

## CHAPTER 491

## S.B. No. 546

An Act relating to membership, credits, contributions, and benefits in the Texas County and District Retirement System and the participation of political subdivisions and management of funds; amending the following sections and subsections, Subtitle F, Title 110B, Revised Statutes: Sections 52.001; 52.101(b); 52.110; 53.003(d); 53.105(c); 53.403(c); 53.601(e); 53.702(d); 53.703(a); 54.002(c); 54.201(a); 54.201(d); 54.205; 54.206; 54.303(b); 55.307(a); 55.313(a); 55.313(b); 55.402(c); and 55.404; and adding the following sections and subsections to Subtitle F: Section 51.007, providing for reduction of annuity payments on request; Section 51.008, allowing certain representatives of members annuitants to apply for and be paid benefits due the member or annuitant; Section 51.009, protecting the system and its officials in making benefit payments; Subsection (c), Section 52.004, prescribing the priorities and allocations in payment of benefits undertaken by subdivisions that are abolished or that discontinue enrollment of new employees in the system; Section 53.203, authorizing agreements for adjustment between participating subdivisions of certain obligations to fund benefits for persons successively employed by the subdivisions; Section 54.107, allowing an additional optional benefit to be selected by members entitled to make a deferred retirement benefit selection; Section 54.207, authorizing participating subdivisions to adopt a plan allowing members to qualify for certain benefits on the basis of credited service as 1 set out in the section; Subsection (f), Section 54.502, allowing additional time and manner of proving a member's entitlement to extended supplemental death benefit coverage; Subsection (i), Section 55.403, providing that each participating subdivision shall 'pick up' on the terms and conditions stated, the contributions required to be made by each member by Section 55.402; and adding Subchapter G, authorizing a participating subdivision on the terms and conditions prescribed to make additional subdivision contributions to fund obligations undertaken under Subtitle F, or to reduce multiple matching credits of its members, or to both increase such contributions and reduce such credits.

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

**SECTION 1.** Subchapter A, Chapter 51, Subtitle F, Title 110B, Revised Statutes, as amended, is amended by adding a new Section 51.007 to read as follows:

*"Section 51.007. REDUCTION OF ANNUITY PAYMENTS ON REQUEST. (a) An annuitant by written request may authorize the retirement system to reduce the annuitant's monthly payment to an amount specified in the request. In writing, the annuitant may subsequently request the retirement system to increase the annuitant's monthly payment to any specified amount that does not exceed the amount payable if a reduction had never been requested.*

*"(b) If the retirement system receives a request under Subsection (a) of this section, the director may cause the monthly annuity payment of the requesting annuitant to be reduced or increased as specified in the request.*

*"(c) Any amounts by which an annuity is reduced under this section are forfeited to the retirement system and are not recoverable by any person."*

**SECTION 2.** Subchapter A, Chapter 51, Subtitle F, Title 110B, Revised Statutes, as amended, is amended by adding a new Section 51.008 to read as follows:

*"Section 51.008. APPLICATIONS BY, AND PAYMENTS TO, PERSONS OTHER THAN THE MEMBER. (a) The board of trustees may accept an application for any benefit under this subtitle which is signed on behalf of the member by (1) a duly appointed guardian of the person and estate of the member or (2) a person authorized to act in behalf of the member by a written power of attorney that provides that the power is not revoked by disability of the member, except that such an attorney in fact may not select a benefit in which the attorney in fact is a named beneficiary, unless the attorney in fact is the spouse of the member.*

*"(b) If it be made to appear to the director by affidavit of a duly licensed physician that a member is not mentally capable of managing his or her own affairs and if it is further established to the satisfaction of the director that the estate of the member is insufficient to justify the expense of guardianship, the director may make payment of any annuity or other benefit:*

*"(1) to the spouse of the member, as trustee for the member; or*

*"(2) if there be no spouse, to a person actually providing for the needs of and caring for the member, as trustee for the member. The director may require proof of such facts by evidence satisfactory to him."*

**SECTION 3.** Subchapter A, Chapter 51, Subtitle F, Title 110B, Revised Statutes, as amended, is amended by adding a new Section 51.009 to read as follows:

*"Section 51.009. DIVORCE-DECREE PAYMENTS PROTECTED. The system and officials of the system shall not be liable to any person for making payments of any benefits in accordance with the provisions of a decree of divorce in a cause in which the member or annuitant was a party."*

**SECTION 4.** Section 52.001, Subtitle F, Title 110B, Revised Statutes, as amended, is amended to read as follows:

*"Section 52.001. SUBDIVISION PARTICIPATION. (a) A subdivision, in the manner required for official actions of the subdivision, may elect to join the retirement system and be subject to the provisions of this subtitle.*

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

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

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

**SECTION 5.** Section 52.004, Subtitle F, Title 110B, Revised Statutes, as amended, is amended by adding a new Subsection (c) to read as follows:

*"(c) If a participating subdivision is abolished so that it no longer contributes to the system and no other participating subdivision has assumed funding of the obligations or if a participating subdivision elects to discontinue enrollment in the system of nonmembers whose employment begins after the date of an election to discontinue, the assets in that subdivision's account in the subdivision accumulation fund shall be allocated under the following priorities, with the details of the allocation to be prescribed by the board of trustees:*

*"(1) First priority shall be given to current service credit of all members who leave their contributions in the system. Service retirement will be allowed at age 60 regardless of length of credited service. If the ratio of the sum of the available tangible assets and the actuarial present value of future subdivision contributions in excess of normal costs, if any, to the actuarial present value of current service credits is less than 1.00, then the credits will have to be proportionally reduced. The ratio will be redetermined annually and adjustments made as needed.*

*"(2) Second priority shall be given to prior service credit, prior service annuities, multiple matching credit, and multiple matching annuities, without differentiation. If the ratio of the sum of the available tangible assets for this priority group and the available actuarial present value of future subdivision contributions in excess of normal costs, if any, to the actuarial present value of benefits is less than 1.00, then the annuities and credits will have to all be proportionally reduced. The ratio will be redetermined annually and adjustments made as needed."*

**SECTION 6.** Subsection (b), Section 52.101, Title 110B, Revised Statutes, as amended, is amended to read as follows:

*"(b) A person to whom Subsection (a)(1) of this section applies becomes a member of the retirement system on the date the subdivision's participation becomes effective, and a person to whom Subsection (a)(2) of this section applies becomes a member of the retirement system on the first day [of the first full month] of the person's employment. A person who heretofore became a member pursuant to Subsection (a)(2) of this section on the first day of the month subsequent to the month of employment and who did not receive credit for the initial month of employment may obtain credit for the month preceding the date of membership by depositing with the system for credit to his or her individual account the amount that would have been deducted as the member contribution had the person become a member on the date of employment."*

**SECTION 7.** Section 52.110, Title 110B, Revised Statutes, as amended, is amended to read as follows:

*"Section 52.110. RESUMPTION OF SERVICE BY RETIREE. A person who has retired under this subtitle because of service may not rejoin the retirement system or earn additional retirement benefits by reason of subsequent employment [~~resume or continue service with a participating subdivision~~]."*

**SECTION 8.** Subsection (d), Section 53.003, Title 110B, Revised Statutes, as amended, is amended to read as follows:

*"(d) A governing body may not make an order under Subsection (a) of this section unless the actuary first determines that reestablishment of forfeited credit service would not impair the*

ability of the subdivision to pay all obligations charged against its account in the subdivision accumulation fund before the later of:

“(1) the 30th anniversary of its effective date of participation; or

“(2) the 30th anniversary of the date of the valuation that is the basis of the subdivision’s latest increase in benefits or coverage in accordance with Section 54.201 or Section 54.207 of this subtitle [:

~~“(1) to meet all present and prospective liabilities of the subdivision’s account in the subdivision accumulation fund; and~~

~~“(2) to provide for payment of all basic and supplemental annuities derived from credits granted by the subdivision].”~~

**SECTION 9.** Subchapter C, Chapter 53, Subtitle F, Title 110B, Revised Statutes, as amended, is amended by adding a new Section 53.203 to read as follows:

“Section 53.203. **ADJUSTMENT OF OBLIGATIONS BETWEEN SUCCESSIVE EMPLOYERS.** *The governing body of a subdivision, which has taken over the facilities of a hospital, utility, or other public facility theretofore operated by another participating subdivision, may assume in whole or in part the obligations which the former employer had undertaken under this subtitle by reason of service performed by members of the system who become employees of the subdivision seeking to participate in the system. A subdivision now participating in the system, which could have assumed the obligations of another subdivision had this section been in effect at time of participation, may assume in whole or in part the obligations which the subdivision which was the first employer had undertaken by reason of service rendered by members who became employees of the subdivision which is the second employer. Assumptions under this section shall be by written agreement between the affected subdivisions and shall be subject to approval of the board of trustees.*”

**SECTION 10.** Subsection (c), Section 53.105, Title 110B, Revised Statutes, as amended, is amended to read as follows:

“(c) The allocated prior service credit is the percentage of the maximum prior service credit granted by the subdivision to all members who performed prior service for the subdivision. The total allocated prior service credits for members claiming prior service with the subdivision may not exceed an amount for which the prospective subdivision contributions to the retirement system will be adequate to amortize, before the 30th [25th] anniversary of the effective date of subdivision participation in the retirement system:

“(1) all obligations charged to its account in the subdivision accumulation fund; and

“(2) all basic and supplemental annuities derived from credits granted by the subdivision.”

**SECTION 11.** Subsection (c), Section 53.403, Title 110B, Revised Statutes, as amended, is amended to read as follows:

“(c) The multiple matching credit of a member is an amount equal to a percentage of the accumulated contributions made by the member to the retirement system during a calendar year. The percentage is 0 percent until a greater percentage is adopted as provided by Section 53.703 of this subtitle or, for a subdivision whose participation in the retirement system began after October 31, 1980, unless a greater percentage is adopted by its governing body before the first anniversary of the subdivision’s effective date of retirement system participation, after the actuary has determined and certified that the greater percentage would not impair the ability of the subdivision to amortize, before the 30th [25th] anniversary of the participation date, all obligations that are charges against its account in the subdivision accumulation fund. A multiple matching credit includes any portion of a current service credit in effect on January 1, 1978, that exceeds the member’s current service credit determined under Subsection (b) of this section.”

**SECTION 12.** Subsection (e), Section 53.601, Title 110B, Revised Statutes, as amended, is amended to read as follows:

“(e) An eligible member may establish credit under this section by filing with the retirement system an application for the credit [before the first anniversary of the effective date of an order made under Subsection (a) of this section or of the date of first eligibility, whichever is later]. An application must be accompanied by a contribution in an amount computed as the number of months of service claimed under this section, times the lesser of:

“(1) the member’s average monthly contribution for the first 12 months as an employee after becoming a member of the retirement system; or

“(2) \$15.”

**SECTION 13.** Subsection (d), Section 53.702, Title 110B, Revised Statutes, as amended, is amended to read as follows:

“(d) A subdivision governing body may not make an election under this section unless the actuary first determines that the recomputation would not impair the ability of the subdivision to pay all obligations charged against its account in the subdivision accumulation fund, before the 30th ~~25th~~ anniversary of the December 31 valuation date determined under Section 54.201 of this subtitle.”

**SECTION 14.** Subsection (a), Section 53.703, Title 110B, Revised Statutes, as amended, is amended to read as follows:

“(a) The governing body of a participating subdivision may, on the terms provided by Section 54.201 of this subtitle, increase the percentage used in determining multiple matching credits under Section 53.403(c) ~~53.503(e)~~ of this subtitle.”

**SECTION 15.** Subsection (c), Section 54.002, Title 110B, Revised Statutes, as amended, is amended to read as follows:

“(c) A supplemental annuity is an amount payable from the subdivision accumulation fund, subject to reduction under Section 52.004(c) or Section 55.307(c) of this subtitle, and is actuarially determined from ~~equal to~~ the sum of:

“(1) a member’s allocated prior service credit, accumulated at interest as provided by Section 53.105(d) of this subtitle; and

“(2) a member’s multiple matching credit, accumulated at interest as provided by Section 53.403(d) of this subtitle. ~~and~~

“~~Any~~ ~~any~~ increase in the annuity granted by a participating subdivision after December 31, 1978, is payable from the subdivision accumulation fund as part of the supplemental annuity.”

