

CHAPTER 175

H.B. No. 1765

AN ACT

relating to participation and credit in, contributions to, and benefits and administration of the Texas County and District Retirement System.

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

SECTION 1. Section 842.005, Government Code, is amended by amending Subsection (e) and adding Subsection (g) to read as follows:

(e) 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. If the ratio is greater than 1.00, then the annuities and credits will all have to be proportionally increased. The ratio will be redetermined annually and adjustments made as needed, *except as limited by Subsection (g)*.

(g) *If the participating subdivision continues in existence or is succeeded by an organization, the annuities and credits described by Subsection (e) may not be increased to a level that exceeds the greater of the level in effect at the time Subsection (e) became applicable or the level in effect on December 31, 1992. If the board of trustees determines, on the basis of computations made by the actuary, that the available tangible assets are materially in excess of the actuarial present value of benefits described by Subsection (e), the board may direct that a portion of the excess be paid to the subdivision or its successor. When the participating subdivision or its successor has no employees who are members of the retirement system and has no present or potential liabilities resulting from the participation of former employees, the subdivision's participation in the retirement system ceases, and the system shall repay to the subdivision or its successor the amount in the subdivision accumulation fund that is credited to the subdivision.*

SECTION 2. Subchapter A, Chapter 842, Government Code, is amended by adding Section 842.007 to read as follows:

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

SECTION 3. Section 842.103, Government Code, is amended to read as follows:

Sec. 842.103. CREDIT FOR PERSON WHO ELECTS TO BECOME MEMBER. A person who becomes a member of the retirement system under Section 842.102 may not receive credit for service performed before membership except as provided by Section 843.102(a)(2) or 843.204.

SECTION 4. Section 842.108, Government Code, is amended to read as follows:

Sec. 842.108. WITHDRAWAL OF CONTRIBUTIONS. (a) A person who is not an employee of any participating subdivision and who has not retired may, after application, withdraw all of the accumulated contributions credited to the person's individual account in the employees saving fund, and the retirement system shall close the account.

(b) If a person to whom a withdrawal would be paid under this section or Section 844.401 elects to have all or a portion of the accumulated contributions paid directly to an eligible retirement plan and specifies the eligible retirement plan to which the contributions are to be paid on forms approved for that purpose by the board of trustees, the retirement system shall make the payment in the form of a direct trustee-to-trustee transfer but is under no obligation to determine whether the other plan in fact is an eligible retirement plan for that purpose.

SECTION 5. Section 842.110, Government Code, is amended to read as follows:

Sec. 842.110. RESUMPTION OF SERVICE BY RETIREE. (a) A person who has retired with a service retirement benefit under this subtitle shall, if the person later becomes an employee of any participating subdivision, become a member of the system on the date of employment, but credits and benefits allowable to the person under this subtitle are limited as provided by this section.

(b) The retirement system shall discontinue and suspend payments of each service retirement annuity allowed because of the person's previous service beginning with the month following the month in which the person again becomes a member under Subsection (a). The retirement system may not make payments of the annuity for any month during which the person remains an employee of a participating subdivision.

(c) Member contributions under Section 845.403 shall be made on all compensation paid to the employee by the subdivision at the same rate as required of other employees of the subdivision. The contributions shall be deposited by the retirement system on receipt in an individual account for the member in the employees saving fund and shall be credited with interest annually at the same rate and manner as are the accounts of other members. The compensation paid to the employee by the subdivision shall be included in computing the monthly contributions the subdivision makes to the subdivision accumulation fund.

(d) After termination of employment with all participating subdivisions and after filing of an application for resumption of retirement with the board of trustees, a person described by Subsection (a) is entitled to receive future payments of the suspended annuity, as provided by Subsection (e), and to the additional benefits as provided by Subsections (f) and (g).

(e) Monthly payments of the suspended annuity shall be resumed in the month following the month in which employment is terminated with all participating subdivisions, without change in the amount except for any increase allowed under Section 844.208 or the duration of or other condition pertaining to the suspended benefit. Payment of the resumed benefit may not be made for any month during which the payment was suspended under this section.

(f) If a person with credited service under this section dies before a payment under Subsection (g) is made, the person's beneficiary, or if there is no beneficiary surviving, the executor or administrator of the person's estate, may elect payment as provided by Section 844.105(c).

