

By: Huffman, West

S.B. No. 729

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the cash balance benefit under the Employees Retirement  
3 System of Texas.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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

8 (j) Except as provided by Subsection (k-1), if [~~if~~] a  
9 domestic relations order is determined to be a qualified domestic  
10 relations order, then the public retirement system (or applicable  
11 carrier, if under the optional retirement program) shall pay the  
12 segregated amounts without interest to the person or persons  
13 entitled thereto and shall thereafter pay benefits pursuant to the  
14 order.

15 (k) Except as provided by Subsection (k-1), if [~~if~~] a  
16 domestic relations order is determined not to be a qualified  
17 domestic relations order or if within 18 months of the date a  
18 domestic relations order is received by the public retirement  
19 system (or applicable carrier, if under the optional retirement  
20 program) the issue as to whether such order is a qualified domestic  
21 relations order is not resolved, then the public retirement system  
22 (or applicable carrier, if under the optional retirement program)  
23 shall pay the segregated amounts without interest and shall  
24 thereafter pay benefits to the person or persons who would have been

1 entitled to such amounts if there had been no order. This  
2 subsection shall not be construed to limit or otherwise affect any  
3 liability, responsibility, or duty of a party with respect to any  
4 other party to the action out of which the order arose.

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

11 SECTION 2. Section 813.0015, Government Code, is amended to  
12 read as follows:

13 Sec. 813.0015. PROVISIONS APPLICABLE TO CASH BALANCE GROUP  
14 MEMBERS. The following provisions of this chapter do not apply to a  
15 cash balance group member:

16 (1) Sections 813.102, 813.104, 813.106, 813.202,  
17 813.402, 813.403, 813.404, 813.502, 813.504, 813.505, [~~813.506~~],  
18 813.509, 813.511, 813.513, and 813.514; and

19 (2) Subchapter D.

20 SECTION 3. Section 814.008(a), Government Code, is amended  
21 to read as follows:

22 (a) A retiree receiving an optional service or disability  
23 retirement annuity approved by the board of trustees or described  
24 by Section 814.108(c)(1), (c)(2), or (c)(5) or receiving an  
25 optional cash balance annuity described by Section 820.0535(c)(1),  
26 (c)(2), or (c)(5) may change the designated beneficiary as provided  
27 by this section for the benefits payable after the retiree's death.

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

3 SUBCHAPTER A-1. MILITARY SERVICE CREDIT

4 Sec. 820.021. CREDITABLE MILITARY SERVICE. The board of  
5 trustees shall adopt rules to comply with the Uniformed Services  
6 Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section  
7 4301 et seq.), including rules governing how a member subject to  
8 this chapter may establish military service credit under this  
9 subchapter.

10 Sec. 820.022. STATE CONTRIBUTIONS FOR MILITARY SERVICE.

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

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

23 SECTION 5. Section 820.052, Government Code, is amended to  
24 read as follows:

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

27 (1) who has service credit in the employee class of

1 membership is eligible to retire and receive a cash balance annuity  
2 if the member:

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

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

9 (2) who:

10 (A) has at least 20 years of service credit as a  
11 law enforcement or custodial officer is eligible to retire  
12 regardless of age and receive a cash balance annuity in an amount  
13 computed and funded as provided by this subchapter [~~Section~~  
14 ~~820.053~~]; or

15 (B) is at least 55 years old and has at least 10  
16 years of service credit as a law enforcement or custodial officer is  
17 eligible to retire and receive a cash balance annuity in an amount  
18 computed and funded as provided by this subchapter [~~Section~~  
19 ~~820.053~~], provided that the member is only entitled to the enhanced  
20 benefit described by Section 820.053(a)(2)(B) if the member has at  
21 least 20 years of service as a law enforcement or custodial officer;  
22 or

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

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

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

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

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

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

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

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

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

26 (3) if the retiree dies before 60 monthly annuity  
27 payments have been made, the remainder of the 60 payments are

1 payable to one or more beneficiaries or, if one does not exist, to  
2 the retiree's estate;

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

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

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

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

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

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

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

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

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

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

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

21 (2) the retiree files with the retirement system a  
22 request to change the annuity selection, if the retiree designated  
23 a person as beneficiary who:

24 (A) was not at the time of designation and is not  
25 currently the retiree's spouse or dependent child; or

26 (B) is not currently the retiree's spouse or  
27 dependent child and has executed since the designation a written,

1 notarized instrument that releases the retirement system from any  
2 claim to the annuity by the beneficiary and that transfers all of  
3 the beneficiary's interest in the annuity to the retiree.

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

10 Sec. 820.0537. PARTIAL LUMP-SUM CASH BALANCE OPTION. (a) A  
11 member who is eligible for a cash balance annuity may select a  
12 standard cash balance annuity under Section 820.053 or an optional  
13 cash balance annuity under Section 820.0535, together with a  
14 partial lump-sum distribution.

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

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

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

27 (e) The amount of the lump-sum distribution shall be



1 deducted from any amount otherwise payable under this chapter.

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

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

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

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

13 (h) The board of trustees may adopt rules for the  
14 implementation of this section and may authorize the option to be  
15 used for a death benefit annuity. This section does not apply to a  
16 disability retirement annuity.

17 SECTION 7. Section 820.054(a), Government Code, is amended  
18 to read as follows:

19 (a) Notwithstanding any other law, a member subject to this  
20 chapter, a retiree receiving a cash balance annuity under this  
21 chapter, or the beneficiary of a member or retiree described by this  
22 subsection, who qualifies for a death or survivor benefit annuity  
23 or a disability retirement annuity under Chapter 814 is entitled to  
24 a cash balance annuity under this subchapter [~~Section 820.053~~]  
25 instead of the annuity otherwise provided under Chapter 814.

26 SECTION 8. Sections 820.103(a), (b), and (d), Government  
27 Code, are amended to read as follows:

1 (a) Each fiscal year and subject to Subsection (b), the  
2 retirement system shall compute the gain sharing interest rate  
3 ~~[applicable to the subsequent fiscal year]~~ by:

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

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

9 (3) multiplying the resulting difference ~~[sum~~  
10 ~~determined]~~ under Subdivision (2) by 50 percent.

11 (b) Subject to Subsection (c), ~~[in addition to the amount~~  
12 ~~deposited under Section 820.102,~~] each fiscal year, the retirement  
13 system shall:

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

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

22 (A) multiplying the annuity payment amount as of  
23 the end of the preceding fiscal year by ~~[an amount equal to]~~ the  
24 gain sharing interest rate determined under Subsection (a); or

25 (B) if the retiree or annuitant was not entitled  
26 to an annuity payment as of the end of the preceding fiscal year,  
27 multiplying the retiree's or annuitant's first annuity payment

1 amount by the gain sharing interest rate determined under  
2 Subsection (a).

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

6 SECTION 9. Section 804.003, Government Code, as amended by  
7 this Act, applies only to a domestic relations order entered on or  
8 after the effective date of this Act. A domestic relations order  
9 entered before the effective date of this Act is governed by the law  
10 in effect on the date the order was entered, and the former law is  
11 continued in effect for that purpose.

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