

GOVERNMENT CODE  
CHAPTER 814. BENEFITS  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 814.001. TYPES OF BENEFITS. The types of benefits payable by the retirement system are:

- (1) service retirement benefits;
- (2) occupational disability retirement benefits;
- (3) nonoccupational disability retirement benefits;

and

- (4) death benefits.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 814.002. BENEFITS FROM BOTH MEMBERSHIP CLASSES. (a) If a member has service credit in both classes of membership, is eligible to retire from one class, and does not hold a position included in the other class, the member may retire from both classes and receive benefits based on all service credited in the retirement system.

(b) If a member is retiring and uses service credited in a class of membership to meet a length-of-service requirement for retirement, the member must retire from that class.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 814.003. EFFECTIVE DATE OF RETIREMENT. (a) The effective date of a member's service retirement is the date the member designates at the time the member applies for retirement as provided by Section 814.101, but the date must be the last day of a calendar month.

(b) If a person elects to receive a standard service retirement annuity and dies during the first calendar month that begins after the effective date of the person's retirement, the person is considered to have been a contributing member at the time of death.

(c) The retirement system may allow an applicant for retirement time after the effective date of the person's retirement to make a selection of a retirement annuity. If the applicant dies within the time allowed without having given the retirement system notice of a selection, the person is considered to have been a contributing member at the time of death.

(d) The effective date of a member's disability retirement is the date designated on the application for retirement filed by or for the member as provided by Section 814.201, but the date must be the last day of a calendar month.

(e) If a person elects to receive a standard disability retirement annuity and dies during the first calendar month that begins after the effective date of the person's retirement, the person is considered to have been a contributing member at the time of death.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.003 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 11, eff. Aug. 28, 1995.

Sec. 814.004. WHEN BENEFITS ARE PAYABLE. A monthly annuity payable to a retiree or beneficiary is payable to that person through the month in which the person dies. A continuation of an optional annuity or the payment of a death or survivor benefit annuity begins with payment for the month following the month in which the death occurs.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 12, eff. Aug. 28, 1995.

Sec. 814.005. WAIVER OF BENEFITS. (a) A person may, on a form prescribed by and filed with the retirement system, waive all or a portion of any benefits from the retirement system to which the person is entitled. The retirement system also shall give effect as a waiver to a full or partial disclaimer executed in accordance with Section 37A, Texas Probate Code, unless the benefit to be disclaimed is a lifetime annuity. A person may revoke a waiver of benefits in the same manner as the original waiver was made, unless the original waiver by its terms was made irrevocable.

(b) A waiver or a revocation of a waiver applies only to

benefits that become payable on or after the date the document is filed.

(c) The retirement system shall transfer to the state accumulation account amounts from the appropriate benefit payment accounts not used to pay benefits because of a waiver executed under this section.

(d) The board of trustees may adopt rules for the administration of waivers under this section.

Added by Acts 1983, 68th Leg., p. 1147, ch. 257, Sec. 1, eff. May 27, 1983. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 4, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.005 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 11, eff. Sept. 1, 1997.

Sec. 814.006. SIMULTANEOUS DEATH OF MEMBER AND BENEFICIARY. When a member or annuitant and the beneficiary of the member or annuitant have died within a period of less than 120 hours, the member or annuitant is considered to have survived the beneficiary for the purpose of determining the rights to amounts payable under this subtitle on the death of the member or annuitant. Added by Acts 1995, 74th Leg., ch. 586, Sec. 13, eff. Aug. 28, 1995.

Sec. 814.007. BENEFICIARY CAUSING DEATH OF MEMBER OR ANNUITANT. (a) A benefit payable on the death of a member or annuitant may not be paid to a person convicted of causing that death but instead is payable as if the convicted person had predeceased the decedent.

(b) A person who becomes eligible under this section to select death or survivor benefits may select benefits as if the person were the designated beneficiary.

(c) The retirement system shall reduce any annuity computed in part on the age of the convicted person to a lump sum equal to the present value of the remainder of the annuity. The reduced amount is payable to a person entitled as provided by this section to receive the benefit.

