

AN ACT

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

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

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

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

(k) Except as provided by Subsection (k-1), if ~~if~~ a domestic relations order is determined not to be a qualified domestic relations order or if within 18 months of the date a domestic relations order is received by the public retirement system (or applicable carrier, if under the optional retirement program) the issue as to whether such order is a qualified domestic relations order is not resolved, then the public retirement system (or applicable carrier, if under the optional retirement program) shall pay the segregated amounts without interest and shall 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. Chapter 820, Government Code, is amended by
24 adding Subchapter A-2 to read as follows:

25 SUBCHAPTER A-2. REESTABLISHING PREVIOUSLY CANCELED SERVICE CREDIT

26 Sec. 820.031. REESTABLISHING PREVIOUSLY CANCELED SERVICE
27 CREDIT WITHOUT PURCHASE. (a) A cash balance group member who has

1 withdrawn contributions and canceled service credit in a class of
2 membership may reestablish the canceled service credit in the
3 retirement system for the purposes described by Subsection (c) by
4 submitting a request to the system in a form and manner prescribed
5 by the system.

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

10 (c) Service credit established under this section may be
11 used only to determine whether the cash balance group member is
12 eligible to retire and receive a cash balance annuity under this
13 chapter. The service credit does not affect eligibility for any
14 other purpose, including for purposes of determining eligibility to
15 participate in the group benefits program established under Chapter
16 1551, Insurance Code.

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

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

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

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

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

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

11 (2) for purposes of determining eligibility to
12 participate in the group benefits program established under Chapter
13 [1551](#), Insurance Code.

14 (d) The retirement system may charge a reasonable
15 administrative fee to purchase service credit under this section.

16 SECTION 6. Section [820.052](#), Government Code, is amended to
17 read as follows:

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

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

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

25 (B) has at least five years of service credit in
26 that class and the sum of the member's age and amount of service
27 credit in that class, including months of age and credit, equals or

1 exceeds the number 80;

2 (2) who:

3 (A) has at least 20 years of service credit as a
4 law enforcement or custodial officer is eligible to retire
5 regardless of age and receive a cash balance annuity in an amount
6 computed and funded as provided by this subchapter [~~Section~~
7 ~~820.053~~]; or

8 (B) is at least 55 years old and has at least 10
9 years of service credit as a law enforcement or custodial officer is
10 eligible to retire and receive a cash balance annuity in an amount
11 computed and funded as provided by this subchapter [~~Section~~
12 ~~820.053~~], provided that the member is only entitled to the enhanced
13 benefit described by Section 820.053(a)(2)(B) if the member has at
14 least 20 years of service as a law enforcement or custodial officer;
15 or

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

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

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

23 SECTION 7. Subchapter B, Chapter 820, Government Code, is
24 amended by adding Sections 820.0535, 820.0536, and 820.0537 to read
25 as follows:

26 Sec. 820.0535. OPTIONAL CASH BALANCE BENEFITS. (a)
27 Instead of the standard cash balance annuity payable under Section

1 820.053, a retiring member may elect to receive an optional cash
2 balance annuity under this section.

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

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

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

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

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

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

26 (5) after the retiree's death, three-fourths of the
27 reduced annuity is payable throughout the life of the beneficiary

1 designated by the retiree before retirement.

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

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

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

17 (g) Except as provided by Section [814.008](#) or [820.0536](#), a
18 person who selected an optional cash balance annuity described by
19 Subsection (c)(1), (c)(2), or (c)(5) of this section may not change
20 or revoke a beneficiary designation after the person's effective
21 date of retirement.

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

26 (i) An optional retirement annuity provided by this section
27 is available to a member eligible to receive an enhanced service

1 retirement annuity described by Section 820.053(a)(2)(B), but the
2 same optional plan and beneficiary must be selected for the portion
3 of the annuity payable from the law enforcement and custodial
4 officer supplemental retirement fund and the portion payable from
5 the member's individual account in the employees saving account.

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

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

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

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

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

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

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

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

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

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

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

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

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

26 (1) the retirement system shall provide written notice
27 to the member of the amount by which the member's annuity will be

1 reduced because of the selection; and

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

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

8 SECTION 8. Section 820.054(a), Government Code, is amended
9 to read as follows:

10 (a) Notwithstanding any other law, a member subject to this
11 chapter, a retiree receiving a cash balance annuity under this
12 chapter, or the beneficiary of a member or retiree described by this
13 subsection, who qualifies for a death or survivor benefit annuity
14 or a disability retirement annuity under Chapter 814 is entitled to
15 a cash balance annuity under this subchapter [~~Section 820.053~~]
16 instead of the annuity otherwise provided under Chapter 814.

17 SECTION 9. Sections 820.103(a), (b), and (d), Government
18 Code, are amended to read as follows:

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

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

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

27 (3) multiplying the resulting difference [~~sum~~

1 ~~determined~~] under Subdivision (2) by 50 percent.

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

5 (1) in addition to the amount deposited under Section
6 820.102, deposit into each member's individual account in the
7 employees saving account an amount equal to the gain sharing
8 interest rate determined under Subsection (a) for the fiscal year
9 multiplied by the member's accumulated account balance as of the
10 end of the preceding fiscal year; and

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

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

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

21 (d) Subsection (b) applies only to a retiree or annuitant
22 who is receiving a cash balance annuity under Section 820.053 or
23 820.0535, including an alternate payee under Section 804.005.

24 SECTION 10. Section 804.003, Government Code, as amended by
25 this Act, applies only to a domestic relations order entered on or
26 after the effective date of this Act. A domestic relations order
27 entered before the effective date of this Act is governed by the law

1 in effect on the date the order was entered, and the former law is
2 continued in effect for that purpose.

3 SECTION 11. Notwithstanding Section 820.032, Government
4 Code, as added by this Act, a person who is a cash balance group
5 member on the effective date of this Act may purchase canceled
6 service credit under that section not later than the first day of
7 the 24th month after the month in which this Act takes effect.

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

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 729 passed the Senate on April 3, 2023, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 9, 2023, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 729 passed the House, with amendment, on May 2, 2023, by the following vote: Yeas 142, Nays 0, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor