

GOVERNMENT CODE

TITLE 8. PUBLIC RETIREMENT SYSTEMS

SUBTITLE B. EMPLOYEES RETIREMENT SYSTEM OF TEXAS

CHAPTER 820. CASH BALANCE BENEFIT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 820.001. DEFINITION. In this chapter, "accumulated account balance" means the total of amounts in a member's individual account in the employees saving account, including:

(1) amounts deducted from the compensation of the member;

(2) other member deposits required to be placed in the member's individual account; and

(3) interest credited to amounts in the member's individual account, including interest and gain sharing interest credited in accordance with Sections [820.102](#) and [820.103](#), respectively.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. [321](#)), Sec. 21, eff. September 1, 2021.

Sec. 820.002. APPLICABILITY. This chapter applies only to a member of the employee or elected class of membership who:

(1) was hired or took office on or after September 1, 2022; and

(2) was not a member on the date the member was hired or took office.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. [321](#)), Sec. 21, eff. September 1, 2021.

Sec. 820.003. CONFLICT OF LAW. To the extent of a conflict between this chapter, including a rule adopted by the retirement system under authority of this chapter, and any other law, this chapter prevails.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. [321](#)), Sec. 21, eff. September 1, 2021.

Sec. 820.004. RULES. The board of trustees may adopt rules necessary to implement this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.

#### SUBCHAPTER A-1. MILITARY SERVICE CREDIT

Sec. 820.021. CREDITABLE MILITARY SERVICE. The board of trustees shall adopt rules to comply with the Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.), including rules governing how a member subject to this chapter may establish military service credit under this subchapter.

Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 4, eff. May 19, 2023.

#### Sec. 820.022. STATE CONTRIBUTIONS FOR MILITARY SERVICE.

(a) The state shall contribute for military service established under this subchapter an amount in the same ratio to the member's contribution for the service as the state's contribution bears to the contribution for current service required of a member of the employee class who is subject to this chapter at the time the service is established under this subchapter.

(b) The state's contribution under Subsection (a) shall be paid from the fund from which the member receives compensation at the time the service is established or, if the member does not hold a position at the time the service is established, from the fund from which the member received compensation when the member most recently held a position.

Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 4, eff. May 19, 2023.

#### SUBCHAPTER A-2. REESTABLISHING PREVIOUSLY CANCELED SERVICE CREDIT

Sec. 820.031. REESTABLISHING PREVIOUSLY CANCELED SERVICE CREDIT WITHOUT PURCHASE. (a) A cash balance group member who has withdrawn contributions and canceled service credit in a class of

membership may reestablish the canceled service credit in the retirement system for the purposes described by Subsection (c) by submitting a request to the system in a form and manner prescribed by the system.

(b) The retirement system shall grant the canceled service credit of a member who submits a request as provided by Subsection (a) after the system verifies that the member is a cash balance group member.

(c) Service credit established under this section may be used only to determine whether the cash balance group member is eligible to retire and receive a cash balance annuity under this chapter. The service credit does not affect eligibility for any other purpose, including for purposes of determining eligibility to participate in the group benefits program established under Chapter [1551](#), Insurance Code.

Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. [729](#)), Sec. 5, eff. May 19, 2023.

Sec. 820.032. PURCHASE OF PREVIOUSLY CANCELED SERVICE CREDIT. (a) A cash balance group member who has withdrawn contributions and canceled service credit in a class of membership may purchase the canceled service credit in the retirement system for the purposes described by Subsection (c) by:

(1) submitting a request to the system in a form and manner prescribed by the system; and

(2) depositing with the retirement system in a lump sum the total amount of money withdrawn from a membership class not later than the first day of the 24th month after the month in which the person is reemployed or again holds office.

(b) On receipt of the cash balance group member's deposit, the retirement system shall credit the member's individual account in the employees saving account with that amount and apply annual and gain sharing interest beginning the first day of the month following the date of the deposit, as provided by Sections [820.102](#) and [820.103](#).

(c) Service credit purchased under this section may be used only:

(1) to determine whether the cash balance group member is eligible to retire and receive a cash balance annuity; and

(2) for purposes of determining eligibility to participate in the group benefits program established under Chapter [1551](#), Insurance Code.

(d) The retirement system may charge a reasonable administrative fee to purchase service credit under this section. Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. [729](#)), Sec. 5, eff. May 19, 2023.

#### SUBCHAPTER B. CASH BALANCE BENEFITS

Sec. 820.051. APPLICATION FOR CASH BALANCE BENEFIT. (a) A member may apply for a cash balance annuity by filing an application for retirement with the board of trustees.

(b) An application for a cash balance 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.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. [321](#)), Sec. 21, eff. September 1, 2021.

Sec. 820.052. ELIGIBILITY FOR CASH BALANCE BENEFIT. A member:

(1) who has service credit in the employee class of membership is eligible to retire and receive a cash balance annuity if the member:

(A) is at least 65 years old and has five years of service credit in that class; or

(B) has at least five years of service credit in that class and the sum of the member's age and amount of service credit in that class, including months of age and credit, equals or exceeds the number 80;

(2) who:

(A) has at least 20 years of service credit as a law enforcement or custodial officer is eligible to retire

regardless of age and receive a cash balance annuity in an amount computed and funded as provided by this subchapter; or

(B) is at least 55 years old and has at least 10 years of service credit as a law enforcement or custodial officer is eligible to retire and receive a cash balance annuity in an amount computed and funded as provided by this subchapter, provided that the member is only entitled to the enhanced benefit described by Section 820.053(a)(2)(B) if the member has at least 20 years of service as a law enforcement or custodial officer; or

(3) who has service credit in the elected class of membership is eligible to retire and receive a cash balance annuity if the member:

(A) is at least 60 years old and has eight years of service credit in that class; or

(B) is at least 50 years old and has 12 years of service credit in that class.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 6, eff. May 19, 2023.

The following section was amended by the 89th Legislature. Pending publication of the current statutes, see S.B. 293, 89th Legislature, Regular Session, for amendments affecting the following section.

Sec. 820.053. CASH BALANCE BENEFITS FOR MEMBERS. (a) The state match for the cash balance benefit for:

(1) service credited to the employee class of membership is an amount computed by multiplying the member's accumulated account balance by 150 percent;

(2) service credited to the employee class of membership by a member eligible to retire under this chapter as a law enforcement or custodial officer is an amount computed by multiplying the member's accumulated account balance by:

(A) except as provided by Paragraph (B), 150 percent; and

(B) for the portion of the accumulated account balance based on the member's additional two percent contribution under Section [820.101\(b\)](#), including interest, attributable to service as a law enforcement or custodial officer, 300 percent, paid from the law enforcement and custodial officer supplemental retirement fund; and

(3) subject to Subsection (c), service credited to the elected class of membership is an amount computed by multiplying the member's accumulated account balance by 150 percent.

(b) The retirement system shall compute a member's cash balance annuity under this section by taking the sum of the member's accumulated account balance and the state match computed under Subsection (a) and annuitizing that amount over the life expectancy of the member as of the effective date of the member's retirement using mortality and other tables adopted by the board for that purpose under Section [815.105](#).

(c) For purposes of this section, a member of the elected class of membership under Section [812.002\(a\)\(2\)](#) shall have the member's accumulated account balance computed as if the contributions to the account were based on the state base salary, excluding longevity pay payable under Section 659.0445, being paid a district judge as set by the General Appropriations Act in accordance with Section [659.012\(a\)](#).

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. [321](#)), Sec. 21, eff. September 1, 2021.

Sec. 820.0535. OPTIONAL CASH BALANCE BENEFITS.

(a) Instead of the standard cash balance annuity payable under Section [820.053](#), a retiring member may elect to receive an optional cash balance annuity under this section.

(b) A person who selects an optional lifetime cash balance annuity must designate, before the selection becomes effective, one beneficiary to receive the annuity on the death of the person making the selection. A person who selects an optional cash balance annuity payable for a guaranteed period may designate, before or after retirement, one or more beneficiaries to receive the annuity on the death of the person making the selection.

(c) A person eligible to select an optional cash balance annuity under this section may select an option that provides that:

(1) after the retiree's death, the reduced annuity is payable in the same amount throughout the life of the beneficiary designated by the retiree before retirement;

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

(3) if the retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to one or more beneficiaries or, if one does not exist, to the retiree's estate;

(4) if the retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to one or more beneficiaries or, if one does not exist, to the retiree's estate; or

(5) after the retiree's death, three-fourths of the reduced annuity is payable throughout the life of the beneficiary designated by the retiree before retirement.

(d) If a beneficiary designated by a retiree under Subsection (b) predeceases the retiree and the retiree has elected an optional lifetime annuity, the reduced annuity shall be increased to the standard cash balance annuity that the retiree would have been entitled to receive if the retiree had not selected the optional annuity. The standard cash balance annuity shall be adjusted as appropriate for post-retirement increases in retirement benefits authorized by law since the date of retirement.

(e) Any increase in an annuity under Subsection (d) begins with the payment for the month following the month in which the designated beneficiary dies, and the increased annuity is payable to the retiree for the remainder of the retiree's life.

(f) The computation of an optional cash balance annuity must be made without regard to the gender of the annuitant or designated beneficiary.

(g) Except as provided by Section [814.008](#) or [820.0536](#), a person who selected an optional cash balance annuity described by Subsection (c)(1), (c)(2), or (c)(5) of this section may not change

or revoke a beneficiary designation after the person's effective date of retirement.

(h) A beneficiary designation that names a former spouse as a beneficiary for a guaranteed optional cash balance annuity described by Subsection (c)(3) or (c)(4) is invalid unless the designation is made after the date of the divorce.

(i) An optional retirement annuity provided by this section is available to a member eligible to receive an enhanced service retirement annuity described by Section 820.053(a)(2)(B), but the same optional plan and beneficiary must be selected for the portion of the annuity payable from the law enforcement and custodial officer supplemental retirement fund and the portion payable from the member's individual account in the employees saving account.

Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 7, eff. May 19, 2023.

Sec. 820.0536. CHANGE IN OPTIONAL CASH BALANCE ANNUITY SELECTION. (a) A person who retired and selected an optional cash balance annuity described by Section 820.0535(c)(1), (c)(2), or (c)(5) may change the optional annuity to a standard cash balance annuity only if:

(1) pursuant to a divorce decree, a court orders the change in the annuity to a standard cash balance annuity; or

(2) the retiree files with the retirement system a request to change the annuity and, in connection with a divorce between the retiree and the beneficiary designated by the retiree under Section 820.0535(b), the beneficiary has executed a written, notarized instrument that:

(A) releases the system from any claim to the annuity by the beneficiary; and

(B) transfers all of the beneficiary's interest in the annuity to the retiree.

(b) If a retiree files a request as provided by Subsection (a), the retirement system shall recompute the annuity as a standard cash balance annuity. The increase in the annuity under this section begins with the monthly payment made to the retiree for the month following the month in which a request is filed as



provided by Subsection (a).

Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 7, eff. May 19, 2023.

Sec. 820.0537. PARTIAL LUMP-SUM CASH BALANCE OPTION.

(a) A member who is eligible for a cash balance annuity may select a standard cash balance annuity under Section 820.053 or an optional cash balance annuity under Section 820.0535, together with a partial lump-sum distribution.

(b) The amount of the lump-sum distribution under this section may not exceed the sum of 36 months of a standard cash balance annuity computed without regard to this section.

(c) The cash balance annuity selected by the member shall be actuarially reduced to reflect the lump-sum option selected by the member and shall be actuarially equivalent to a standard or optional cash balance annuity, as applicable, without the partial lump-sum distribution. The annuity and lump sum shall be computed to result in no actuarial loss to the retirement system.

(d) The lump-sum distribution shall be made as a single payment payable at the time that the first monthly annuity payment is paid.

(e) The amount of the lump-sum distribution shall be deducted from any amount otherwise payable under this chapter.

(f) The partial lump-sum option under this section may be elected only once by a member and may not be elected by a retiree. A member retiring under the proportionate retirement program under Chapter 803 is not eligible for the partial lump-sum option.

(g) Before a retiring member selects a partial lump-sum distribution under this section:

(1) the retirement system shall provide written notice to the member of the amount by which the member's annuity will be reduced because of the selection; and

(2) the member must acknowledge receipt of the notice in writing.

(h) The board of trustees may adopt rules for the implementation of this section and may authorize the option to be

used for a death benefit annuity. This section does not apply to a disability retirement annuity.

Added by Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 7, eff. May 19, 2023.

Sec. 820.054. DEATH AND DISABILITY BENEFITS.

(a) Notwithstanding any other law, a member subject to this chapter, a retiree receiving a cash balance annuity under this chapter, or the beneficiary of a member or retiree described by this subsection, who qualifies for a death or survivor benefit annuity or a disability retirement annuity under Chapter 814 is entitled to a cash balance annuity under this subchapter instead of the annuity otherwise provided under Chapter 814.

(b) The board of trustees may enter into contracts to provide additional death and disability benefits under this chapter.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. 729), Sec. 8, eff. May 19, 2023.

SUBCHAPTER C. CONTRIBUTIONS AND INTEREST

Sec. 820.101. COLLECTION OF MEMBER CONTRIBUTIONS.

(a) Each payroll period, each department or agency of the state shall cause to be deducted from the compensation of a member subject to this chapter a contribution of six percent of the compensation of the member.

(b) In addition to the contribution under Subsection (a), each department or agency of the state that employs a law enforcement or custodial officer who is a member subject to this chapter shall deduct an additional two percent contribution from the member's compensation, to be deposited in the law enforcement and custodial officer supplemental retirement fund.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.

Sec. 820.102. ANNUAL INTEREST ADJUSTMENT. Each fiscal year, the retirement system shall deposit for a member subject to this chapter an amount equal to four percent of the member's accumulated account balance deposited into the member's individual account in the employees saving account.

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. 321), Sec. 21, eff. September 1, 2021.

Sec. 820.103. GAIN SHARING INTEREST ADJUSTMENT. (a) Each fiscal year and subject to Subsection (b), the retirement system shall compute the gain sharing interest rate by:

(1) determining the average return on the investment of the system's cash and securities during the preceding five fiscal years, expressed as a percentage rate;

(2) subtracting four percentage points from the percentage rate determined under Subdivision (1); and

(3) multiplying the resulting difference under Subdivision (2) by 50 percent.

(b) Subject to Subsection (c), each fiscal year, the retirement system shall:

(1) in addition to the amount deposited under Section 820.102, deposit into each member's individual account in the employees saving account an amount equal to the gain sharing interest rate determined under Subsection (a) for the fiscal year multiplied by the member's accumulated account balance as of the end of the preceding fiscal year; and

(2) recalculate the annuity payment of a retiree or annuitant under this chapter by:

(A) multiplying the annuity payment amount as of the end of the preceding fiscal year by the gain sharing interest rate determined under Subsection (a); or

(B) if the retiree or annuitant was not entitled to an annuity payment as of the end of the preceding fiscal year, multiplying the retiree's or annuitant's first annuity payment amount by the gain sharing interest rate determined under Subsection (a).

(c) The gain sharing interest rate applied under Subsection (b) may not be less than zero or more than three percent.

(d) Subsection (b) applies only to a retiree or annuitant who is receiving a cash balance annuity under Section [820.053](#) or [820.0535](#), including an alternate payee under Section [804.005](#).

Added by Acts 2021, 87th Leg., R.S., Ch. 940 (S.B. [321](#)), Sec. 21, eff. September 1, 2021.

Amended by:

Acts 2023, 88th Leg., R.S., Ch. 78 (S.B. [729](#)), Sec. 9, eff. May 19, 2023.