**SECTION 16.** Subchapter B, Chapter 54, Subtitle F, Title 110B, Revised Statutes, as amended, is amended by adding a new Section 54.107 to read as follows:

“Section 54.107. **ADDITIONAL DEFERRED RETIREMENT BENEFIT SELECTION.** (a) A member who is entitled under Section 54.105, Section 54.106, Section 54.203, Section 54.204, or Section 54.207(e) of this subtitle to select one of the optional service retirement annuities authorized by Section 54.104 of this subtitle may elect instead to name a beneficiary who, in event of the death of the member before retirement, shall be allowed to choose any benefit that the member could have chosen to be paid to such beneficiary, with like effect as if the selection had been made by the member.

“(b) Except as provided in Section 54.105(c)(2) of this subtitle, any annuity payable under the provisions of Section 54.105, 54.106, 54.203, 54.204, or 54.207(e) of this subtitle shall be calculated on the assumption that the member had actually retired under the annuity selected and with the same beneficiary, effective on the last day of the calendar month before the month in which death of the member occurred.”

**SECTION 17.** Subsection (a), Section 54.201, Title 110B, Revised Statutes, as amended, is amended to read as follows:

“(a) The governing body of a participating subdivision by order or resolution may, on the terms provided by this section:

“(1) authorize the establishment of credited service under Section 53.202 or 53.601 of this subtitle;

“(2) recompute service credits under Section 53.701 or 53.703 of this subtitle;

“(3) extend participation in benefits under Section 54.202, 54.203, or 54.204 of this subtitle; ~~or~~

“(4) recompute annuities under Section 54.205 or 54.206 of this subtitle; or

“(5) adopt the optional benefit-eligibility plan under Section 54.207 of this subtitle.”

**SECTION 18.** Subsection (d), Section 54.201, Title 110B, Revised Statutes, as amended, is amended to read as follows:

“(d) An order or resolution may not be adopted as provided by Subsection (a) of this section unless the actuary determines and certifies that:

“(1) implementation of the order or resolution would not impair the ability of the subdivision to fund, before the 30th ~~25th~~ anniversary of the valuation date described in Subsection (b) of this section, all obligations charged against the subdivision’s account in the subdivision accumulation fund; and

“(2) all retirement obligations of the subdivision existing before the proposed effective date of an order or resolution under this section would be amortized on or before the 20th anniversary of the valuation date described in Subsection (b) of this section.”

**SECTION 19.** Section 54.205, Title 110B, Revised Statutes, as amended, is amended to read as follows:

"Section 54.205. **OPTIONAL INCREASE IN ANNUITIES FOR ~~[FROM] CURRENT SERVICE [ANNUITY RESERVE FUND]~~**. (a) The governing body of a participating subdivision may increase that part of each annuity payment that is attributable to credit granted by the subdivision *for current service, which includes current service credit and multiple matching credit* ~~[and that is payable from the current service annuity reserve fund]~~.

"(b) The governing body of a subdivision may not increase annuity payments under this section except on the terms provided by Section 54.201 of this subtitle."

**SECTION 20.** Section 54.206, Title 110B, Revised Statutes, as amended, is amended to read as follows:

"Section 54.206. **OPTIONAL INCREASE IN ANNUITIES FOR PRIOR SERVICE ~~[FROM SUBDIVISION ACCUMULATION FUND]~~**. (a) The governing body of a participating subdivision may increase that part of each annuity payment that is attributable to credit granted by the subdivision *for prior service, which is allocated prior service credit* ~~[and that is payable from the subdivision accumulation fund]~~."