(g) The additional service retirement benefit allowable to a person to whom this section applies is, at the option of that person, either a refund of accumulated contributions made since reemployment plus any accrued interest on the accumulated contributions allowed by the retirement system or a benefit consisting of a basic annuity actuarially determined from the sum of the member's deposits made and accumulated since the date of last becoming a member and current service credit computed on the amount of the deposits and a supplemental annuity actuarially determined from the multiple matching credit applicable to the amount of contributions made and accumulated with interest in the person's individual account since last becoming a member. The additional benefit is payable as a standard service retirement benefit or, at the election of the member, any optional benefit authorized under this subtitle that is the actuarial equivalent of the standard retirement benefit. The first benefit payment date under this section is the end of the month following the last month of employment if the person files an application not less than 60 days before the payment date and has not resumed employment with any participating subdivision in a position that would make the person an employee.

(h) If a person becomes an employee of any participating subdivision within one calendar month after that person's effective date of retirement, the person is considered not to have retired, and the person's membership shall be restored. The retirement system shall deduct the sum of one-half of the basic annuity payments made before the membership is restored from the person's individual account in the employees saving fund and shall transfer that amount to the current service annuity reserve fund. The retirement system shall reduce the person's maximum prior service credit by an amount equal to the sum of the prior service annuity payments made before the membership is restored, divided by the product of the subdivision's allocated prior service credit percentage multiplied by the interest factor for interest from the subdivision's participation date to the person's effective retirement date, both of which were used in computing the amount of the prior service annuity. ~~[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.]~~

SECTION 6. Section 843.203, Government Code, is amended to read as follows:

Sec. 843.203. ADJUSTMENT OF OBLIGATIONS BETWEEN SUCCESSIVE EMPLOYERS. (a) The governing body of a subdivision that has taken over the facilities of a hospital, utility, or other public facility formerly operated by another participating subdivision may assume in whole or in part the obligations that 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 participating in the system that 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 that the subdivision that was the first employer had undertaken by reason of service rendered by members who became employees of the subdivision that is the second employer. Assumptions under this section shall be by written agreement between the affected subdivisions and are subject to approval of the board of trustees.

(b) If the board of trustees determines, on the basis of computations made by the actuary, that the tangible assets made available by the successor subdivision to assume the obligations that the first employer had undertaken are materially in excess of the assumed obligation, the board may direct that a portion of the excess be transferred from the account of the first employer in the subdivision accumulation fund to the account of the successor subdivision in that fund.

SECTION 7. Subchapter C, Chapter 843, Government Code, is amended by adding Section 843.204 to read as follows:

Sec. 843.204. PREMEMBERSHIP CREDIT FOR OVERAGE EMPLOYEES. (a) The governing body of a participating subdivision by order or resolution may authorize the establishment of current service credit in the retirement system for any member for service performed for the subdivision before the date of the person's membership if the person was employed by the subdivision before September 1, 1987, and at the time of employment was older than the maximum age for required membership. The member may deposit to the member's individual account in the employees saving fund with the retirement system for each month of premembership service for which current service credit is authorized, an amount not exceeding the deposit for that month that the person would have made had the person then been a member of the system.

(b) The governing body of a subdivision may adopt the provisions of this section:

(1) on the terms provided by Subchapter H of Chapter 844; or

(2) if the board of trustees determines that, according to the computations of the actuary approved by the board of trustees, the adoption would not impair the ability of the subdivision to fund all obligations against its account in the subdivision accumulation fund before the 25th anniversary of the subdivision's most recent actuarial valuation date.

SECTION 8. Section 844.003, Government Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) Except as provided by Subsections [Subsection] (b) and (d), the effective date of a member's service retirement is the date the member designates at the time the member applies for retirement under Section 844.101, but the date must be the last day of a calendar month and may not precede the date the member terminates employment with all participating subdivisions.

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

(d) If a person who has attained age 70-1/2 terminates covered employment without applying for retirement, the retirement system shall attempt to notify that person in writing and advise the person that the person is required to retire. If, before the 91st day after the date the retirement system sends the notice, the person has not filed an application with the board for retirement, the person is considered to have retired on the last day of the month in which the person terminated employment with all participating subdivisions and:

(1) to have elected to receive an annuity under Section 844.103, if the person did not have a spouse on the date of employment termination; or

(2) if the person had a spouse on the date of employment termination, to have elected to receive an annuity under Section 844.104(c)(1) and to have designated the person's spouse as the beneficiary under the annuity.

