

1-1 By: Huffman S.B. No. 729
 1-2 (In the Senate - Filed February 7, 2023; March 1, 2023, read
 1-3 first time and referred to Committee on Finance; March 13, 2023,
 1-4 reported favorably by the following vote: Yeas 16, Nays 0;
 1-5 March 13, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16			X	
1-17	X			
1-18	X			
1-19	X			
1-20	X			
1-21	X			
1-22	X			
1-23	X			
1-24	X			

1-25 A BILL TO BE ENTITLED
 1-26 AN ACT

1-27 relating to the cash balance benefit under the Employees Retirement
 1-28 System of Texas.

1-29 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-30 SECTION 1. Section 804.003, Government Code, is amended by
 1-31 amending Subsections (j) and (k) and adding Subsection (k-1) to
 1-32 read as follows:

1-33 (j) Except as provided by Subsection (k-1), if ~~if~~ a
 1-34 domestic relations order is determined to be a qualified domestic
 1-35 relations order, then the public retirement system (or applicable
 1-36 carrier, if under the optional retirement program) shall pay the
 1-37 segregated amounts without interest to the person or persons
 1-38 entitled thereto and shall thereafter pay benefits pursuant to the
 1-39 order.

1-40 (k) Except as provided by Subsection (k-1), if ~~if~~ a
 1-41 domestic relations order is determined not to be a qualified
 1-42 domestic relations order or if within 18 months of the date a
 1-43 domestic relations order is received by the public retirement
 1-44 system (or applicable carrier, if under the optional retirement
 1-45 program) the issue as to whether such order is a qualified domestic
 1-46 relations order is not resolved, then the public retirement system
 1-47 (or applicable carrier, if under the optional retirement program)
 1-48 shall pay the segregated amounts without interest and shall
 1-49 thereafter pay benefits to the person or persons who would have been
 1-50 entitled to such amounts if there had been no order. This
 1-51 subsection shall not be construed to limit or otherwise affect any
 1-52 liability, responsibility, or duty of a party with respect to any
 1-53 other party to the action out of which the order arose.

1-54 (k-1) Payment of segregated amounts by a public retirement
 1-55 system, or applicable carrier if under the optional retirement
 1-56 program, under Subsections (j) and (k) related to a benefit payable
 1-57 with respect to a member or retiree subject to Chapter 820 must
 1-58 include annual interest provided by Section 820.102 and gain
 1-59 sharing interest provided by Section 820.103.

1-60 SECTION 2. Section 813.0015, Government Code, is amended to
 1-61 read as follows:

2-1 Sec. 813.0015. PROVISIONS APPLICABLE TO CASH BALANCE GROUP
 2-2 MEMBERS. The following provisions of this chapter do not apply to a
 2-3 cash balance group member:

2-4 (1) Sections 813.102, 813.104, 813.106, 813.202,
 2-5 813.402, 813.403, 813.404, 813.502, 813.504, 813.505, [~~813.506~~],
 2-6 813.509, 813.511, 813.513, and 813.514; and

2-7 (2) Subchapter D.

2-8 SECTION 3. Section 814.008(a), Government Code, is amended
 2-9 to read as follows:

2-10 (a) A retiree receiving an optional service or disability
 2-11 retirement annuity approved by the board of trustees or described
 2-12 by Section 814.108(c)(1), (c)(2), or (c)(5) or receiving an
 2-13 optional cash balance annuity described by Section 820.0535(c)(1),
 2-14 (c)(2), or (c)(5) may change the designated beneficiary as provided
 2-15 by this section for the benefits payable after the retiree's death.

2-16 SECTION 4. Chapter 820, Government Code, is amended by
 2-17 adding Subchapter A-1 to read as follows:

2-18 SUBCHAPTER A-1. MILITARY SERVICE CREDIT

2-19 Sec. 820.021. CREDITABLE MILITARY SERVICE. The board of
 2-20 trustees shall adopt rules to comply with the Uniformed Services
 2-21 Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section
 2-22 4301 et seq.), including rules governing how a member subject to
 2-23 this chapter may establish military service credit under this
 2-24 subchapter.

2-25 Sec. 820.022. STATE CONTRIBUTIONS FOR MILITARY SERVICE.