**SECTION 21.** Subchapter C, Chapter 54, Subtitle F, Title 110B, Revised Statutes, as amended, is amended by adding a new Section 54.207 to read as follows:

"Section 54.207. **OPTIONAL BENEFIT ELIGIBILITY PLAN.** (a) *The provisions of this section shall apply to all subdivisions which elect after September 1, 1985, to begin participation in the retirement system. Subject to the conditions below, the governing body of any subdivision participating as of September 1, 1985, may adopt the plan provisions of this section.*

"(b) *The term 'Section 54.207 credited service' as used in this section means credited service performed for one or more participating subdivisions that have adopted the plan provisions of this section.*

"(c) *A member shall be eligible, beginning on the first anniversary date of his membership, to retire and receive a service retirement annuity, if the member:*

"(1) *is at least 60 years old and has at least 10 years of Section 54.207 credited service in the retirement system; or*

"(2) *has sufficient years of Section 54.207 credited service in the retirement system that, when such number is added to the years of attained age of the member, produces a sum equal to or in excess of the number 80; or*

"(3) *if the member is eligible for service retirement under any other provision of this subtitle.*

"(d) *If a member has 10 years or more of Section 54.207 credited service in the retirement system, subsequent absence from service shall not terminate membership, and unless membership is otherwise terminated, the member shall be eligible to retire and receive a service retirement annuity at any time after the member attains the age of 60 years.*

"(e) *An employee of a participating subdivision which has adopted the plan provisions of this section may select an optional service retirement annuity in the manner and under the conditions provided in Section 54.105, if the member:*

"(1) *has 10 or more years of Section 54.207 credited service in the retirement system and has attained the age of 60 years; or*

"(2) *has at least 20 years of Section 54.207 credited service or is otherwise eligible to make such selection of an optional service retirement annuity under the provisions of Section 54.105, 54.106, 54.203, or 54.204 of this subtitle.*

"*If a member who is authorized under this subsection to select an optional service retirement annuity dies before retirement without having made a selection, the member's surviving spouse or the executor or administrator of the member's estate may make the selection provided by Section 54.105 of this subtitle under the terms of that subsection.*

"(f) *A member who has 10 years or more of Section 54.207 credited service in the retirement system, but is not eligible for service retirement, is eligible to retire and receive a disability retirement annuity if the member is the subject of a certification issued as provided in Section 54.303(b)(2) of this subtitle; but a member is not entitled to retire for disability before the first anniversary of the effective date of the person's membership.*

"(g) *The governing body of a subdivision may not adopt the plan provisions of this section except on the terms provided by Section 54.201 of this subtitle, except that the actuarial valuation required may be made on a valuation date of December 31, 1984, or any subsequent year, and notwithstanding the provisions of Section 54.201(d)(2) of this subtitle."*

**SECTION 22.** Subsection (b), Section 54.303, Title 110B, Revised Statutes, as amended, is amended to read as follows:

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

“(1) in the case of a member who has less than 12 years of credited service in the retirement system, that:

“(A) the member is mentally or physically incapacitated for *any gainful occupation* [~~the further performance of duty~~];

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

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

“(D) the member should be retired; or

“(2) in the case of a member who has at least 12 years of credited service in the retirement system but is not eligible for a service retirement annuity, that:

“(A) the member is mentally or physically incapacitated for *any gainful occupation* [~~the further performance of duty~~];

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

“(C) the member should be retired.”

**SECTION 23.** Section 54.502, Subtitle F, Title 110B, Revised Statutes, as amended, is amended by adding a new Subsection (f) to read as follows:

“(f) *If a member included in the coverage of the supplemental death benefit program becomes eligible to apply for extended coverage but fails to comply with Subsections (b) and (c) of this section before his death, the member will be considered to have had the extended coverage if proof is furnished that the member could have qualified for extended coverage if application had been made according to Subsections (b) and (c) of this section and that his death occurred within six months after the coverage of the supplemental death benefit program was discontinued according to Section 54.501.*”

**SECTION 24.** Chapter 54, Title 110B, Revised Statutes, as amended, is amended by adding a new Subchapter G to read as follows:

**“SUBCHAPTER G. OPTIONAL ADDITIONAL SUBDIVISION  
CONTRIBUTIONS OR DECREASE IN CREDITS**

“**Section 54.601. CONDITIONS PERMITTING ADDITIONAL SUBDIVISION CONTRIBUTIONS OR DECREASE IN CREDITS.** (a) *The governing body of a participating subdivision by order or resolution may, on the terms provided by this section:*

“(1) *authorize additional subdivision contributions under Section 54.602 of this subtitle; or*