SECTION 9. Section 844.006, Government Code, is amended by amending Subsections (a) and (c) and adding Subsections (d) and (e) to read as follows:

(a) A retiree who is receiving payments of a standard service or disability retirement annuity or of an annuity for the retiree's life but with payments to continue after the retiree's

death until a determined number of payments have been made may~~[, with the consent of the retiree's spouse if there is one,]~~ revoke any existing selection and designation of beneficiary nominated to receive any ~~[monthly]~~ payments that may become due under the annuity after the retiree's death and may select a new beneficiary to whom ~~[monthly]~~ payments may be made.

(c) Any selection and designation of beneficiary under *Subsection (a) or (b)* ~~[this section]~~ must be in writing on forms prescribed by the board of trustees and becomes effective on filing with the director.

(d) If a qualified domestic relations order, as that term is defined by Section 804.001, so provides, the benefit payable to a retiree who is receiving payments of an annuity for the retiree's life with payments to continue after the retiree's death until the death of another person under Option 1, 2, 4B, or 4C, as defined by Section 103.2, Title 34, Texas Administrative Code, may be divided by the retirement system into two annuities if:

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

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

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

(4) the domestic relations order specifies that the portion of the benefit payable to the alternate payee is stated as a fixed percentage of the present benefit payable to the retiree, which percentage may not exceed, as applicable:

(A) 25 percent of an Option 4B benefit;

(B) 50 percent of an Option 2 benefit; or

(C) 75 percent of an Option 4C benefit.

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

SECTION 10. The section heading to Section 844.006, Government Code, is amended to read as follows:

Sec. 844.006. CHANGE OF BENEFICIARY OR DIVISION OF BENEFIT FOR CERTAIN PERSONS RECEIVING MONTHLY BENEFITS ~~[OF GUARANTEED TERM ANNUITY].~~

SECTION 11. Subchapter A, Chapter 844, Government Code, is amended by adding Section 844.008 to read as follows:

Sec. 844.008. LIMITATION ON PAYMENT OF BENEFITS. (a) In this section:

(1) "Annual benefit" means the total of all annuity payments by the retirement system to an annuitant during a calendar year, including any distributive benefit payments.

(2) "Compensation" has the meaning assigned by Section 415, Internal Revenue Code, and the regulations adopted under that section, not to exceed the limitations provided by Section 401(a)(17) of that code, instead of the meaning assigned by Section 841.001.

(3) "Highest average annual compensation" means the average compensation for the three consecutive calendar years of service that produces the highest average.

(4) "Internal Revenue Code" means the Internal Revenue Code of 1986 (Title 26, United States Code).

(b) If the amount of any benefit payment under this subtitle would exceed the limitations provided by this section, the retirement system shall reduce the amount of the benefit in accordance with this section.

(c) Except as otherwise provided by this section, a benefit is adjusted to an actuarially equivalent straight life annuity for the purpose of determining limitations under this section. An actuarial adjustment to a benefit is not required for the value of a qualified joint and survivor annuity and the value of postretirement cost-of-living increases made in accordance with Section 415, Internal Revenue Code.

(d) Except as provided by Subsections (f), (h), and (i), an annual benefit payable by the retirement system may not exceed the lesser of:

(1) \$112,221, or another amount as adjusted each January 1 by the secretary of the treasury under Section 415 of the Internal Revenue Code for cost-of-living increases after January 1, 1992; or

(2) 100 percent of the former member's highest average annual compensation.

(e) If payment of a benefit begins before a member attains age 62, the dollar limitation is the actuarial equivalent of an annual benefit beginning at age 62 as described by Subsection (d)(1) for a person at age 62. A reduction under this subsection may not reduce the dollar limitation below \$75,000 if the benefit begins at or after age 55 or, if the benefit begins before age 55, the actuarial equivalent of a \$75,000 limitation beginning at age 55.

(f) If payment of a benefit begins after the member attains age 65, the dollar limitation is the actuarial equivalent of an annual benefit beginning at age 65 as described by Subsection (d)(1).