2-26 (a) The state shall contribute for military service established
 2-27 under this subchapter an amount in the same ratio to the member's
 2-28 contribution for the service as the state's contribution bears to
 2-29 the contribution for current service required of a member of the
 2-30 employee class who is subject to this chapter at the time the
 2-31 service is established under this subchapter.

2-32 (b) The state's contribution under Subsection (a) shall be
 2-33 paid from the fund from which the member receives compensation at
 2-34 the time the service is established or, if the member does not hold
 2-35 a position at the time the service is established, from the fund
 2-36 from which the member received compensation when the member most
 2-37 recently held a position.

2-38 SECTION 5. Section 820.052, Government Code, is amended to
 2-39 read as follows:

2-40 Sec. 820.052. ELIGIBILITY FOR CASH BALANCE BENEFIT. A
 2-41 member:

2-42 (1) who has service credit in the employee class of
 2-43 membership is eligible to retire and receive a cash balance annuity
 2-44 if the member:

2-45 (A) is at least 65 years old and has five years of
 2-46 service credit in that class; or

2-47 (B) has at least five years of service credit in
 2-48 that class and the sum of the member's age and amount of service
 2-49 credit in that class, including months of age and credit, equals or
 2-50 exceeds the number 80;

2-51 (2) who:

2-52 (A) has at least 20 years of service credit as a
 2-53 law enforcement or custodial officer is eligible to retire
 2-54 regardless of age and receive a cash balance annuity in an amount
 2-55 computed and funded as provided by this subchapter [~~Section~~
 2-56 ~~820.053~~]; or

2-57 (B) is at least 55 years old and has at least 10
 2-58 years of service credit as a law enforcement or custodial officer is
 2-59 eligible to retire and receive a cash balance annuity in an amount
 2-60 computed and funded as provided by this subchapter [~~Section~~
 2-61 ~~820.053~~], provided that the member is only entitled to the enhanced
 2-62 benefit described by Section 820.053(a)(2)(B) if the member has at
 2-63 least 20 years of service as a law enforcement or custodial officer;
 2-64 or

2-65 (3) who has service credit in the elected class of
 2-66 membership is eligible to retire and receive a cash balance annuity
 2-67 if the member:

2-68 (A) is at least 60 years old and has eight years
 2-69 of service credit in that class; or

3-1 (B) is at least 50 years old and has 12 years of
3-2 service credit in that class.

3-3 SECTION 6. Subchapter B, Chapter 820, Government Code, is
3-4 amended by adding Sections 820.0535, 820.0536, and 820.0537 to read
3-5 as follows:

3-6 Sec. 820.0535. OPTIONAL CASH BALANCE BENEFITS. (a)
3-7 Instead of the standard cash balance annuity payable under Section
3-8 820.053, a retiring member may elect to receive an optional cash
3-9 balance annuity under this section.

3-10 (b) A person who selects an optional lifetime cash balance
3-11 annuity must designate, before the selection becomes effective, one
3-12 person to receive the annuity on the death of the person making the
3-13 selection. A person who selects an optional cash balance annuity
3-14 payable for a guaranteed period may designate, before or after
3-15 retirement, one or more persons to receive the annuity on the death
3-16 of the person making the selection.

3-17 (c) A person eligible to select an optional cash balance
3-18 annuity under this section may select an option which provides
3-19 that:

3-20 (1) after the retiree's death, the reduced annuity is
3-21 payable in the same amount throughout the life of the person
3-22 designated by the retiree before retirement;

3-23 (2) after the retiree's death, one-half of the reduced
3-24 annuity is payable throughout the life of the person designated by
3-25 the retiree before retirement;

3-26 (3) if the retiree dies before 60 monthly annuity
3-27 payments have been made, the remainder of the 60 payments are
3-28 payable to one or more beneficiaries or, if one does not exist, to
3-29 the retiree's estate;

3-30 (4) if the retiree dies before 120 monthly annuity
3-31 payments have been made, the remainder of the 120 payments are
3-32 payable to one or more beneficiaries or, if one does not exist, to
3-33 the retiree's estate; or

3-34 (5) after the retiree's death, three-fourths of the
3-35 reduced annuity is payable throughout the life of the person
3-36 designated by the retiree before retirement.