(d) The retirement system is not required to change the recipient of benefits under this section unless it receives actual notice of the conviction of a beneficiary. However, the retirement system may delay payment of a benefit payable on the death of a member or annuitant pending the results of a criminal investigation and of legal proceedings relating to the cause of death.

(e) For the purposes of this section, a person has been convicted of causing the death of a member or annuitant if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court of, causing the death of the member or annuitant, regardless of whether sentence is imposed or probated; and

(2) has no appeal of the conviction pending and the time provided for appeal has expired.

Added by Acts 1995, 74th Leg., ch. 586, Sec. 13, eff. Aug. 28, 1995.

Sec. 814.008. CHANGE OF BENEFICIARY AFTER RETIREMENT. (a) A retiree receiving an optional service or disability retirement annuity approved by the board of trustees or described by Section 814.108(c)(1) or (c)(2) may change the designated beneficiary as provided by this section for the benefits payable after the retiree's death.

(b) If the beneficiary designated at the time of the retiree's retirement is the spouse or former spouse of the retiree:

(1) the spouse or former spouse must give written, notarized consent to the change; or

(2) a court with jurisdiction over the marriage must have ordered the change.

(c) A beneficiary designated under this section is entitled on the retiree's death to receive monthly payments of the survivor's portion of the retiree's optional retirement annuity for the shorter of:

(1) the remainder of the life expectancy of the beneficiary designated as of the effective date of the retiree's retirement; or

(2) the remainder of the new beneficiary's life.

(d) A retiree may not change a beneficiary under this section after retirement if the retiree has previously changed after retirement a beneficiary for optional retirement annuity payments under this subtitle.

Added by Acts 1999, 76th Leg., ch. 168, Sec. 1, eff. May 21, 1999.

Sec. 814.009. DEDUCTION FROM ANNUITY. (a) A person who

receives an annuity under this subchapter may, on a form prescribed by and filed with the retirement system, authorize the retirement system to deduct from the person's monthly annuity payment the amount of a fee for the person's membership in a state employee organization that:

(1) is a certified eligible state employee organization under Section 403.0165; or

(2) has at least 2,500 retirees as members on January 1 preceding the fiscal year for which the deduction is made.

(b) An authorization made under this section remains in effect until:

(1) the person who receives the annuity modifies or revokes the authorization; or

(2) the state employee organization fails to meet the requirements of Subsection (a).

(c) The retirement system shall adopt rules to administer this section.

Added by Acts 2001, 77th Leg., ch. 1231, Sec. 7, eff. Sept. 1, 2001.

Sec. 814.010. ELECTRONIC FILING OF BENEFICIARY DESIGNATION. (a) In this section, "electronic filing" means the filing of data in the form of digital electronic signals transformed by computer and stored on magnetic tape, optical disks, or any other medium.

(b) A person entitled to designate a beneficiary under any system or program administered by the retirement system may make the designation by electronic filing under procedures adopted by the retirement system.

Added by Acts 2003, 78th Leg., ch. 1111, Sec. 16, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1310, Sec. 51, eff. June 20, 2003.

Sec. 814.011. LUMP-SUM PAYMENTS IN LIEU OF ANNUITIES. The retirement system may elect to make a lump-sum payment to a retiree or beneficiary in lieu of annuity payments if the actuarial present value of the annuity at the time of retirement or death does not exceed \$20,000. Payment of a lump sum under this section does not affect eligibility for any other program administered by the retirement system.

Added by Acts 2005, 79th Leg., ch. 347, Sec. 11, eff. Sept. 1, 2005.

#### SUBCHAPTER B. SERVICE RETIREMENT BENEFITS

Sec. 814.101. APPLICATION FOR SERVICE RETIREMENT BENEFITS. (a) A member may apply for a service retirement annuity by filing an application for retirement with the board of trustees.

(b) An application for a service retirement 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.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 814.102. ELIGIBILITY OF ELECTED MEMBERS FOR SERVICE RETIREMENT. Except as provided by rule adopted under Section 813.304(d) or Section 803.202(2), a member who has service credit in the elected class of membership, is eligible to retire and receive a service retirement annuity if the member:

(1) is at least 60 years old and has 8 years of service credit in that class; or

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

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1978, ch. 361, Sec. 1, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 9, eff. Sept. 1, 1991.

Sec. 814.103. SERVICE RETIREMENT BENEFITS FOR ELECTED CLASS SERVICE. (a) Except as provided by Subsection (b), the standard service retirement annuity for service credited in the elected class of membership is an amount equal to the number of years of service credit in that class, times two percent of the state salary, as adjusted from time to time, being paid a district judge.

(b) The standard service retirement annuity for service credited in the elected class may not exceed at any time 100 percent of the state salary being paid a district judge.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1979, ch. 361, Sec. 2, eff.

Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 10, eff. Sept. 1, 1991.

Sec. 814.104. ELIGIBILITY OF MEMBER FOR SERVICE RETIREMENT. (a) Except as provided by Section 814.102 or by rule adopted under Section 813.304(d) or 803.202(a)(2), a member who has service credit in the retirement system is eligible to retire and receive a service retirement annuity if the member:

(1) is at least 60 years old and has at least 5 years of service credit in the employee class; or

(2) has at least 5 years of service credit in the employee class and the sum of the member's age and amount of service credit in the employee class, including months of age and credit, equals or exceeds the number 80.

(b) A member who is at least 55 years old and who has at least 10 years of service credit as a commissioned peace officer engaged in criminal law enforcement activities of the Department of Public Safety, the Texas Alcoholic Beverage Commission, or the Parks and Wildlife Department, or as a custodial officer, is eligible to retire and receive a service retirement annuity.

(c) For the sole purpose of determining eligibility to receive a service retirement annuity, the retirement system shall consider service performed as a participant in the optional retirement program under Chapter 830 as if it were service for which credit is established in the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1979, ch. 361, Sec. 3, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 11, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 297, Sec. 1, eff. Sept. 1, 1995; Acts 1995, 74th Leg., ch. 688, Sec. 2, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1048, Sec. 12, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1541, Sec. 13, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 1111, Sec. 17, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 74, Sec. 2, eff. Sept. 1, 2005.

Sec. 814.105. SERVICE RETIREMENT BENEFITS FOR EMPLOYEE CLASS SERVICE. (a) Except as otherwise provided by this section, the standard service retirement annuity for service credited in the employee class of membership is an amount computed as the member's average monthly compensation for service in that class for the 36 highest months of compensation multiplied by 2.3 percent for each year of service credit in that class.

(b) The standard service retirement annuity for service credited in the employee class may not be less than \$150 a month nor more than 100 percent of the average monthly compensation computed under Subsection (a).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1986, 69th Leg., 2nd C.S., ch. 15, Sec. 1, eff. Sept. 23, 1986; Acts 1987, 70th Leg., ch. 577, Sec. 1, eff. Aug. 31, 1987; Acts 1987, 70th Leg., 2nd C.S., ch. 4, Sec. 3, eff. Sept. 1, 1987; Acts 1989, 71st Leg., ch. 602, Sec. 4, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.105 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1989, 71st Leg., ch. 1100, Sec. 4.09(a), eff. Sept. 1, 1989; Acts 1991, 72nd Leg., ch. 850, Sec. 11, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1048, Sec. 14, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1231, Sec. 8, eff. Sept. 1, 2001.

Sec. 814.107. SERVICE RETIREMENT BENEFITS FOR CERTAIN PEACE OFFICERS. (a) A member who 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 standard service retirement annuity in an amount and to be funded as provided by this section.

(b) The standard service retirement annuity payable for at least 20 years of service credit as a law enforcement or custodial officer is an amount computed on the basis of the member's average monthly compensation for the 36 highest months of compensation in the employee class, times the sum of the percentage factor used in the computation of a standard service retirement annuity under Section 814.105 plus .5 percent.

(c) The standard combined service retirement annuity that is payable under this section is based on retirement on or after the attainment of the normal retirement age, which for purposes of this section is the earlier of either the age of 50 or the age at which

the sum of the member's age and amount of service credit in the employee class equals the number 80. A law enforcement or custodial officer who retires before attaining the normal retirement age is entitled to an annuity that is actuarially reduced from the annuity available at the normal retirement age to the law enforcement or custodial officer service credit annuity amount available at the sum of the member's age and amount of employee class service credit. The annuity is payable from the law enforcement and custodial officer supplemental retirement fund.