(g) To determine actuarial equivalence, the interest rate assumption under Subsection (c) or (e) is the greater of the rate specified by Section 845.314(a) or five percent, and the interest rate assumption under Subsection (f) is the lesser of those rates.

(h) The limitations provided by Subsections (d), (e), and (f) do not apply to any portion of an annual benefit payable by the retirement system that is paid from the balance in the member's individual account in the employees saving fund as of December 31, 1985, or from interest credited to the member's account after December 31, 1985, as a result of deposits before that date.

(i) This section may not be applied to reduce the annual benefit payable to any person who retired under the retirement system before January 1, 1994, or to reduce the vested accrued benefit as of December 31, 1993, of any person who was a member of the retirement system on that date.

(j) If the Internal Revenue Code is amended in such a manner that limitations similar to those provided by this section are not required of governmental retirement plans to constitute qualified plans, the board of trustees may by rule eliminate all or any portion of the limitations provided by this section.

(k) An employer may not provide employee retirement or deferred benefits to the extent that, when considered together with the benefits authorized by this subtitle as required by the Internal Revenue Code, would result in the failure of the retirement system's plan to meet federal qualification standards as applied to governmental retirement plans.

SECTION 12. Section 844.104, Government Code, is amended by redesignating Subsections (d), (e), and (f) as Subsections (i), (j), and (k), redesignating and amending Subsection (g) as Subsection (l), and adding new Subsections (d)–(h) and (m)–(n) to read as follows:

(d) If a person selects, or if a person's death before retirement results in the payment of, an optional annuity providing for payment of a fixed number of monthly payments to the person's beneficiary or estate if the person dies before the total number of payments has been completed, the option is limited as provided by Subsections (e), (f), (g), and (h).

(e) If the joint life expectancy of the person making the selection and of the designated beneficiary, according to mortality tables adopted by the Internal Revenue Service, at the time of the person's retirement is less than the minimum period that monthly payments would be required under the option selected, the person must select another option so that the minimum period that monthly payments would be required does not exceed the joint life expectancy of the person making the selection and of the designated beneficiary.

(f) If the life expectancy according to mortality tables adopted by the Internal Revenue Service of a person to whom a benefit will be paid as the result of a member's death before retirement is less at the time of the member's death than the minimum period that monthly

payments would be required under the option selected, the retirement system shall adjust the minimum period that monthly payments will be required to a period that is not less than 60 months and that is the greatest multiple of 12 months that does not exceed the life expectancy of the person to whom the benefit will be paid. The amount of the monthly payment shall be adjusted to the actuarial equivalent of the payments that would be made for the greater number of months.

(g) If the person making the selection designates the person's estate as beneficiary and if the life expectancy according to mortality tables adopted by the Internal Revenue Service of that person is less than the minimum period that monthly payments would be required under the option selected, the person must select another option so that the minimum period that monthly payments would be required does not exceed the person's life expectancy at the time of the person's retirement.

(h) If an estate will be paid monthly benefits as the result of a member's death before retirement for a period that would exceed 60 months, the period for which the payments will be made shall be reduced to 60 months, and the amount of the monthly payment to the estate is the actuarial equivalent of the payments that would have been made for the greater number of months.

(i) To select an optional service retirement annuity, a member or retiree must make the selection and designate a beneficiary on a form prescribed by and filed with the board of trustees before the 31st day after the effective date of retirement.

(j) [(e)] A retiree who dies before the 31st day after the effective date of service retirement and who did not select an optional service retirement annuity before death is considered to have selected an optional annuity under Subsection (c)(4). Alternatively, the decedent's beneficiary may elect to receive a refund of the decedent's accumulated contributions under Section 844.401, in which case the decedent will be considered to have been a contributing member at the time of death.

(k) [(f)] If monthly payments of an optional service retirement annuity cease before the sum of all of the monthly payments equals or exceeds the amount of accumulated contributions in the individual account in the employees saving fund at the time of retirement of the member on whose service the annuity was based, a lump-sum benefit equal to the amount by which the accumulated contributions exceed the sum of all monthly payments made under the annuity is payable:

(1) to the designated beneficiary, if living, or if not living, to the estate of the designated beneficiary, if the designated beneficiary survived the retiree; or

(2) to the estate of the retiree, if the designated beneficiary predeceased the retiree.

