

GOVERNMENT CODE

CHAPTER 805. CREDIT TRANSFER BETWEEN EMPLOYEES RETIREMENT SYSTEM OF TEXAS AND TEACHER RETIREMENT SYSTEM OF TEXAS

Sec. 805.001. DEFINITIONS. In this chapter:

(1) "Employees retirement system" means the Employees Retirement System of Texas.

(2) "Member" means a person having membership in the employees retirement system or the teacher retirement system under statutes and rules governing membership in the respective systems.

(3) "Service credit" has the meaning assigned, as applicable, by Section 811.001 or Section 821.001.

(4) "System" means the employees retirement system or the teacher retirement system.

(5) "Teacher retirement system" means the Teacher Retirement System of Texas.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993.

Sec. 805.002. ELIGIBILITY TO TRANSFER SERVICE CREDIT. (a) Except as provided by Subsection (h), a member of both the employees retirement system and the teacher retirement system who applies for service or disability retirement from either system may transfer to that system service credit established in the other system if the member has at least three years of service credit in the system from which the member is retiring. If a person whose membership was transferred from the teacher retirement system to the employees retirement system pursuant to Section 43(a), Chapter 812, Acts of the 73rd Legislature, 1993, ceases to hold any position included in the membership of the employees retirement system before the earlier of the date the person retires or dies, the person's service credit accrued in the teacher retirement system before the date the membership was transferred remains credited in that system, unless the person has withdrawn contributions made for the service.

(b) Except as provided by Subsection (h), a member of both the employees retirement system and the teacher retirement system who has less than three years of service credit in the system in which the person most recently received service credit and at least three years of service credit in the other system may, at the time the person applies for service or disability retirement, transfer service credit to the other system from the system in which the person most recently received service credit.

(c) Except as provided by Subsections (e) and (f), a member of the employees retirement system or the teacher retirement system who formerly was a member of the other system may reinstate or purchase service credit in the other system for the purpose of making a transfer under Subsection (a) if the member has at least three years of service credit in the system in which the person currently is a member. Except as provided by Subsections (e) and (f), a member of the employees retirement system or the teacher retirement system who formerly was a member of the other system, who before September 1, 1993, transferred at least three years of service credit to the system in which the person currently is a member, and who has at least three years of service credit other than the transferred credit in the system in which the person currently is a member may reinstate or purchase service credit in the other system for the purpose of making a transfer of all service credit to that other system.

(d) Except as provided by Subsections (e) and (f), the designated beneficiary of a member of the employees retirement system or the teacher retirement system who dies while holding a position included in the membership of the system may make a transfer under Subsection (a) and a reinstatement or purchase under Subsection (c) if the deceased member had at least three years of service credit in the system in which the member was performing service at the time of death. The designated beneficiary may make a transfer under Subsection (b) if the deceased member had less than three years of service credit in the system in which the member was performing service at the time of death. If a member is not survived by a designated beneficiary, an alternate beneficiary, or a beneficiary provided by law or has failed to designate a beneficiary after becoming a member or resuming membership, the personal representative of the member's estate has the same right under this subsection as a designated beneficiary. A transfer of service by the beneficiary or personal representative of a deceased member's estate is not permitted unless the transfer will result in the payment of a death benefit annuity.

(e) Repealed by Acts 2003, 78th Leg., ch. 1111, Sec. 46(2),

eff. Sept. 1, 2003.

(f) A person who is receiving retirement benefits based on the person's service credited in one system and who applies for service or disability retirement from the other system is not eligible to transfer service credit under this chapter. The designated beneficiary, or the personal representative of the estate, of a person who at the time of death was receiving benefits based on the person's service credited in one system and who held a position included in the other system is not eligible to transfer service credit under this chapter.

(g) To be eligible to make a transfer pursuant to Subsection (d), a person must be the same beneficiary under both retirement systems, except that if the only service credited in the system from which service is being transferred is reinstated service and no beneficiary designation was made at or after the time of reinstatement, the beneficiary in the receiving system may make the election.

(h) A member applying for occupational disability retirement from the employees retirement system may transfer service credit from the teacher retirement system only if the member was contributing to the employees retirement system at the time the disabling condition occurred.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 1, 5, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1048, Sec. 1, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1111, Sec. 46(2), eff. Sept. 1, 2003.

Sec. 805.003. PAYMENTS TO REINSTATE OR PURCHASE SERVICE CREDIT. The cost of reinstating or purchasing service credit under Section 805.002 is determined according to the statutes that govern the reinstatement or purchase of the type of service credit in the system in which it is to be reinstated or purchased. All payments for service credit reinstated or purchased under Section 805.002 must be made before retirement or the first payment of a death benefit annuity, as applicable, or before a later date if allowed for members of the retirement system in which the credit is to be reinstated or purchased.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 2, eff. Aug. 28, 1995.

