the member is mentally or physically incapacitated for the further performance of regular judicial duties.

“(c) A disability retirement annuity may be denied on the ground that a claimed physical incapacity is caused by or results from an intemperate use of alcohol or narcotic drugs.

“Section 74.202. **DISABILITY REPORTS.** (a) A member who applies for retirement because of physical incapacity shall file with the retirement system and the chief justice of the supreme court written reports by two physicians licensed to practice medicine in this state, fully reporting the claimed physical incapacity.

“(b) The retirement system shall refer an application for disability retirement to the medical board for its recommendations. The medical board may require an applicant to submit any additional information it considers necessary to enable it to make its recommendations.



“(c) The chief justice of the supreme court may direct the retirement system to employ a physician under Section 75.203 of this subtitle or may direct the medical board to require additional information under Subsection (b) of this section.

“Section 74.203. **DISABILITY RETIREMENT ANNUITY.** (a) Except as provided by Subsection (b) or (c) of this section, a disability retirement annuity is an amount computed as provided by Section 74.102 of this subtitle.

“(b) The amount of a disability retirement annuity is not reducible because of the age of the retiring member.

“(c) Instead of a disability retirement annuity computed as provided by Section 74.102 of this subtitle, a retiring member may elect to receive an optional disability retirement annuity payable as provided by Section 74.103 of this subtitle.

“(d) A disability retirement annuity is payable for the duration of the retiree’s disability. If a retiree who has selected an optional disability retirement annuity dies while receiving the annuity, the annuity is payable throughout the life of the retiree’s designated beneficiary or for a guaranteed period after the date of retirement, depending on the option selected.

“[Sections 74.204-74.300 reserved for expansion]

#### “SUBCHAPTER D. DEATH BENEFITS

“Section 74.301. **SELECTION OF DEATH BENEFIT PLAN BY MEMBER.** (a) An eligible member may select a death benefit plan for the payment of a death benefit annuity, to be paid if the member dies before retirement. Except as provided by Subsections (d) and (e) of this section, a death benefit annuity is an amount computed, in the manner provided under Subsections (a) and (b) of Section 74.102 of this subtitle for computation of a standard service retirement annuity, as if the member had retired on the date of death and payable, beginning on the day after the date of the member’s death, in one of the following ways:

“(1) throughout the life of one person designated by the member; or

“(2) to one or more persons designated by the member, for a period of 120 months.

“(b) A member eligible to select a death benefit plan is one who:

“(1) is a contributing member and has at least 10 years of service credit in the retirement system;

“(2) is a noncontributing member and has at least 12 years of service credit in the retirement system; or

“(3) has a total of at least 20 years of service credit in retirement systems administered by the board of trustees.

“(c) If a member who has qualified under Subdivision (1) of Subsection (b) of this section and has selected a death benefit plan ceases to be a contributing member before death and does not qualify under Subdivision (2) or (3) of Subsection (b) of this section, the selection of a plan is voided.

“(d) The retirement system shall, under tables adopted by the board of trustees as provided by Section 75.005 of this subtitle, actuarially reduce the amount of a death benefit annuity payable under this section for the difference between the member’s age on the date of death and age 65, if the member dies before attaining that age.

“(e) The computation of a death benefit annuity selected under Subdivision (1) of Subsection (a) of this section must include the age of the designated recipient.

“(f) A member may select a death benefit plan by filing an application for a plan with the board of trustees on a form prescribed by the board. After selection, a death benefit plan takes effect at death unless the member amends the plan, selects a retirement annuity at the time of retirement, or has chosen a plan that cannot take effect or unless the selection is voided under Subsection (c) of this section.

“Section 74.302. **SELECTION OF DEATH BENEFIT PLAN BY SURVIVOR OF MEMBER.** If a member eligible to select a death benefit plan under Section 74.301 of this subtitle dies without having made a selection or if a plan selected cannot be made effective, the member’s surviving spouse may select a plan in the same manner as if the member had made the selection. If there is no surviving spouse, the personal representative of the decedent’s estate may make the selection.

“Section 74.303. **MEMBER DEATH BENEFITS GENERALLY.** (a) Except as provided by Subsection (c) of this section, if a contributing member dies, a lump-sum death benefit is payable from the retirement system in an amount computed at the rate of five percent of the amount in the member’s individual account at the time of death times the number of full years of service credit the member had at the time of death.

“(b) The benefit provided by this section is payable to a person designated by the member in a signed document filed with the retirement system. If a member does not designate a beneficiary or if the beneficiary does not survive the member, the benefit is payable to the member’s estate.

“(c) A death benefit may not be paid under this section if, at the time of death, the member was eligible to select a death benefit annuity under Section 74.301 of this subtitle.

“Section 74.304. RETURN OF CONTRIBUTIONS. (a) Except as provided by Subsection (c) of this section, if a member dies before retirement, the amount of the member’s accumulated contributions is payable as a lump-sum death benefit.

“(b) The benefit provided by this section is payable to a person designated by the member in a signed document filed with the board of trustees. If a member does not designate a beneficiary, the benefit is payable to the member’s estate.

“(c) A death benefit may not be paid under this section if, at the time of death, the member was eligible to select a death benefit annuity under Section 74.301 of this subtitle.

“Section 74.305. RETURN OF EXCESS CONTRIBUTIONS. (a) Except as provided by Subsection (c) of this section, if a person dies after retirement, a lump-sum death benefit is payable in an amount, if any, by which the retiree’s contributions to the retirement system on the date of retirement exceed the amount of annuity payments made before the retiree’s death.

“(b) The benefit provided by this section is payable to the retiree’s designated beneficiary. If a retiree dies without having designated a beneficiary, the benefit is payable to the person entitled to distribution of the decedent’s estate if that person or the personal representative of the decedent’s estate claims the benefit before the second anniversary of the decedent’s death.

“(c) A death benefit may not be paid under this section if an optional retirement annuity has been selected as provided by Section 74.103 or Subsection (c) of Section 74.203 of this subtitle.

“[Sections 74.306-74.400 reserved for expansion]

#### “SUBCHAPTER E. INCREASES IN BENEFITS

“Section 74.401. ANNUITY INCREASE AFTER DEATH OR RETIREMENT. (a) Except as provided by Subsections (b) and (e) of this section, on the first day of each fiscal year, the retirement system shall increase the amounts of annuities that are payable by the system to a retiree, to the survivor of a retiree, or to the survivor of a deceased member.

“(b) The retirement system may not increase under this section the amount of an annuity unless the retirement or death on which the annuity is based occurred before the first day of the preceding fiscal year.

“(c) The legislature may appropriate money from the General Revenue Fund to pay the costs of increasing the amounts of annuities under this section. On the first day of each fiscal year, the state comptroller of public accounts shall transfer to the retirement system any money appropriated for the fiscal year for the purpose of this section.