(l) [(g)] The benefit provided by Subsection (k) [(f)] is payable from the current service annuity reserve fund and the subdivision accumulation fund in the ratio described by Section 844.402(c).

(m) If a retiring member selects an optional annuity under Subsection (c) that is payable after the retiree's death throughout the life of a beneficiary who is not the retiree's spouse, payments to the beneficiary after the retiree's death may not exceed the applicable percentage of the annuity payment that would have been payable to the retiree using the following table:

<i>Excess of age of retiree over age of beneficiary:</i>	<i>Applicable percentage:</i>
<i>less than 11 years</i>	<i>100 percent</i>
<i>at least 11 years but less than 20 years</i>	<i>75 percent</i>
<i>20 years or more</i>	<i>50 percent</i>

(n) Unless the retiree's spouse is the designated beneficiary of an optional annuity under Subsection (c) that guarantees a fixed number of monthly payments, the guaranteed number of payments may not exceed the applicable period using the following table:

	<i>Maximum number of guaranteed monthly payments:</i>
<i>Age of retiree:</i>	
<i>less than 84</i>	180
<i>at least 84 but less than 91</i>	120
<i>91 or more</i>	60

SECTION 13. Section 844.209, Government Code, is amended by amending Subsection (b) and adding Subsection (e) to read as follows:

(b) If a member who has sufficient credited service performed for subdivisions that have adopted or are subject to this section to entitle the member to withdraw from service, to leave on deposit with the retirement system the member's accumulated contributions, and, on attainment of an age prescribed by this subtitle, to retire with a service retirement benefit dies before becoming eligible for *deferred* service retirement and leaves surviving a person whom the member has designated as beneficiary entitled to payment of the member's accumulated contributions if the member dies before retirement, the surviving beneficiary may by written notice filed with the board elect to ~~[leave the accumulated deposits with the retirement system subject to this section. If the accumulated deposits have not been withdrawn before the time the member, if living, would have become entitled to service retirement, the surviving beneficiary may elect to]~~ receive, in lieu of the accumulated deposits, an annuity payable during the lifetime of the surviving beneficiary in the amount that would have been payable to the surviving beneficiary had the member ~~[lived and]~~ retired *on the last day of the month preceding the month in which death occurred [at that date]* under an optional annuity described by Section 844.104(c)(1).

(e) *The benefit payable under Subsection (b) is payable as if the member had retired on the later of December 31, 1993, or the last day of the month preceding the month in which death occurred. Any benefit payments under this section must begin within one year after the later of December 31, 1993, or the last day of the month preceding the month in which death occurred. A benefit payable under Subsection (b) because of the death of a person who died before January 1, 1994, is computed based on the benefit that would have been payable if the death had occurred on January 1, 1994.*

SECTION 14. Section 844.305, Government Code, is amended by redesignating Subsections (d), (e), (f), and (g) as Subsections (g), (h), (i), and (j), redesignating and amending Subsection (h) as Subsection (k), and adding new Subsections (d)–(f) and (l)–(m) to read as follows:

(d) *If a person selects an optional annuity providing for payment of a fixed number of monthly annuity payments to the person's beneficiary or estate if the person dies before the total number of payments has been completed, the option is limited as provided by Subsections (e) and (f).*

(e) *If the joint life expectancy of the person making the selection and of the designated beneficiary according to mortality tables adopted by the Internal Revenue Service at the time of the person's retirement is less than the minimum period that monthly payments would be required under the option selected, the person must select another option so that the minimum period that monthly payments would be required does not exceed the joint life expectancy of the person making the selection and of the designated beneficiary.*

(f) *If the person making the selection designates the person's estate as beneficiary and if the life expectancy according to mortality tables adopted by the Internal Revenue Service of that person is less than the minimum period that monthly payments would be required under the option selected, the person must select another option so that the minimum period that monthly payments would be required does not exceed the person's life expectancy at the time of the person's retirement.*

(g) To select an optional disability retirement annuity, a member or retiree must make the selection and designate a beneficiary on a form prescribed by and filed with the board of trustees before the 31st day after the effective date of retirement.