(d) A member who retires under this section retires simultaneously from the employee class of membership. Benefits for service in the employee class of membership become payable from the trust fund established by Section 815.310 at the normal retirement age under the computation provided by Section 814.105. Optional retirement annuities provided by Section 814.108 are available to a member eligible to receive a service retirement annuity under this section, but the same optional plan and designee 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 trust fund established by Section 815.310.

(e) The amount payable from the law enforcement and custodial officer supplemental retirement fund is reducible by the amount paid from the trust fund established by Section 815.310 for service as a law enforcement or custodial officer. The total combined amount of an annuity under this section may not be less than the authorized benefit under Subsection (b) subtracted by any amount necessary because of selection of an optional annuity, because of retirement before the normal retirement age, or as provided by Subsection (f).

(f) The standard combined service retirement annuity payable for at least 20 years of service credit as a law enforcement or custodial officer may not exceed 100 percent of the average compensation computed under Subsection (b).

(g) For purposes of this section, service as a law enforcement or custodial officer is creditable as provided by rule of the board of trustees or on a month-to-month basis, whichever is greater.

(h) Repealed by Acts 1995, 74th Leg., ch. 586, Sec. 45(1), eff. Aug. 28, 1995.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 199, ch. 18, Sec. 13, 14, eff. Nov. 10, 1981; Acts 1989, 71st Leg., ch. 1227, Sec. 1, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.107 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 16, Sec. 11.08(a), eff. Aug. 26, 1991; Acts 1991, 72nd Leg., ch. 850, Sec. 12, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 586, Sec. 15, 45(1), eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 16, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 9, eff. Sept. 1, 2001.

Sec. 814.108. OPTIONAL SERVICE RETIREMENT BENEFITS. (a) Instead of the standard service retirement annuity payable under Section 814.103 or 814.105, the standard combined service retirement annuity payable under Section 814.107, or an annuity actuarially reduced because of age under Section 814.107, a retiring member may elect to receive an optional service retirement annuity under this section.

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

(c) An eligible person may select any optional retirement annuity approved by the board of trustees, or may select one of the following options, which provide that:

(1) after the retiree's death, the reduced annuity is payable in the same amount throughout the life of the person 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 person 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 designees or, if one does not exist, to the retiree's estate; or

(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 designees or, if one does not exist, to the retiree's estate.

(d) If a person who is nominated by a retiree in the written designation under Subsection (b) predeceases the retiree, the reduced annuity of a retiree who has elected an optional lifetime retirement annuity shall be increased to the standard service retirement annuity that the retiree would otherwise be entitled to receive if the retiree had not selected that annuity option. The standard service retirement annuity shall be adjusted as appropriate for:

(1) early retirement as permitted by law; and

(2) postretirement increases in retirement benefits authorized by law after the date of retirement.

(e) The increase in the annuity under Subsection (d) begins with the monthly payment made to the retiree for the month following the month in which the person nominated dies or the September 30, 1991, payment, whichever is later, and is payable to the retiree for the remainder of the retiree's life.

(f) The computation of an optional annuity must be made without regard to the gender of the annuitant or designee involved.

(g) Except as provided by Section 814.008 or 814.1081, a person who selected an optional service retirement annuity approved by the board of trustees or an optional service retirement annuity described by Subsection (c)(1) or (c)(2) 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 beneficiary for a guaranteed optional annuity is invalid unless the designation is made after the date of the divorce.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.108 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 13, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 586, Sec. 16, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 168, Sec. 2, eff. May 21, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 10, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1111, Sec. 18, eff. Sept. 1, 2003.

Sec. 814.1081. CHANGE IN ANNUITY SELECTION. (a) A person who retired and selected an optional service retirement annuity approved by the board of trustees or an optional service retirement annuity described by Section 814.108(c)(1) or (c)(2) may change the optional annuity selection to the selection of a standard service retirement annuity by filing with the retirement system a request to change the annuity selection, if the retiree designated a person as beneficiary who:

(1) was not at the time of designation and is not currently the retiree's spouse or child; or

(2) has executed since the designation a transfer and release, approved by a court of competent jurisdiction pursuant to a divorce decree, of the beneficiary's interest in the annuity and is not currently the retiree's spouse or child.