3-37 (d) If a beneficiary designated by a retiree under
3-38 Subsection (b) predeceases the retiree and the retiree has elected
3-39 an optional lifetime annuity, the reduced annuity shall be
3-40 increased to the standard cash balance annuity that the retiree
3-41 would have been entitled to receive if the retiree had not selected
3-42 the optional annuity. The standard cash balance annuity shall be
3-43 adjusted as appropriate for post-retirement increases in
3-44 retirement benefits authorized by law since the date of retirement.

3-45 (e) Any increase in an annuity under Subsection (d) begins
3-46 with the payment for the month following the month in which the
3-47 designated beneficiary dies, and the increased annuity is payable
3-48 to the retiree for the remainder of the retiree's life.

3-49 (f) The computation of an optional cash balance annuity must
3-50 be made without regard to the gender of the annuitant or designated
3-51 beneficiary.

3-52 (g) Except as provided by Section 814.008 or 820.0536, a
3-53 person who selected an optional cash balance annuity described by
3-54 Subsections (c)(1), (c)(2), or (c)(5) of this section may not
3-55 change or revoke a beneficiary designation after the person's
3-56 effective date of retirement.

3-57 (h) A beneficiary designation that names a former spouse as
3-58 a beneficiary for a guaranteed optional cash balance annuity
3-59 described by Subsection (c)(3) or (c)(4) is invalid unless the
3-60 designation is made after the date of the divorce.

3-61 (i) An optional retirement annuity provided by this section
3-62 is available to a member eligible to receive an enhanced service
3-63 retirement annuity described by Section 820.053(a)(2)(B), but the
3-64 same optional plan and beneficiary must be selected for the portion
3-65 of the annuity payable from the law enforcement and custodial
3-66 officer supplemental retirement fund and the portion payable from
3-67 the member's individual account in the employees saving account.

3-68 Sec. 820.0536. CHANGE IN OPTIONAL CASH BALANCE ANNUITY
3-69 SELECTION. (a) A person who retired and selected an optional cash

4-1 balance annuity described by Section 820.0535(c)(1), (c)(2), or
 4-2 (c)(5) may change the optional annuity to a standard cash balance
 4-3 annuity if:

4-4 (1) pursuant to a divorce decree, a court orders the
 4-5 change in the annuity to a standard cash balance annuity; or

4-6 (2) the retiree files with the retirement system a
 4-7 request to change the annuity selection, if the retiree designated
 4-8 a person as beneficiary who:

4-9 (A) was not at the time of designation and is not
 4-10 currently the retiree's spouse or dependent child; or

4-11 (B) is not currently the retiree's spouse or
 4-12 dependent child and has executed since the designation a written,
 4-13 notarized instrument that releases the retirement system from any
 4-14 claim to the annuity by the beneficiary and that transfers all of
 4-15 the beneficiary's interest in the annuity to the retiree.

4-16 (b) If a retiree files a request as provided by Subsection
 4-17 (a), the retirement system shall recompute the annuity as a
 4-18 standard cash balance annuity. The increase in the annuity under
 4-19 this section begins with the monthly payment made to the retiree for
 4-20 the month following the month in which a request is filed as
 4-21 provided by Subsection (a).

4-22 Sec. 820.0537. PARTIAL LUMP-SUM CASH BALANCE OPTION. (a) A
 4-23 member who is eligible for a cash balance annuity may select a
 4-24 standard cash balance annuity under Section 820.053 or an optional
 4-25 cash balance annuity under Section 820.0535, together with a
 4-26 partial lump-sum distribution.

4-27 (b) The amount of the lump-sum distribution under this
 4-28 section may not exceed the sum of 36 months of a standard cash
 4-29 balance annuity computed without regard to this section.

4-30 (c) The cash balance annuity selected by the member shall be
 4-31 actuarially reduced to reflect the lump-sum option selected by the
 4-32 member and shall be actuarially equivalent to a standard or
 4-33 optional cash balance annuity, as applicable, without the partial
 4-34 lump-sum distribution. The annuity and lump sum shall be computed
 4-35 to result in no actuarial loss to the retirement system.

4-36 (d) The lump-sum distribution shall be made as a single
 4-37 payment payable at the time that the first monthly annuity payment
 4-38 is paid.