(h) [(e)] A retiree who dies before the 31st day after the effective date of disability retirement and who did not select an optional disability retirement annuity before death is considered to have selected an optional annuity under Subsection (c)(4). Alternatively, the decedent's beneficiary may elect to receive a refund of the decedent's accumulated contributions under Section 844.401, in which case the decedent will be considered to have been a contributing member at the time of death.

(i) [(f)] If a person's disability retirement annuity is discontinued under Section 844.307 or 844.308, the person's selection of any optional annuity under this section becomes void.

(j) [(g)] If monthly payments of an optional disability retirement annuity cease before the sum of all of the monthly payments equals or exceeds the amount of accumulated contributions in the individual account in the employees saving fund at the time of retirement of the member on whose service the annuity was based, a lump-sum benefit equal to the amount by which the accumulated contributions exceed the sum of all monthly payments made under the annuity is payable:

(1) to the designated beneficiary, if living, or if not living, to the estate of the designated beneficiary, if the designated beneficiary survived the retiree; or

(2) to the estate of the retiree, if the designated beneficiary predeceased the retiree.

(k) [(h)] The benefit provided by Subsection (j) [(g) of this section] is payable from the current service annuity reserve fund and the subdivision accumulation fund in the ratio described by Section 844.402(c).

(l) If a retiring member selects an optional annuity under Subsection (c) that is payable after the retiree's death throughout the life of a beneficiary who is not the retiree's spouse, payments to the beneficiary after the retiree's death may not exceed the applicable percentage of the annuity payment that would have been payable to the retiree using the following table:

<i>Excess of age of retiree over age of beneficiary:</i>	<i>Applicable percentage:</i>
<i>less than 11 years</i>	<i>100 percent</i>
<i>at least 11 but less than 20 years</i>	<i>75 percent</i>
<i>20 years or more</i>	<i>50 percent</i>

(m) Unless the retiree's spouse is the designated beneficiary of an optional annuity under Subsection (c) that guarantees a fixed number of monthly payments, the guaranteed number of payments may not exceed the applicable period using the following table:

	<i>Maximum number of guaranteed monthly payments:</i>
<i>Age of retiree:</i>	
<i>less than 84</i>	<i>180</i>
<i>at least 84 but less than 91</i>	<i>120</i>
<i>91 or more</i>	<i>60</i>

SECTION 15. Section 844.607, Government Code, is amended by redesignating and amending Subsection (b) as Subsection (c) and adding a new Subsection (b) to read as follows:

(b) If the governing body of the subdivision does not adopt an order or resolution described by Subsection (c) effective on the first day of the first calendar year that begins after the date of the notice under Subsection (a), the actuary shall make new determinations, provided for by Sections 844.601(b) and 844.606(b), based on the most recent actuarial valuation. The actuary shall give written notice of these determinations to the director, who shall give a second written notice to the governing body of the subdivision.

(c) The lower percentage to be used for multiple matching credits of future member contributions as determined by the actuary based on the most recent actuarial valuation and specified in the second notice to the governing body becomes effective as to all members who perform current service for the affected subdivision on or after the first day of the second calendar year that begins after the date of the notice under Subsection (a) and is not earlier than January 1, 1993, unless before the effective date, the governing body of the subdivision

adopts an order or resolution, approved by the board of trustees, authorizing additional subdivision contributions under Section 844.605 or authorizing a reduction in multiple matching credits under Section 844.606 or *authorizing* both additional contributions and a reduction in multiple matching credits.

SECTION 16. Section 844.702, Government Code, is amended to read as follows:

Sec. 844.702. MEMBER CONTRIBUTIONS. The governing body of the subdivision may designate the rate of member contributions for employees of the subdivision to take effect beginning on the effective date of adoption of the plan provisions of this subchapter. The subdivision may elect a rate of four, five, six, or seven percent of the current service compensation of its employees. The governing body of the subdivision may thereafter increase or decrease the contribution rate to take effect on the next January 1 after the date of adoption of the increase or decrease, [~~but may reduce the rate of member contributions only after the existing rate has been in effect for five years,~~] notwithstanding the provisions of Sections 845.402(c) and (d).