“(d) If the amount of money appropriated for a fiscal year is insufficient to finance the rate of increase in annuities specified in the Act making the appropriation or if the Act fails to specify a rate of increase, the board of trustees shall set the rate as the rate that the amount of money appropriated will finance for the duration of the annuities payable to those persons entitled to receive an increase in annuities under this section.

“(e) If an appropriation is not made for a fiscal year for the purpose of this section, the retirement system may not increase under this section the amount of annuities for that year.

### “CHAPTER 75. ADMINISTRATION

#### “SUBCHAPTER A. POWERS AND DUTIES

Section 75.001. GENERAL ADMINISTRATION

Section 75.002. RULEMAKING

Section 75.003. ADMINISTERING SYSTEM ASSETS

Section 75.004. DESIGNATION OF AUTHORITY TO SIGN VOUCHERS

Section 75.005. ADOPTING TABLES AND RATES

Section 75.006. RECORDS OF BOARD OF TRUSTEES

Section 75.007. REPORT

Section 75.008. CORRECTION OF ERRORS

Section 75.009. CHANGE BY GOVERNOR’S EXECUTIVE ORDER

[Sections 75.010-75.100 reserved for expansion]

**“SUBCHAPTER B. COLLECTION OF MEMBERSHIP FEES AND CONTRIBUTIONS; APPROPRIATIONS**

Section 75.101. **COLLECTION OF MEMBERSHIP FEES**

Section 75.102. **COLLECTION OF MEMBER CONTRIBUTIONS**

Section 75.103. **COLLECTION OF STATE CONTRIBUTIONS**

Section 75.104. **COLLECTION OF CONTRIBUTIONS FOR SENIOR DISTRICT COURT JUDGES**

[Sections 75.105-75.200 reserved for expansion]

**“SUBCHAPTER C. OFFICERS AND EMPLOYEES OF BOARD OF TRUSTEES**

Section 75.201. **LEGAL ADVISER**

Section 75.202. **MEDICAL BOARD**

Section 75.203. **OTHER PHYSICIANS**

Section 75.204. **ACTUARY**

Section 75.205. **FINANCIAL AND INVESTMENT SERVICES**

Section 75.206. **STATE TREASURER**

Section 75.207. **COMPENSATION OF EMPLOYEES; PAYMENT OF EXPENSES**

Section 75.208. **SURETY BONDS**

Section 75.209. **INTEREST IN INVESTMENT PROFITS PROHIBITED**

[Sections 75.210-75.300 reserved for expansion]

**“SUBCHAPTER D. MANAGEMENT OF ASSETS**

Section 75.301. **INVESTMENT OF ASSETS**

Section 75.302. **RESTRICTIONS ON INVESTMENTS**

Section 75.303. **DUTY OF CARE**

Section 75.304. **CASH ON HAND**

Section 75.305. **ESTABLISHMENT OF FUND AND ACCOUNTS**

Section 75.306. **INTEREST RATE**

[Sections 75.307-75.400 reserved for expansion]

**“SUBCHAPTER E. MISCELLANEOUS ADMINISTRATIVE PROCEDURES**

Section 75.401. **TRANSFER OF ACCUMULATED CONTRIBUTIONS IN CERTAIN CIRCUMSTANCES**

Section 75.402. **RETIREMENT SYSTEM RECORDS**

Section 75.403. **REPRODUCTION AND PRESERVATION OF RECORDS**

Section 75.404. **BUDGET AND ACTUARIAL INFORMATION**

**“CHAPTER 75. ADMINISTRATION**

**“SUBCHAPTER A. POWERS AND DUTIES**

“Section 75.001. **GENERAL ADMINISTRATION.** (a) The board of trustees of the Employees Retirement System of Texas, as provided by Subchapter A of Chapter 25 of this title, is responsible for the general administration and operation of the retirement system.

“(b) The executive director shall recommend to the board of trustees actuarial and other services required to transact the business of the retirement system.

“(c) Annually, the executive director shall prepare an itemized budget showing the amount required to pay the retirement system’s expenses for the following fiscal year and shall submit the budget to the board of trustees for review and adoption.

*"Section 75.002. RULEMAKING. Subject to the limitations of this subtitle, the board of trustees may adopt rules and provide for forms it considers necessary for the administration of the retirement system.*

*"Section 75.003. ADMINISTERING SYSTEM ASSETS. (a) All assets of the retirement system shall be credited to the trust fund provided by Section 75.305 of this subtitle. The board of trustees shall administer all assets of the retirement system. The board is the trustee of the system's assets.*

*"(b) The board of trustees may acquire, hold, manage, purchase, sell, assign, trade, transfer, and dispose of any security, evidence of debt, or other investment in which the retirement system's assets may be invested.*

*"Section 75.004. DESIGNATION OF AUTHORITY TO SIGN VOUCHERS. The board of trustees shall file with the state comptroller of public accounts a duly attested copy of a board resolution that designates the authorized representatives, as provided by this chapter, who have authority to sign vouchers for payment from the funds administered by the board of trustees.*

*"Section 75.005. ADOPTING TABLES AND RATES. The board of trustees by rule shall adopt interest rates and mortality, service, and other tables the board considers necessary for the retirement system after considering the results of the actuary's investigation of the mortality, service, and compensation experience of the system's members and beneficiaries.*

*"Section 75.006. RECORDS OF BOARD OF TRUSTEES. The board shall keep a record of all of its proceedings. Records of the board are open to public inspection.*

*"Section 75.007. REPORT. Annually, the retirement system shall publish a report containing the following information:*

*"(1) the retirement system's fiscal transactions of the preceding fiscal year;*

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

*"(3) the balance sheet showing the financial condition of the system for the preceding fiscal year.*

*"Section 75.008. CORRECTION OF ERRORS. If an error in the records of the retirement system results in a person receiving more or less money than the person is entitled to receive under this subtitle, the retirement system shall correct the error and so far as practicable shall adjust future payments so that the actuarial equivalent of the benefit to which the person is entitled is paid.*

*"Section 75.009. CHANGE BY GOVERNOR'S EXECUTIVE ORDER. (a) Except as provided by Subsection (b) of this section, the governor by executive order may alter or suspend a provision of this subtitle or impose a new provision applicable to the retirement system on a subject included in this subtitle if the governor finds that the change is necessary to protect tax qualification of the retirement system under Section 401(a), federal Internal Revenue Code.*

*"(b) The governor may not take any action under this section that makes necessary additional contributions to the retirement system by the state or members of the system.*

*"(c) The governor's findings, including a brief description of the reason for the findings, must be included in the text of an order issued under this section.*

*"(d) An executive order issued under this section expires on the September 1 that follows the next regular session of the legislature that begins after the date the order is issued, unless an earlier date is specified in the order or unless the governor rescinds the order before that time.*

*"[Sections 75.010-75.100 reserved for expansion]*

#### **"SUBCHAPTER B. COLLECTION OF MEMBERSHIP FEES AND CONTRIBUTIONS; APPROPRIATIONS**

*"Section 75.101. COLLECTION OF MEMBERSHIP FEES. (a) Each member annually shall pay a membership fee of \$10. A contributing member shall pay the fee with the member's first contribution to the retirement system in each fiscal year in the manner provided by Section 75.102 or 75.104 of this subtitle for payment of the member's contributions to the retirement system.*

*"(b) If the membership fee is not paid with the member's first contribution of the year to the retirement system, the board of trustees may deduct the amount of the fee from that contribution or from any benefit to which the member becomes entitled.*

*"(c) If the legislature appropriates, on behalf of each contributing member for any fiscal year, a membership fee in an amount equal to or greater than the membership fee required by Subsection (a) of this section, the members are not required to pay the membership fee for that year.*

*"(d) The retirement system shall deposit membership fees in an account to be used for defraying costs of administering the retirement system.*

*"Section 75.102. COLLECTION OF MEMBER CONTRIBUTIONS. (a) Each payroll period, a judicial officer who is a member of the retirement system is required to contribute six percent of the officer's state compensation for the period to the retirement system.*

“(b) The payroll officer responsible for paying the state compensation of a member of the retirement system required by this section to make a contribution shall:

“(1) make the required deductions from the member’s state compensation;

“(2) certify to the board of trustees the amounts deducted from the member’s state compensation;

“(3) transmit monthly, or at the time designated by the board of trustees, a certified copy of the payroll or report to the retirement system; and

“(4) pay the deducted amounts to the retirement system for deposit in the trust fund of the system.

“(c) To facilitate the making of deductions, the board of trustees may modify a member’s required deductions by an amount that does not exceed one-tenth of one percent of the annual compensation on which the deductions are made.

“(d) The retirement system shall record all receipts of member contributions and shall credit the receipts to the appropriate account.

“(e) The deductions required by this section shall be made even if the member’s state compensation is reduced below the amount equal to the minimum compensation provided by law.

“(f) By becoming a member of the retirement system, a member consents to the deductions required by this section. The payment of state compensation less those deductions is a complete release of all claims, except benefits provided by this subtitle, for services rendered by the member during the payment period.

“Section 75.103. **COLLECTION OF STATE CONTRIBUTIONS.** (a) During each fiscal year, the state shall contribute to the retirement system an amount equal to a percentage of the aggregate state compensation of all contributing members of the retirement system for that year, as provided by Subdivision (1) of Subsection (b) of this section.

“(b) Before November 2 of each even-numbered year, the retirement system shall certify to the legislative budget board and to the budget division of the governor’s office for review:

“(1) an actuarial valuation of the retirement system to determine the percentage of annual payroll required from the state to finance fully the retirement system without any unfunded liability;

“(2) an estimate of the amount necessary to pay the state’s contribution under Subdivision (1) of this subsection for the following biennium; and

“(3) as a separate item, an estimate of the amount, in addition to anticipated receipts from membership fees, required to administer the retirement system for the following biennium.

“(c) The amount certified under Subdivision 2 of Subsection (b) of this section shall be included in the budget of the state that the governor submits to the legislature. The legislature may appropriate money to pay administrative costs of the retirement system.

“(d) Before September 1 of each year, the retirement system shall certify to the state comptroller of public accounts and to the State Treasurer an estimate of the amount necessary to pay the state’s contribution under Subsection (a) of this section for the following fiscal year.

“(e) All money allocated and appropriated by the state to the retirement system for benefits provided by the retirement system shall be paid, based on the annual estimate of the retirement system, in monthly installments to the retirement system. The money required for state contributions shall be from money appropriated to pay the compensation of the member for whose benefit the contribution or fee is paid. If the total of the estimated required payments is not equal to the total of the actual payments required for a fiscal year, the retirement system shall certify to the state comptroller of public accounts and the State Treasurer at the end of that year the amount required for necessary adjustments, and the State Treasurer shall make the required adjustments.

“Section 75.104. **COLLECTION OF CONTRIBUTIONS FOR SENIOR DISTRICT COURT JUDGES.** Contributions for members appointed under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon’s Texas Civil Statutes), are as provided by Subsections (d) and (f) of Section 9 of that Act.

“[Sections 75.105-75.200 reserved for expansion]

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

“Section 75.201. **LEGAL ADVISER.** The attorney general of the state is the legal adviser of the board of trustees. The attorney general shall represent the board in all litigation.

“Section 75.202. **MEDICAL BOARD.** (a) The board of trustees shall designate a medical board composed of three physicians.

“(b) To be eligible to serve as a member of the medical board, a physician must be licensed to practice medicine in the state and be of good standing in the medical profession. A physician who is eligible to participate in the retirement system may not be a member of the medical board.

“(c) The medical board shall report in writing to the chief justice of the supreme court its conclusions and recommendations on all matters referred to it.

“Section 75.203. **OTHER PHYSICIANS.** The board of trustees may employ physicians in addition to the medical board to report on special cases.

“Section 75.204. **ACTUARY.** (a) The board of trustees shall designate an actuary.

“(b) An actuary employed under this section must be a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the federal Employee Retirement Income Security Act of 1974.

“(c) At least once every five years the actuary, under the direction of the board of trustees, shall make an actuarial investigation of the mortality, service, and compensation experience of the members and beneficiaries of the retirement system.

“(d) On the basis of tables adopted by the board of trustees under Section 75.005 of this subtitle, the actuary shall make a valuation of the assets and liabilities of the retirement system's funds annually.

“(e) The actuary shall perform such other duties as are required by the board of trustees.

“Section 75.205. **FINANCIAL AND INVESTMENT SERVICES.** The board of trustees may employ persons, either as full-time employees or as independent contractors, to assist the board in investing assets of the retirement system, in evaluating investments or investment services, or in otherwise managing financial operations of the retirement system.

“Section 75.206. **STATE TREASURER.** (a) The State Treasurer is the custodian of the securities, bonds, and funds of the retirement system.

“(b) The State Treasurer shall pay money from the trust fund of the retirement system on warrants drawn by the state comptroller of public accounts supported on vouchers signed by the executive director and the chairman of the board of trustees or their authorized representatives.

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

“Section 75.207. **COMPENSATION OF EMPLOYEES; PAYMENT OF EXPENSES.** (a) The board of trustees shall compensate all persons whom it employs and shall pay all expenses necessary to operate the retirement system at rates and in amounts approved by the board. Those rates and amounts may not exceed those paid for the same or similar service for the state.

“(b) The board of trustees shall pay compensation and expenses required by Subsection (a) of this section from an appropriate account of the retirement system.

“Section 75.208. **SURETY BONDS.** (a) The State Treasurer shall give a surety bond in the amount of \$50,000.

“(b) The executive director shall give a surety bond in an amount, determined by the board of trustees, of not less than \$25,000.

“(c) The board of trustees may require any trustee or employee of the board to give a surety bond in an amount determined by the board. The bond is conditioned on the bonded person's faithful execution of the duties of the person's office.

“(d) All surety bonds must be:

“(1) made with a commercially sound and solvent surety company that is authorized to do business in the state;

“(2) made payable to the board of trustees; and

“(3) approved by the board of trustees and the attorney general of the state.

“(e) The board of trustees shall pay from an appropriate account all expenses for the execution of a bond under this section, including premiums.

“Section 75.209. **INTEREST IN INVESTMENT PROFITS PROHIBITED.** Except for an interest in retirement funds as a member of the retirement system, a trustee or employee of the board of trustees may not have a direct or indirect interest in the gains or profits of any investment made by the board and may not receive any pay or emolument for services other than his or her designated compensation and authorized expenses.

“[Sections 75.210-75.300 reserved for expansion]

#### “SUBCHAPTER D. MANAGEMENT OF ASSETS

“Section 75.301. **INVESTMENT OF ASSETS.** (a) Except as provided by Section 75.302 of this subtitle, the board of trustees may invest and reinvest the retirement system's assets, under the standard of care provided by Section 75.303 of this subtitle, in the following:

“(1) bonds, notes, or other evidences of indebtedness, whether general or specific obligations, whose principal and interest are guaranteed by the United States, an agency of the United States, the state, or any political subdivision of the state;

“(2) equipment and other property that is used in administering the retirement system;

“(3) corporate bonds, corporate notes, and other evidences of indebtedness of a corporation if the corporation was created or exists under the laws of a state or the United States; and

“(4) common and preferred stocks of companies incorporated within the United States that have paid cash dividends for 10 consecutive years immediately before the date of purchase and, unless the stocks are bank or insurance stocks, that are listed on an exchange registered with the Securities and Exchange Commission or its successor.

“(b) The board of trustees shall:

“(1) invest the assets of the retirement system as a single fund without distinction as to their source; and

“(2) hold securities purchased with the assets collectively for the proportionate benefit of all accounts of the system established under Subsection (b) of Section 75.305 of this subtitle.

“Section 75.302. **RESTRICTIONS ON INVESTMENTS.** (a) The board of trustees may not invest in the stock of one corporation more than one percent of the book value of the total assets of the retirement system.

“(b) The retirement system may not own more than five percent of the voting stock of one corporation.

“(c) At any particular time, 25 percent or more of the book value of the assets of the retirement system must be invested in government securities described by Subdivision (1) of Subsection (a) of Section 75.301 of this subtitle.

“Section 75.303. **DUTY OF CARE.** In making investments for the retirement system, the board of trustees shall exercise the judgment and care, under the circumstances prevailing at the time of the investment, that persons of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs, not in speculation but when making a permanent disposition of their funds, considering the probable income from the disposition and the probable safety of their capital.

“Section 75.304. **CASH ON HAND.** (a) The board of trustees shall keep a sufficient amount of cash on hand to make payments as they become due each year under the retirement system.

“(b) The amount of cash on hand may not exceed 10 percent of the total amount in the funds of the retirement system on deposit with the State Treasurer.

“Section 75.305. **ESTABLISHMENT OF FUND AND ACCOUNTS.** (a) A trust fund for the Judicial Retirement System of Texas Plan Two is established in the State Treasury.

“(b) The board of trustees may establish such accounts for money in the trust fund of the retirement system as it considers necessary, in addition to members' individual accounts, for the administration of the system. All assets of the retirement system are creditable, according to the purpose for which they are held, to an appropriate account.

“(c) The retirement system may transfer assets from one account to another, except from one member's individual account to another's, to pay benefits and administrative expenses as needed.

“Section 75.306. **INTEREST RATE.** (a) Interest on money in a member's individual account in the retirement system is earned monthly and is computed at the rate of five percent a year on the mean balance of the member's account for the fiscal year.

“(b) Unless an account is closed before the last day of the fiscal year, interest is computed for the fiscal year and is credited to the member's account as of the last day of the fiscal year.

“(c) If an account is closed before the last day of the fiscal year, interest is computed for the following period:

“(1) if the account is closed because of death, from the first day of the fiscal year through the last day of the month that preceded the month in which the member's death occurred;

“(2) if the account is closed by withdrawal of accumulated contributions, from the first day of the fiscal year through the last day of the month that precedes the month in which the withdrawal request is validated by the retirement system; or

“(3) if the account is closed because of retirement, from the first day of the fiscal year through the effective date of retirement.

“[Sections 75.307-75.400 reserved for expansion]

#### “SUBCHAPTER E. MISCELLANEOUS ADMINISTRATIVE PROCEDURES

“Section 75.401. **TRANSFER OF ACCUMULATED CONTRIBUTIONS IN CERTAIN CIRCUMSTANCES.** (a) Except as provided by Subsection (b) of this section, if a valid application for payment based on money or credit in a member's individual account in the retirement system is not filed with the retirement system before the expiration of five years after the last day of the most recent month of service for which the member has credit in the retirement system, the retirement system shall mail a notice to the member at the member's most recent address as shown on system records. If no address is available or if the notice is returned unclaimed, the retirement system shall cause a notice to be published in a newspaper of general circulation in the state.

“(b) This section does not apply to an account of a member who has enough service credit in the retirement system to enable the member to retire at an attained age.

“(c) A notice under this section must include the name of the member, the name of the court or commission on which the member most recently acquired service credit, a statement that the member is entitled to a payment of money, and a statement of the procedure for keeping the member's account open or claiming a payment.

“(d) Before the 31st day after the day a notice is mailed or published under this section, whichever is later, an application must be filed with the retirement system:

“(1) by the member, requesting that the account be kept open; or

“(2) by the member or, if the member has died, by any other person entitled to payment based on the member's account, requesting payment based on money or credit in the account.

“(e) If a valid application is made as provided by Subdivision (2) of Subsection (d) of this section, the retirement system shall pay the applicant any benefit to which the applicant is entitled.

“(f) If a valid application is not made as provided by Subsection (d) of this section, the retirement system shall cancel the service credit in the member's account, transfer the accumulated contributions in the account to an appropriate account, and close the member's account.

“(g) Except as provided by Subsection (j) of this section, if a person files with the retirement system a valid application for payment based on a closed account the accumulated contributions of which have been transferred under Subsection (f) of this section, the retirement system shall reopen the member's individual account, reinstate in the account the amount transferred and credit canceled, and pay any benefit to which the applicant is entitled.

“(h) Except as provided by Subsection (j) of this section, if a person whose accumulated contributions have been transferred under Subsection (f) of this section again becomes a member, the retirement system shall reinstate in the member's active individual account in the retirement system the amount transferred and credit canceled.

“(i) Except as provided by Subsection (j) of this section, if a person whose accumulated contributions have been transferred under Subsection (f) of this section would be eligible to receive a benefit from the retirement system under Chapter 13 of this title were the person's account not closed, the person may file with the retirement system an application for retirement, and the retirement system shall reopen the person's account and reinstate the canceled credit for the purpose of allowing the person to retire.

“(j) A payment under Subsection (g) of this section, a reinstatement under Subsection (h) of this section, or a retirement under Subsection (i) of this section precludes action under any other of those subsections.

“(k) If a member makes an application as provided by Subdivision (1) of Subsection (d) of this section, the retirement system, after the fifth anniversary of the date the application was filed, shall reinstitute the process provided by Subsections (a), (c), (d), (e), and (f) of this section if disposition of money and credit in the account has not been made before that time.

“(l) The retirement system may apply the process provided by Subsections (a), (c), (d), (e), and (f) of this section to other money it holds for payment if the system first determines that no claim for the money is likely to be filed.

“Section 75.402. RETIREMENT SYSTEM RECORDS. Records of members and beneficiaries of the retirement system that are in the custody of the system are considered to be personnel records and are required to be treated as confidential information under Subdivision (1) of Subsection (a) of Section 3, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes).

“Section 75.403. REPRODUCTION AND PRESERVATION OF RECORDS. (a) The retirement system may photograph, microphotograph, or film any record in its possession.

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

“(1) places the reproduction in a conveniently accessible file; and

“(2) provides for the preservation, examination, and use of the reproduction.

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

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

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



*“Section 75.404. BUDGET AND ACTUARIAL INFORMATION. The retirement system shall keep, in convenient form, data necessary for actuarial valuation of the funds of the retirement system and for checking the system’s expenses.”*

**SECTION 2.** Subsection (a), Section 12.002, Title 110B, Revised Statutes, is amended to read as follows:

“(a) Except as provided by Subsection (b) of this section, the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas County and District Retirement System, ~~and~~ the Texas Municipal Retirement System, *and the Judicial Retirement System of Texas Plan Two* are exempt from Sections 12.101, 12.102, 12.103(a), 12.103(b), 12.202, 12.203, 12.204, 12.205, 12.206, and 12.207 of this chapter. The Judicial Retirement System of Texas *Plan One* is exempt from all of Subchapters B and C of this chapter except Section 12.105. The optional retirement program governed by Chapter 36 of this title is exempt from all of Subchapters B and C of this chapter except Section 12.106.”

**SECTION 3.** Subdivision (3), Section 13.001, Title 110B, Revised Statutes, is amended to read as follows:

“(3) ‘Statewide retirement system’ means the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Judicial Retirement System of Texas *Plan One*, the *Judicial Retirement System of Texas Plan Two*, the Texas County and District Retirement System, or the Texas Municipal Retirement System.”

**SECTION 4.** Subsection (a), Section 22.002, Title 110B, Revised Statutes, is amended to read as follows:

“(a) Membership in the elected class of the retirement system is limited to:

“(1) persons who hold state offices that are normally filled by statewide election and that are not included in the coverage of the Judicial Retirement System of Texas *Plan One* or the *Judicial Retirement System of Texas Plan Two*;

“(2) members of the legislature; and

“(3) district and criminal district attorneys, to the extent that they receive salaries from the state general revenue fund.”

**SECTION 5.** Subsection (b), Section 22.003, Title 110B, Revised Statutes, is amended to read as follows:

“(b) An office or employment that is included in the coverage of the Teacher Retirement System of Texas, ~~or~~ the Judicial Retirement System of Texas *Plan One*, or the *Judicial Retirement System of Texas Plan Two* is not a position with a department, commission, board, agency, or institution of the state for purposes of this subtitle.”

**SECTION 6.** The title of Subtitle E, Title 110B, Revised Statutes, is amended to read as follows:

#### **SUBTITLE E. JUDICIAL RETIREMENT SYSTEM OF TEXAS *PLAN ONE***

**SECTION 7.** Subdivisions (3) and (5), Section 41.001, Title 110B, Revised Statutes, are amended to read as follows:

“(3) ‘Judicial officer’ means a person who presides over a court or a commission to a court named in Section 42.001 of this subtitle *and who has never been a member of the Judicial Retirement System of Texas Plan Two.*”

“(5) ‘Retirement system’ means the Judicial Retirement System of Texas *Plan One* or, as to periods before September 1, 1985, the *Judicial Retirement System of Texas.*”

**SECTION 8.** Section 41.003, Title 110B, Revised Statutes, is amended to read as follows:

“Section 41.003. **RETIREMENT SYSTEM.** The retirement system is an entity of the state. *The name of the Judicial Retirement System of Texas is changed to the Judicial Retirement System of Texas Plan One, and [is the name by which] all its business shall be transacted and all its property held under that name. Unless the context clearly indicates otherwise, a reference in law to the Judicial Retirement System of Texas is a reference to the Judicial Retirement System of Texas Plan One.*”

**SECTION 9.** Section 42.001, Title 110B, Revised Statutes, is amended to read as follows:

“Section 42.001. **ELIGIBILITY FOR MEMBERSHIP.** (a) *Except as provided by Subsection (b) of this section, membership [Membership] in the retirement system is limited to persons who have never been eligible for membership in the Judicial Retirement System of Texas Plan Two and who, before the date the Judicial Retirement System of Texas Plan Two began operation, became judges, justices, and commissioners of:*

“(1) the supreme court;

- “(2) the court of criminal appeals;
- “(3) courts of appeals;
- “(4) district courts; and
- “(5) commissions to a court specified in this subsection.

“(b) *Except as provided by Section 42.103 of this subtitle, membership in the retirement system includes persons who are appointed under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon’s Texas Civil Statutes), and who have never been members of the Judicial Retirement System of Texas Plan Two. A member appointed under that Act is a judicial officer for purposes of this subtitle.*

“(c) Membership in the retirement system is mandatory for eligible persons.

“(d) [(e)] Membership in the retirement system begins on the first day *an eligible* [a] person holds a judicial office specified in Subsection (a) of this section.”

**SECTION 10.** Section 42.002, Title 110B, Revised Statutes, is amended to read as follows:

“Section 42.002. **MEMBERSHIP FEE.** Each member of the retirement system annually shall pay the system a membership fee of \$10 [§2].”

**SECTION 11.** Section 42.103, Title 110B, Revised Statutes, is amended to read as follows:

“Section 42.103. **INELIGIBILITY FOR MEMBERSHIP.** A retiree who makes an election under *Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon’s Texas Civil Statutes), or who is appointed under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon’s Texas Civil Statutes),* [~~Section 42.101 of this subtitle~~] may not rejoin the retirement system or receive credit in the retirement system for *the period of an appointment or for any service performed under assignment* [~~as provided by Section 42.102 of this subtitle~~].”

**SECTION 12.** Subsection (a), Section 45.101, Title 110B, Revised Statutes, is amended to read as follows:

“(a) Each month the *payroll officer responsible for paying the state compensation of a judicial officer who is a member of the retirement system* [~~comptroller of public accounts~~] shall deduct from the state compensation of *the judicial officer* [~~each member~~] a contribution computed at the rate required of a member of the employee class of the Employees Retirement System of Texas.”

**SECTION 13.** Subchapter B, Chapter 45, Title 110B, Revised Statutes, is amended by adding Section 45.103 to read as follows:

“Section 45.103. **CONTRIBUTIONS FOR SENIOR DISTRICT COURT JUDGES.** *Contributions for members appointed under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon’s Texas Civil Statutes), are as provided by Subsections (d) and (f) of Section 9 of that Act.*”

**SECTION 14.** Subsection (b), Section 52.106, Title 110B, Revised Statutes, is amended to read as follows:

“(b) A person may simultaneously be a member of, and receive credit for service performed during the same period in the retirement system, the federal program providing old age and survivors insurance, and *either the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two.*”

**SECTION 15.** Subdivision (2), Subsection (a), Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon’s Texas Insurance Code), is amended to read as follows:

“(2) ‘Annuitant’ shall mean an officer or employee who retires under:

“(A) the jurisdiction of the Employees Retirement System of Texas and either receives an annuity or is eligible to receive an annuity, pursuant to *Subtitle C, E, or H, or Chapter 13, of Title 110B, Revised Statutes* [~~Chapter 352, Acts of the 50th Legislature, 1947, as amended (Article 6228a, Vernon’s Texas Civil Statutes); Chapter 90, Acts of the 51st Legislature, Regular Session, 1949, as amended (Article 6228b, Vernon’s Texas Civil Statutes); or Chapter 570, Acts of the 65th Legislature, Regular Session, 1977 (Article 6228k, Vernon’s Texas Civil Statutes)~~];

“(B) the jurisdiction of the Teacher Retirement System of Texas and either receives an annuity or is eligible to receive an annuity, pursuant to *Subtitle D, Title 110B, Revised Statutes* [~~Chapter 3, Title 1, Texas Education Code~~], whose last state employment prior to retirement was as an employee of the Teacher Retirement System of Texas, school districts established within state eleemosynary institutions, the Texas Rehabilitation Commission, the Central Education Agency, or the Coordinating Board, Texas College and University System; or

“(C) the optional retirement program established by *Chapter 36, Title 110B, Revised Statutes [Subchapter G, Chapter 51, Texas Education Code, as amended]*, and either receives an annuity or is eligible to receive an annuity under that program, if the person’s last state employment before retirement, including employment by a public community/junior college, was as an officer or employee of the Coordinating Board, Texas College and University System, and if the person either:

“(i) would have been eligible to retire and receive a service retirement annuity from the Teacher Retirement System of Texas had the person not elected to participate in the optional retirement program; or

“(ii) is disabled.”

**SECTION 16.** Paragraph (A), Subdivision (5), Subsection (a), Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon’s Texas Insurance Code), is amended to read as follows:

“(A) ‘Employee’ shall mean any appointive or elective state officer or employee in the service of the State of Texas, except employees of any university, senior or community/junior college, or any other agency of higher education within the meaning and jurisdiction of Chapter 61, Title 3, Texas Education Code:

“(i) who is retired or retires and is an annuitant under the jurisdiction of the Employees Retirement System of Texas, pursuant to *Subtitle C, E, or H, or Chapter 13, of Title 110B, Revised Statutes [Chapter 352, Acts of the 50th Legislature, 1947, as amended (Article 6228a, Vernon’s Texas Civil Statutes); Chapter 99, Acts of the 51st Legislature, Regular Session, 1948, as amended (Article 6228b, Vernon’s Texas Civil Statutes); or Chapter 570, Acts of the 65th Legislature, Regular Session, 1977 (Article 6228k, Vernon’s Texas Civil Statutes)]*, who is retired or retires and is an annuitant under the jurisdiction of the Teacher Retirement System of Texas, pursuant to *Subtitle D, Title 110B, Revised Statutes [Chapter 2, Title 1, Texas Education Code]*, whose last employment with the state prior to retirement was as an employee of the Teacher Retirement System of Texas, school districts established within state eleemosynary institutions, the Texas Rehabilitation Commission, the Central Education Agency, or the Coordinating Board, Texas College and University System, or who is retired or retires and is an annuitant under the optional retirement program established by *Chapter 36, Title 110B, Revised Statutes [Subchapter G, Chapter 51, Texas Education Code, as amended]*, if the person’s last state employment before retirement, including employment by a public community/junior college, was as an officer or employee of the Coordinating Board, Texas College and University System, and if the person either:

“(a) would have been eligible to retire and receive a service retirement annuity from the Teacher Retirement System of Texas had the person not elected to participate in the optional retirement program; or

“(b) is disabled; or

“(ii) who receives his compensation for services rendered to the State of Texas on a warrant issued pursuant to a payroll certified by a department or by an elected or duly appointed officer of this state; or

“(iii) who receives payment for the performance of personal services on a warrant issued pursuant to a payroll certified by a department and drawn by the State Comptroller of Public Accounts upon the State Treasurer against appropriations made by the Texas Legislature from any state funds or against any trust funds held by the State Treasurer or who is paid from funds of an official budget of a state department, rather than from funds of the General Appropriations Act; or

“(iv) who is appointed, subject to confirmation of the senate, as a member of a board or commission with administrative responsibility over a statutory agency having statewide jurisdiction whose employees are covered by this Act.”

**SECTION 17.** (a) Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon’s Texas Civil Statutes), is amended by adding Sections 1a, 4a, 4b, and 4c to read as follows:

“*Section 1a. In this Act, ‘retiree’ means a person who has retired under the Judicial Retirement System of Texas, the Judicial Retirement System of Texas Plan One, or the Judicial Retirement System of Texas Plan Two.*”

“*Section 4a. (a) A retiree may elect to be a judicial officer, unless the person has been involuntarily retired as a result of proceedings authorized by Article V, Section 1-a, of the Texas Constitution.*

“*(b) A retiree may make an election under this section by submitting, before the 91st day after the date of the person’s retirement, written notice of the election to the chief justice of the supreme court.*

"(c) Once a person who is eligible to make an election under this section submits notice of the election, the person may never again appear and plead as an attorney in any court in this state.

"Section 4b. (a) A retiree who makes an election under Section 4a of this Act is, with the retiree's consent to each assignment, subject to assignment:

"(1) by the chief justice of the supreme court to sit on any court of the state of the same or lesser dignity as that on which the person sat before retirement;

"(2) by the presiding judge of the court of criminal appeals to sit as a commissioner of that court; and

"(3) by the presiding judge of an administrative judicial district to sit on a court in that administrative district or, on request of the presiding judge of another administrative judicial district, on a court in that other administrative district, if in either circumstance the court is of the same or lesser dignity as that on which the person sat before retirement.

"(b) Assignment of a retiree to sit on a district court is subject to the requirements for judicial assignments contained in Sections 5 and 5a of this Act.

"(c) While serving under assignment as provided by this section, a retiree has all powers of a judge of the court to which the retiree has been assigned.