4-39 (e) The amount of the lump-sum distribution shall be
 4-40 deducted from any amount otherwise payable under this chapter.

4-41 (f) The partial lump-sum option under this section may be
 4-42 elected only once by a member and may not be elected by a retiree. A
 4-43 member retiring under the proportionate retirement program under
 4-44 Chapter 803 is not eligible for the partial lump-sum option.

4-45 (g) Before a retiring member selects a partial lump-sum
 4-46 distribution under this section:

4-47 (1) the retirement system shall provide written notice
 4-48 to the member of the amount by which the member's annuity will be
 4-49 reduced because of the selection; and

4-50 (2) the member must acknowledge receipt of the notice
 4-51 in writing.

4-52 (h) The board of trustees may adopt rules for the
 4-53 implementation of this section and may authorize the option to be
 4-54 used for a death benefit annuity. This section does not apply to a
 4-55 disability retirement annuity.

4-56 SECTION 7. Section 820.054(a), Government Code, is amended
 4-57 to read as follows:

4-58 (a) Notwithstanding any other law, a member subject to this
 4-59 chapter, a retiree receiving a cash balance annuity under this
 4-60 chapter, or the beneficiary of a member or retiree described by this
 4-61 subsection, who qualifies for a death or survivor benefit annuity
 4-62 or a disability retirement annuity under Chapter 814 is entitled to
 4-63 a cash balance annuity under this subchapter [Section 820.053]
 4-64 instead of the annuity otherwise provided under Chapter 814.

4-65 SECTION 8. Sections 820.103(a), (b), and (d), Government
 4-66 Code, are amended to read as follows:

4-67 (a) Each fiscal year and subject to Subsection (b), the
 4-68 retirement system shall compute the gain sharing interest rate
 4-69 [applicable to the subsequent fiscal year] by:

5-1 (1) determining the average return on the investment
5-2 of the system's cash and securities during the preceding five
5-3 fiscal years, expressed as a percentage rate;

5-4 (2) subtracting four percentage points from the
5-5 percentage rate determined under Subdivision (1); and

5-6 (3) multiplying the resulting difference [~~sum~~
5-7 ~~determined~~] under Subdivision (2) by 50 percent.

5-8 (b) Subject to Subsection (c), [~~in addition to the amount~~
5-9 ~~deposited under Section 820.102,~~] each fiscal year, the retirement
5-10 system shall:

5-11 (1) in addition to the amount deposited under Section
5-12 820.102, deposit into each member's individual account in the
5-13 employees saving account an amount equal to the gain sharing
5-14 interest rate determined under Subsection (a) for the fiscal year
5-15 multiplied by the member's accumulated account balance as of the
5-16 end of the preceding fiscal year; and

5-17 (2) recalculate the annuity payment of a retiree or
5-18 annuitant under this chapter by:

5-19 (A) multiplying the annuity payment amount as of
5-20 the end of the preceding fiscal year by [~~an amount equal to~~] the
5-21 gain sharing interest rate determined under Subsection (a); or

5-22 (B) if the retiree or annuitant was not entitled
5-23 to an annuity payment as of the end of the preceding fiscal year,
5-24 multiplying the retiree's or annuitant's first annuity payment
5-25 amount by the gain sharing interest rate determined under
5-26 Subsection (a).

5-27 (d) Subsection (b) applies only to a retiree or annuitant
5-28 who is receiving a cash balance annuity under Section 820.053 or
5-29 820.0535, including an alternate payee under Section 804.005.

5-30 SECTION 9. Section 804.003, Government Code, as amended by
5-31 this Act, applies only to a domestic relations order entered on or
5-32 after the effective date of this Act. A domestic relations order
5-33 entered before the effective date of this Act is governed by the law
5-34 in effect on the date the order was entered, and the former law is
5-35 continued in effect for that purpose.

5-36 SECTION 10. This Act takes effect immediately if it
5-37 receives a vote of two-thirds of all the members elected to each
5-38 house, as provided by Section 39, Article III, Texas Constitution.
5-39 If this Act does not receive the vote necessary for immediate
5-40 effect, this Act takes effect September 1, 2023.

5-41 * * * * *