“(2) *authorize a reduction in multiple matching credits under Section 54.603 of this subtitle.*

“(b) *An order or resolution under Subsection (a) of this section may be adopted only if the actuary determines that subdivision contributions at the rate prescribed by Section 55.404(a)(2) of this subtitle are inadequate to fund all obligations charged against the subdivision’s account in the subdivision accumulation fund.*

“(c) *An order or resolution under this section may not take effect until approved by the board of trustees as meeting the requirements of this section.*

“**Section 54.602. OPTIONAL ADDITIONAL SUBDIVISION CONTRIBUTIONS.** (a) *If the actuary makes the determination provided in Section 54.601(b) of this subtitle, he shall annually determine the rate or amount of subdivision contributions necessary to make the financing arrangement adequate.*

“(b) *‘Additional subdivision contributions’ as used in this section means a rate or amount of contribution that is in addition to the subdivision contributions prescribed by Section 55.404(a)(2) of this subtitle.*

“(c) *The order or resolution adopted under this section shall specify the rate or amount of additional subdivision contributions to be made by the subdivision, and such rate or amount shall be effective for one calendar year only.*

“**Section 54.603. OPTIONAL DECREASE IN CREDITS.** (a) *If the actuary makes the determination provided in Section 54.601(b) concerning a participating subdivision, he shall further determine what lower percentage, used in determining multiple matching credits under Section 53.403(c) of this subtitle, of contributions made after the effective date of such reduction is necessary to make the financing arrangement adequate.*

“(b) *An order or resolution reducing multiple matching credits shall apply to all members who, after the effective date of such order or resolution, perform current service for the affected subdivision, and the lower percentage specified in the order or resolution shall not be below the percentage determined by the actuary.*

“**Section 54.604. ADDITIONAL CONTRIBUTIONS AND DECREASE IN MULTIPLE MATCHING CREDITS MAY BE COMBINED.** *The governing body of the subdivision may*

provide for additional subdivision contributions in conjunction with a reduction in multiple matching credits.”

**SECTION 25.** Subsection (a), Section 55.307, Title 110B, Revised Statutes, as amended, is amended to read as follows:

“(a) The retirement system shall deposit in the account of a participating subdivision in the subdivision accumulation fund:

“(1) all benefit contributions made by the subdivision to the system pursuant to Section 55.404(a)(2);

“(2) interest allowed on money in the fund as provided by this subtitle;

“(3) amounts deposited by the subdivision in accordance with Section 55.405 of this subtitle to establish credited service during a time of war;

“(4) the withdrawal charge for reinstatement of credited service as provided by Section 53.003 of this subtitle;

“(5) the amount of matching contributions made by a subdivision in accordance with Section 53.301(c) or 53.402(c) of this subtitle to establish credit for prior or current service for a person who became a member in accordance with Subchapter C of Chapter 52 of this subtitle;

“(6) the amount of matching contributions made by a subdivision in accordance with Section 53.601(f) of this subtitle to establish current service credit for military service;

“(7) the amount of matching contributions made by a subdivision in accordance with Section 53.501 to establish credit for legislative service; and

“(8) the amount deposited by a subdivision for a person to become a member in accordance with Section 52.103 of this subtitle.”

**SECTION 26.** Subsection (a), Section 55.313, Title 110B, Revised Statutes, as amended, is amended to read as follows:

“(a) Unless this subtitle expressly states that interest is computed using the current interest rate or another specified rate of interest, interest is computed using the rate of:

“(1) three percent a year compounded annually for periods before January 1, 1977;

“(2) four percent a year compounded annually for periods after December 31, 1976, but before January 1, 1982; ~~and~~

“(3) four and one-half percent a year compounded annually for periods after December 31, 1981, but before January 1, 1985; and

“(4) seven percent a year compounded annually for periods after December 31, 1984.”

**SECTION 27.** Subsection (b), Section 55.313, Title 110B, Revised Statutes, as amended, is amended to read as follows:

“(b) Subsection (a) of this section does not change the amount of an annuity on which a monthly benefit payment was made before *October 1, 1985*, ~~[January 1, 1982]~~ and does not require recomputation of that amount; *but, the board of trustees may increase by as much as 12-1/2 percent the amount payable each month after October 1, 1985, by reason of basic and supplement annuities which were in effect during and for which a monthly benefit was paid by the system for the month of September, 1985.*”

**SECTION 28.** Subsection (c), Section 55.402, Title 110B, Revised Statutes, as amended, is amended to read as follows:

“(c) The governing body of a participating subdivision may reduce the rate of its member contributions only after the fifth anniversary of the effective date of the existing rate and only if the board of trustees determines that *according to the computations of the actuary approved by the board of trustees the reduction would not impair the ability of the subdivision to fund all obligations against its account in the subdivision accumulation fund before the later of* ~~[~~

~~“(1) [according to computations of the actuary approved by the board of trustees, the reduction would not impair the ability of the subdivision to fund, before] the 30th [25th] anniversary of its effective date of participation; or [; all obligations arising from allocated prior service credits granted by the subdivision; and]~~

~~“(2) [the reduction would not impair the ability of the subdivision to fund, before] the 30th [25th] anniversary of the date of the valuation that is the basis for the subdivision’s latest increase in benefits or coverage [; any increased benefits or additional coverage, including obligations arising from allocated prior service credits granted by the subdivision; that is adopted by the subdivision] in accordance with Section 54.201 or Section 54.207 of this subtitle.”~~

**SECTION 29.** Section 55.403, Title 110B, Revised Statutes, as enacted by Chapter 453, Acts of the 67th Legislature, Regular Session, as amended, is amended by adding a new Subsection (i) to read as follows:

*“(i) Each participating subdivision shall pick up the employee contributions required of each member by Section 55.402 and this section for all compensation earned after December 31, 1985, and shall pay these picked-up employee contributions from the same source of funds which is used in paying earnings to the employee. The participating subdivision may pick up these contributions by a reduction in the cash salary of the employee or by an offset against a future salary increase or by a combination of a reduction in salary and offset against a future salary increase; unless it is otherwise determined by the governing body of the participating subdivision, the pick-up shall be accomplished by a corresponding reduction in the cash salary of the employee.*

*“Contributions picked up as herein provided shall be treated as employer contributions in determining tax treatment of the amounts under the United States Internal Revenue Code; however, each participating subdivision shall continue to withhold federal income taxes based upon these contributions until the Internal Revenue Service determines or the federal courts rule that pursuant to 26 U.S.C.A. 414(h), United States Internal Revenue Code, these picked-up contributions shall not be included as gross income of the employee until such time as they are distributed or made available. Each employee contribution that is picked up as above provided shall be deposited as provided in Section 55.306 to the individual account of the member, on whose behalf they are made, and shall thereupon be treated for all other purposes of this subtitle in the same manner and with like effect as if the amount had been deducted from the compensation of and made by the employee pursuant to the provisions of Sections 55.402 and 55.403(a) through 55.403(h).”*

**SECTION 30.** Section 55.404, Title 110B, Revised Statutes, as amended, is amended to read as follows:

**“Section 55.404. COLLECTION OF SUBDIVISION CONTRIBUTIONS.** (a) Before the 16th day of each month, each participating subdivision shall pay or cause to be paid to the retirement system at the system’s office:

*“(1) the member contributions, or ‘picked-up’ member contributions, provided for by Sections 55.402 and 55.403, above, which shall be deposited to the individual accounts of the members; and*

*“(2) an additional amount equal to the total of contributions made by or on behalf of employees of the subdivision under the provisions of Sections 55.402 and 55.403 for the preceding month, which additional amount shall be deposited to the account of the subdivision in the Subdivision Accumulation Fund. [an amount equal to the total amount of contributions to the retirement system paid by all employees of the subdivision for the preceding month; and*

*“[(2) a contribution for expenses of the retirement system equal to the total amount of membership fees paid by the employees of the subdivision for the preceding month.]*

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

*“(1) the fund from which compensation is paid to members; or*

*“(2) the general fund of the subdivision.”*

**SECTION 31.** 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, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on March 11, 1985, by the following vote: Yeas 31, Nays 0; passed the House on May 16, 1985, by the following vote: Yeas 138, Nays 0, one present not voting.

Approved: June 12, 1985

Effective: Immediately