SECTION 17. Sections 844.703(b), (d), and (g), Government Code, are amended to read as follows:

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

(d) The actuary annually shall determine the subdivision normal contribution rate and the prior service contribution rate for subdivisions adopting the plan provisions of this subchapter from the most recent data available at the time of determination. Before January 1 of each year, the board of trustees shall certify the rates of each subdivision that has adopted the plan provisions of this subchapter. If the combined rates of the subdivision's normal contributions and prior service contributions under this subchapter exceed the rate prescribed by Subsection (c), the rate for prior service contributions must be reduced to the rate that equals the difference between the maximum rate prescribed by Subsection (c) and the normal contribution rate. *If for any year the combined rates of a subdivision's normal contribution rate and its prior service contribution rate as determined under Subsections (a) and (b) are less than the subdivision's employee contribution rate, the governing body of the subdivision may elect that the subdivision make normal contributions and prior service contributions for that year at a combined rate equal to the employee contribution rate for that year.*

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

SECTION 18. Section 844.704(a), Government Code, is amended to read as follows:

(a) On the adoption of the plan provisions of this subchapter, the governing body of the subdivision shall select a percentage for determining multiple matching credits under Section 843.403. The governing body shall select a percentage of 0, 25, 50, 75, 100, 125, or 150 percent, *or it may select the multiple matching percentage that the subdivision has in effect on the date of its adoption of the plan provisions of this subchapter. If a subdivision has a*

current service credit percentage in excess of 100 percent, the governing body of the subdivision may elect a percentage under this section that, when added to the current service credit percentage, is a multiple of 25 percent, except that the combined percentages may not exceed 250 percent. The governing body may thereafter increase the percentage used in determining multiple matching credits under Section 843.403 to one of the percentages specified in this subsection, to take effect on the next January 1 after the date of the increase. However, the sum of the percentage for current service credits under Section 843.403 and the percentage for multiple matching credits may not exceed 250 percent. The governing body also may thereafter reduce the percentage used in determining multiple matching credits for contributions made after the effective date of the reduction to one of the percentages specified in this subsection, to take effect on the next January 1 after the date of the reduction.

SECTION 19. Section 845.206(d), Government Code, is amended to read as follows:

(d) On the basis of tables and rates adopted by the board, the actuary shall:

(1) compute the current interest rate in accordance with Section 845.314; and

(2) ~~[certify the amount of each annuity and benefit granted by the board; and~~

~~[(3)]~~ make an annual valuation of the assets and liabilities of the funds of the retirement system.

SECTION 20. Section 845.301, Government Code, is amended to read as follows:

Sec. 845.301. INVESTMENT OF ASSETS. The board of trustees shall invest and reinvest the assets of the retirement system without distinction as to their source in:

(1) interest-bearing bonds or other evidences of indebtedness of this state, a county, school district, city, or other municipal corporation of this state, the United States, or an authority or an agency of the United States;

(2) securities for which the United States or any authority or agency of the United States guarantees the payment of principal and interest;

(3) interest-bearing bonds, notes, or other evidences of indebtedness that are issued by a company:

(A) incorporated in the United States and that are rated "A" or better by one or more nationally recognized rating agencies approved by the board; or

(B) in whose stock the retirement system may invest as provided by Subdivision (4);

(4) common or preferred stocks of a company incorporated in the United States that has paid cash dividends on its common stock for 10 consecutive years immediately before the date of purchase and, unless the stocks are bank or insurance stocks, that is listed on an exchange registered with the Securities and Exchange Commission or its successor; ~~or~~

(5) obligations issued, assumed, or guaranteed by the Inter-American Development Bank, the International Bank for Reconstruction and Development (the World Bank), the African Development Bank, the Asian Development Bank, and the International Finance Corporation; or

(6) *real estate mortgage investment conduit securities (REMICs) or other participation certificates issued by the Federal National Mortgage Corporation or by the Federal Home Loan Mortgage Corporation, evidencing an undivided beneficial interest in pools of real estate mortgage notes that are guaranteed as to payment of principal and interest by the issuer, or by any agency, authority, or instrumentality of the United States, and that are to be held in trust by the issuer for the benefit of the certificate holder.*

SECTION 21. This Act takes effect January 1, 1994.

SECTION 22. 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 by the House on May 4, 1993, by a non-record vote; passed by the Senate on May 7, 1993, by a viva-voce vote.

Ch. 175, § 22

73rd LEGISLATURE—REGULAR SESSION

Approved May 17, 1993.

Effective Jan. 1, 1994.