Sec. 805.004. TRANSFER OF SERVICE CREDIT. (a) A person who elects to transfer service credit under Section 805.002 shall notify, in the manner required by the system to which the credit will be transferred, the system of the election. The system shall notify the other system of the election.

(b) The systems by rule or agreement shall determine the manner in which the service credit is transferred.

(c) A transfer of service credit under this chapter cancels service credit and, if applicable, membership in the system from which it is transferred.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993.

Sec. 805.005. APPLICABILITY OF PROPORTIONATE RETIREMENT PROGRAM. An election to transfer service credit under Section 805.002 is an alternative to participation in the program provided by Chapter 803, except that a person having service credit in the employees retirement system, the teacher retirement system, and another public retirement system participating in that program may transfer service credit under this chapter, if eligible, and use the combined service credit for purposes of the program provided by Chapter 803.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993.

Sec. 805.006. CREDITING OF TRANSFERRED SERVICE CREDIT; REFUND. (a) Except as provided by Subsections (b) and (c), service credit transferred under this chapter is credited in the system to which it is transferred according to rules of the teacher retirement system determining the amount of service creditable.

(b) Not more than one month of service credit may be granted for service during that month.

(c) A person who transfers service credit under this chapter may not receive service credit for all military service performed in an amount that exceeds the maximum amount creditable in the system to which credit is transferred. A person is eligible for a refund from the system from which credit is transferred under this section of contributions made for military service credit, other than any amount that represents a fee, that exceeds the maximum amount creditable.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993.

Sec. 805.007. EFFECT OF TRANSFER OF SERVICE CREDIT. (a) A person who transfers service credit under this chapter forfeits all rights to benefits payable by the system from which it is transferred and is not an annuitant of that system for any purpose, including the payment of postretirement increases to annuitants of that system. This subsection does not preclude a person from receiving benefits as a beneficiary of an account not related to the transferred service credit.

(b) Service credit transferred under this chapter is considered as if it had been granted for service performed under the system to which it has been transferred and is used in satisfying minimum service requirements for retirement and in determining the amount of benefits that are based on the amount of a person's service credit:

(1) except that a person's average salary for the purpose of computing an annuity may be determined only from service credit that was originally established in one system and that results in the higher average salary;

(2) except as provided by Section 805.006; and

(3) except service credit transferred by a member applying for occupational disability retirement.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 3, eff. Aug. 28, 1995.

Sec. 805.008. RESPONSIBILITY FOR BENEFIT PAYMENTS. (a) Except as provided by Subsection (c), the system from which a person's service credit is transferred under this chapter shall transfer to the other system, at the time the annuity based on the service credit becomes payable, an amount equal to the portion of the actuarial value of the annuity that represents the percentage of the total amount of the person's service credited in both systems that was credited in the system from which the credit is being transferred.

(b) Except as provided by Subsection (c), the systems jointly by rule shall adopt actuarial tables and investment assumptions to be used in computing actuarial values under this section.

(c) As an alternative to Subsections (a) and (b) and except as provided by Subsection (h), the systems by rule may require the system from which service credit is transferred to pay monthly an amount equal to the portion of the actual value of the monthly payment of the annuity that represents the percentage of the total amount of service credit that is transferred.

(d) For the purpose of computing an amount to be transferred under this section, service credit in either system must be considered as if it were credited under rules of the teacher retirement system determining the amount of service creditable.

(e) An amount transferred under this section is payable from amounts credited to the person's individual account and amounts credited to the account in which the system places state contributions. Except as provided by Subsection (g), an amount received under this section shall be deposited in the account from which the system receiving the amount pays annuities.

(f) The system to which a transfer is made under this section is responsible for paying the annuity for which the transfer was made, including the entire amount of any increase in the annuity granted after the transfer.

(g) At the time of the death of a person whose membership was transferred from the teacher retirement system to the employees retirement system pursuant to Section 43(a), Chapter 812, Acts of the 73rd Legislature, 1993, the teacher retirement system shall transfer to the employees retirement system the person's service credit in the teacher retirement system and, if employment with the transferring agency was continuous from the date of transfer to the date of death:

(1) an amount determined under Subsections (a) and (b) or under Subsection (c), if an annuity is paid under Chapter 814; or

(2) the amount of money in the member savings account plus an amount equal to five percent of the person's account balance for each full year of service credited in the teacher retirement system, if a death benefit other than an annuity is paid under Chapter 814.

(h) If a person elects to receive a partial lump-sum payment

under the law governing the system from which the person is retiring, a transfer of an amount equal to the portion of the actual value of a lump-sum payment that represents the percentage of the amount of service credit transferred shall be made at the time the lump-sum payment is made.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993.
Amended by Acts 1995, 74th Leg., ch. 586, Sec. 4, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 2, eff. Sept. 1, 1999.

Sec. 805.009. RULES. In addition to the rules specifically required by this chapter, a system may adopt other rules for the administration of this chapter.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 2, eff. June 18, 1993.