(b) If a retiree files a request as provided by Subsection (a), the retirement system shall recompute the annuity as a standard service retirement 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).

(c) Expired.

Added by Acts 1991, 72nd Leg., ch. 850, Sec. 14, eff. Sept. 1, 1991. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 17, eff. Aug. 28, 1995; Acts 1997, 75th Leg., ch. 1048, Sec. 15, eff. Sept. 1, 1997; Acts 2001, 77th Leg., ch. 1231, Sec. 11, eff. Sept. 1, 2001.

Sec. 814.1082. PARTIAL LUMP-SUM OPTION. (a) A member who is eligible for an unreduced service retirement annuity may select a standard retirement annuity or an optional retirement annuity described by Section 814.108 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 service retirement annuity computed without regard to this section.

(c) The service retirement 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 service retirement 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) Unless otherwise specified in rules adopted by the board of trustees, the lump-sum distribution will be made as a single payment payable at the time that the first monthly annuity payment is paid to the retiree.

(e) The amount of the lump-sum distribution will be deducted from any amount otherwise payable under Section 814.505.

(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, the retirement system shall provide a written notice to the member of the amount by which the member's annuity will be reduced because of the selection. The member shall be asked to sign a copy of or a receipt for the notice, and the retirement system shall maintain the signed copy or receipt.

(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 1999, 76th Leg., ch. 1541, Sec. 17, eff. Sept. 1, 1999.

#### SUBCHAPTER C. DISABILITY RETIREMENT BENEFITS

Sec. 814.201. APPLICATION FOR DISABILITY RETIREMENT BENEFITS. (a) A member may apply for a disability retirement annuity by:

(1) filing an application for retirement with the board of trustees; or

(2) having an application filed with the board by the member's spouse, employer, or legal representative.

(b) An application for a disability retirement annuity may not be made:

(1) after the date the disability retirement is to become effective; or

(2) more than 90 days before the date the disability retirement is to become effective.

(c) An application for an occupational disability retirement annuity may not be made after the second anniversary of the date the injury or disease that causes the disability occurs unless the executive director permits the application after that date because of a showing of good cause for delay.

(d) An applicant must submit to medical examination and provide other pertinent information as required by the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1111, ch. 252, Sec. 5, eff. Aug. 29, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1231, Sec. 12, eff. Sept. 1, 2001.

Sec. 814.202. ELIGIBILITY FOR DISABILITY RETIREMENT. (a) A member who was contributing to the retirement system at the time the member became permanently disabled for the further performance of duty is eligible to retire for a nonoccupational disability if the member has at least:

(1) 8 years of membership service credit in the elected class of membership;

(2) 6 years of membership service credit in the elected class plus 2 years of military service credit established before January 1, 1978; or

(3) 10 years of membership service credit in the employee class of membership.

(b) A member who was contributing to the retirement system at the time the member became permanently incapacitated for the further performance of duty, who meets the requirements provided by Section 811.001(12), and who has service credit in either membership class is eligible to retire for an occupational disability regardless of age or amount of service credit.

(c) A member otherwise eligible may not receive a disability retirement annuity unless the member is the subject of a certification issued as provided by Section 814.203.

(d) Repealed by Acts 2005, 79th Leg., ch. 347, Sec.36(6).

(e) A member otherwise eligible may not apply for or receive a nonoccupational disability annuity if the member is eligible for a service retirement annuity under Section 814.102 or 814.104(a)(2) or (b).

(f) An application for a nonoccupational disability retirement may not be made after the second anniversary of the date the member ceased making contributions to the retirement system.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1983, 68th Leg., p. 1980, ch. 361, Sec. 4, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 15, eff. Sept. 1, 1991; Acts 1999, 76th Leg., ch. 1541, Sec. 18, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1231, Sec. 13, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 347, Sec. 12, 36(6), eff. Sept. 1, 2005.