"(d) While serving under assignment as provided by this section, a retiree is entitled to be paid a retirement allowance as provided by Section 5a of this Act.

"(e) A retirement allowance may not be considered for any purpose as a salary or remuneration for the assignment or service.

"Section 4c. (a) The State Commission on Judicial Conduct shall certify to the chief justice of the supreme court the name of each person who was judge of a court described in Subsection (a), Section 42.001, Title 110B, Revised Statutes, and who has been involuntarily retired or removed from office or who resigned from office at a time when an investigation by the commission of the person's judicial conduct was pending, in progress, or on appeal. Information certified under this subsection is confidential, except as to persons entitled under this section to receive the information and except as provided by Article V, Section 1-a, of the Texas Constitution.

"(b) The secretary of state shall certify to the chief justice of the supreme court the name of each district judge who is defeated for reelection or whose court is abolished by the legislature.

"(c) The chief justice of the supreme court shall make the information certified under this section and the name of each eligible person who makes an election under Section 4a of this Act available to all persons responsible for making judicial assignments under this Act. A presiding judge shall make the name of each eligible former judge who certifies to the presiding judge a willingness to be assigned available to all persons responsible for making judicial assignments under this Act."

(b) Sections 42.101, 42.102, 42.104, and 44.005, Title 110B, Revised Statutes, are repealed.

**SECTION 18.** Sections 5a and 5b, Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon's Texas Civil Statutes), are amended to read as follows:

"Section 5a. Persons who were [~~Retired~~] district judges, who are retirees of the Judicial Retirement System of Texas, the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two, and~~;~~ ~~as defined by Article 6228(b) of the Revised Civil Statutes of Texas, as amended,~~ who have made an election under Section 4a of this Act; ~~[consented to be subject to assignment,]~~ all regular district judges in this state; ~~;~~ and all former district judges who were elected at a general election or appointed by the governor, ~~;~~ who have not been defeated for reelection, ~~;~~ who have not been removed from office by impeachment, the Supreme Court, the governor upon address of the legislature, the State ~~[Judicial Qualifications]~~ Commission on Judicial Conduct, or by the legislature's abolishment of the judge's court, who have not resigned at a time when an investigation by the State Commission on Judicial Conduct of their judicial conduct was pending, in progress, or on appeal, ~~;~~ who are not more than 70 years of age; ~~;~~ and who certify to the presiding judge a willingness to serve ~~[and to comply with the same prohibitions relating to the practice of law that are imposed on a retired judge by Section 7, Article 6228(b) of the Revised Civil Statutes of Texas, 1925, as amended or hereafter amended],~~ may be assigned under the provisions of this Act by the presiding judge of the administrative judicial district wherein such assigned judge resides, and while so assigned, shall have all the powers of a judge thereof. Before assigning a former district judge, a presiding judge shall ascertain the former judge's age. Once a former district judge certifies under this section a willingness to serve as an assigned judge, the person may never again appear and plead as an attorney in any court in this state. When a person is assigned under this section ~~[such district judge is so assigned]~~ by the presiding judge of an administrative judicial district to a court in the same administrative district, or to a court in another administrative district upon call of the presiding judge of such other administrative district and then reassigned as provided for in Section 6 of this Act, as amended, it shall be the

duty of such judge so assigned or reassigned to serve in such court or administrative district to which he may be assigned, or reassigned unless for good cause presented by him in writing to the presiding judge of his administrative district, he shall be relieved of such assignment by such presiding judge; provided, however, after the presentation of a written statement declining such duty for good cause by such district judge, if the presiding judge refuses to relieve the district judge from the assignment, the district judge may, within five days after such refusal, petition the Chief Justice of the Supreme Court of the State of Texas to be relieved from such assignment for good cause, which said Chief Justice may at his discretion grant or refuse.

"The compensation, salaries and expenses of such judges while so assigned or reassigned shall be paid in accordance with the laws of the state, except that the salary of such retired judges shall be paid out of moneys appropriated from the General Revenue Fund for such purpose in an amount representing the difference between all of the retirement benefits of such judge as a retired district judge and the salary and compensation from all sources of the judge of the court wherein he is assigned, and determined pro-rata for the period of time he actually sits as such assigned judge. On certification of the presiding judge of the administrative judicial district that a former district judge has rendered services under the provisions of this Act, the former district judge shall be paid, out of county funds and out of money appropriated by the legislature for such purpose, for services actually performed, the same amount of compensation, salary, and expenses that the regular judge is entitled to receive from the county and from the state for such services.

"Section 5b. A person who was a ~~retired~~ district judge and who is a retiree of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two; ~~as defined by Chapter 90, Acts of the 51st Legislature, Regular Session, 1940, as amended (Article 6228b, Vernon's Texas Civil Statutes);~~ may be assigned by the presiding judge of the administrative judicial district wherein the assigned judge resides to a domestic relations or juvenile court within the geographic limits of the respective administrative judicial district. A presiding judge may, with the consent of a retired district judge within his district, make an assignment outside of his judicial district with the specific authorization of the presiding judge of the district in which that assignment is made. The assignment shall be governed by all other provisions of this Act, except that the county wherein the domestic relations or juvenile court is located shall pay the salary stipulated in Section 5a of this Act."

**SECTION 19.** Section 2, Chapter 376, Acts of the 62nd Legislature, Regular Session, 1971 (Article 200b, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2. In any county coming within the purview of Section 1 of this Act, any judge of a court having any district court jurisdiction may hear and determine any matter pending in any other of the courts having any district court jurisdiction, whether the matter is preliminary or final or after judgment in the matter. The judge may sign any judgment or order in any of the courts, with or without having the case transferred. Any such judgment, order, or action shall be valid and binding to the same extent as if the case were pending in the court of the judge so acting. This authority extends to any active or retired judge assigned to any of the courts having any district court jurisdiction under the provisions of Chapter 156, Acts of the 40th Legislature, Regular Session, 1927, as amended (Article 200a, Vernon's Texas Civil Statutes); ~~or under the provisions of Chapter 90, Acts of the 51st Legislature, Regular Session, 1940, as amended (Article 6228b, Vernon's Texas Civil Statutes).~~"

**SECTION 20.** Section 3, Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), is amended by amending Subsection (c) and adding Subsection (e) to read as follows:

"(c) To be eligible for appointment, an applicant must not have been removed from office by impeachment, the supreme court, or the governor on address by the legislature, *must not have been removed from office or involuntarily retired by* ~~or~~ the State Commission on Judicial Conduct or the supreme court, and must not have resigned from office at a time when an investigation by the State Commission on Judicial Conduct of the applicant's judicial conduct was pending, in progress, or on appeal."

"(e) The State Commission on Judicial Conduct shall certify to the presiding judge of the First Administrative Judicial District the name of each person who was judge of a district court and who has been involuntarily retired or removed from office or who resigned from office at a time when an investigation by the commission of the person's judicial conduct was pending, in progress, or on appeal. Information certified under this subsection is confidential, except as to persons entitled under this subsection to receive the information and except as provided by Article V, Section 1-a, of the Texas Constitution."

**SECTION 21.** Subsection (b), Section 4, Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), is amended to read as follows:

“(b) A senior district court judge who is not a retiree of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two and who is appointed [~~and confirmed~~] under this Act may not, during the term of appointment, appear and plead as an attorney in any court in this state. When a person who is a retiree of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two is appointed under this Act, the person becomes ineligible to appear and plead as an attorney in any court in this state. On confirmation of a retiree's appointment under this Act, the restriction on the retiree's practice of law becomes permanent. If a retiree's appointment is not confirmed, the restriction ends.”

SECTION 22. Subsection (b), Section 6, Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), is amended to read as follows:

“(b) A senior district court judge appointed under this Act who is a retiree of the Judicial Retirement System of Texas Plan One, the Judicial Retirement System of Texas Plan Two, or the Texas County and District Retirement System is entitled to compensation, salary, and expenses from the general revenue fund of Dallas County in an amount equal to the amount computed under Subsection (a) of this section less the amount of any annuity the judge receives during the same period from either or both of the retirement systems.”

SECTION 23. Subsections (a), (b), and (d), Section 9, Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), are amended to read as follows:

“(a) A senior district court judge appointed under this Act who is a retiree of the Judicial Retirement System of Texas Plan One, the Judicial Retirement System of Texas Plan Two, or the Texas County and District Retirement System is entitled to receive retirement benefits otherwise payable during the period an appointment is in effect but may not resume membership or receive credit in any of those retirement systems from which the judge has retired.

“(b) A senior district court judge appointed under this Act who is not a retiree of the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two retains or resumes membership in the appropriate retirement system and accrues service credit in that retirement system for each month the appointment is in effect.”

“(d) Before the 16th day of each month, the custodian of county funds of Dallas County shall pay or cause to be paid to the Judicial Retirement System of Texas Plan One and the Judicial Retirement System of Texas Plan Two at each respective [the] system's office:

“(1) a contribution deducted from the compensation of each senior district court judge at the rate required of other members of the appropriate retirement system for current service and based on the state salary paid to elected district judges during that period; and

“(2) a contribution from the county general revenue fund for each senior district court judge at the effective rate of state contributions to the appropriate retirement system, determined, respectively, by the Judicial Retirement System of Texas Plan One and the Judicial Retirement System of Texas Plan Two as a monthly percentage of the salary that would be paid by the state if the judge were an elected district judge that is based on the ratio of legislative appropriations to finance benefits payable from the appropriate system to the state salaries payable to contributing members of the system for the period.”

SECTION 24. Subsection (d), Section 3, Chapter 475, Acts of the 64th Legislature, 1975, as amended (Article 1933a, Vernon's Texas Civil Statutes), is amended to read as follows:

“(d) A retired judge appointed under this section shall be a former judge who, prior to the appointment, has served at least eight years as the county judge of a county in this state or who has served as a district judge of this state[;] and [who has] qualified for service retirement under the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two [the judicial retirement system].”

SECTION 25. Section 4, Chapter 552, Acts of the 64th Legislature, 1975, as amended (Article 2338-1c, Vernon's Texas Civil Statutes), is amended to read as follows:

“Section 4. A retired judge appointed to sit for the regular judge under the provisions of this Act shall receive for the services actually performed the same amount of salary which the regular judge is entitled to receive for such services. The amount to be paid for such services shall be paid in the same manner as the regular judge is paid on certification by the presiding judge of the administrative judicial district that the retired judge has rendered the services and is entitled to receive the salary. Such payment shall be made from the item in the judiciary section, comptrollers department, of the appropriations act providing for payment of salaries of district judges and criminal district judges. This Act does not entitle the retired judge of a special juvenile court or a domestic relations court to participate in the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two [~~state Judicial Retirement System~~]. No part of the amount paid to a retired judge sitting for the regular judge shall be deducted or paid out of the salary of the regular judge.”

**SECTION 26.** Section 1, Chapter 217, Acts of the 61st Legislature, Regular Session, 1969, as amended (Article 6252-8a, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 1. 'Employee' as used in this Act means any appointed officer or employee in a department of the State who is employed on a basis or a position normally requiring not less than 900 hours per year, but shall not include members of the Legislature or any incumbent of an office normally filled by vote of the people; nor persons on piecework basis; nor operators of equipment or drivers of teams whose wages are included in rental rate paid the owners of said equipment or team; nor any person who is covered by the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two [the State of Texas]; nor any person who is covered by the Teacher Retirement System of Texas, except persons employed by the Teacher Retirement System, the Central Education Agency, the Texas Rehabilitation Commission, and classified, administrative, and professional staff members employed by a State institution of higher education who have accumulated vacation or sick leave, or both, during such employment."

**SECTION 27.** A person who, before the effective date of this Act, elected under Section 42.101, Title 110B, Revised Statutes, or a predecessor statute, to be a judicial officer, or certified a willingness to serve as an assigned judge under Section 5a, Chapter 156, Acts of the 40th Legislature, Regular Session, 1927 (Article 200a, Vernon's Texas Civil Statutes), or under Chapter 578, Acts of the 68th Legislature, Regular Session, 1983 (Article 200c, Vernon's Texas Civil Statutes), may rescind the election or certification by submitting, before the 91st day after the effective date of this Act, a written notice to that effect to the officer to whom the original election or certification was made.

**SECTION 28.** (a) Except as provided by Subsection (b) of this section, this Act takes effect on the later of:

(1) September 1, 1985; or

(2) the first day of the calendar month following the month in which the executive director of the Employees Retirement System of Texas files with the secretary of state a certification stating that the United States Internal Revenue Service has issued a determination letter that the Judicial Retirement System of Texas Plan Two, as established by this Act, is a qualified retirement plan under Section 401(a), federal Internal Revenue Code.

(b) If the executive director of the Employees Retirement System of Texas files with the secretary of state a certification either stating the executive director's finding that the United States Internal Revenue Service is highly unlikely to issue a determination letter that the Judicial Retirement System of Texas Plan Two, as established by this Act, is a qualified retirement plan under Section 401(a), federal Internal Revenue Code, or stating that the United States Internal Revenue Service has declined to issue a determination letter that the Judicial Retirement System of Texas Plan Two is qualified under Section 401(a), federal Internal Revenue Code, this Act has no effect.

(c) The secretary of state shall publish a certification filed under this section in the Texas Register.

**SECTION 29.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on February 12, 1985, by a viva-voce vote; May 25, 1985, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 26, 1985, House granted request of the Senate; May 27, 1985, Senate adopted Conference Committee Report by a viva-voce vote; passed the House, with amendments, on May 25, 1985, by a non-record vote; May 26, 1985, House granted request of the Senate for appointment of Conference Committee; May 27, 1985, House adopted Conference Committee Report by a non-record vote.

Approved: June 14, 1985

Effective: September 1, 1985