Sec. 814.203. CERTIFICATION OF DISABILITY. As soon as practicable after an application for disability retirement is filed, the medical board shall evaluate the medical and other pertinent information regarding the member's application. If the medical board finds that the member is mentally or physically incapacitated for the further performance of duty, as supported by substantial, objective, medical evidence, and that the incapacity is likely to be permanent, the medical board shall issue a certification of disability and submit it to the executive director. A certification under this section is admissible in a contested case under Section 815.511 without proving the medical board as experts.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.203 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 19, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 347, Sec. 13, eff. Sept. 1, 2005.

Sec. 814.204. INFORMATION ABOUT OCCUPATIONAL DISABILITY. (a) A member who applies for retirement for an occupational disability shall furnish the retirement system all information and other data requested by the retirement system and relating to the disability.

(b) The retirement system may require information and other data relating to an occupational disability retirement application to be furnished by any officer or employee of the agency with which the applicant holds a position.

(c) If a person who is requested to submit information or other data under this section withholds the requested material, the retirement system may elect to treat the application as one for nonoccupational disability retirement benefits.

(d) After receiving information and other data the retirement system considers necessary, the executive director shall determine, subject to review by the board of trustees, whether or not the disability is occupational.

(e) A contributing member who is also a member of the Texas National Guard or the Texas State Guard is eligible for retirement for an occupational disability if the person:

(1) is injured while on active duty with the national or state guard;

(2) is discharged from that entity because of the injury; and

(3) ceases state employment.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.204 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1245, Sec. 1, eff. Sept. 1, 1997.

Sec. 814.205. DISABILITY RETIREMENT BENEFITS FOR ELECTED CLASS SERVICE. (a) Except as provided by Subsection (b), a disability retirement annuity for service credited in the elected class of membership is an amount computed in the same manner as the standard service retirement annuity, not reduced because of age, for service credited in the elected class.

(b) An occupational disability retirement annuity for service credited in the elected class is computed on the basis of the amount of the member's service credit or eight years, whichever



is greater.

(c) A person who retires under this section may select an optional retirement plan instead of the standard retirement annuity.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.205 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 16, eff. Sept. 1, 1991.

Sec. 814.2055. AVERAGE MONTHLY COMPENSATION. For purposes of Sections 814.206 and 814.207, "average monthly compensation" means:

(1) a member's average monthly compensation for service in the employee class for the 36 highest months of compensation; or

(2) a member's average monthly compensation for service in the employee class if a member retires with less than 36 months of service.

Added by Acts 2001, 77th Leg., ch. 1231, Sec. 14, eff. Sept. 1, 2001.

Sec. 814.206. DISABILITY RETIREMENT BENEFITS FOR EMPLOYEE CLASS SERVICE. (a) Except as provided by Subsection (b) and Section 814.207, a standard disability retirement annuity for service credited in the employee class of membership is an amount computed at the rate of 2.3 percent for each year of service credit in that class, times the member's average monthly compensation.

(b) A standard disability retirement annuity under this section may not be more than 100 percent of the average monthly compensation or, if occupational, not less than 35 percent of the average monthly compensation or \$150 a month, whichever is greater.

(c) A standard disability retirement annuity computed under this section is payable throughout the life of the retiree, except as provided by Section 814.210.

(d) Instead of the standard disability retirement annuity payable under this section, a retiring member may elect to receive an optional disability retirement annuity payable throughout the life of the retiree and actuarially reduced, under tables adopted by the board of trustees, from the standard disability retirement annuity.

(e) Optional disability retirement annuities available to a disabled retiring member are those available to members retiring from regular service under Section 814.108(c).

(f) A standard nonoccupational disability retirement annuity under this section is reducible, under actuarial tables adopted by the board of trustees, for a member who retires before reaching an applicable age provided by Section 814.102 or 814.104.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.206 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 17, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1231, Sec. 15, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 347, Sec. 14, eff. Sept. 1, 2005.

Sec. 814.207. DISABILITY RETIREMENT BENEFITS FOR CERTAIN PEACE OFFICERS. (a) An annuity payable for an occupational disability resulting from a risk to which law enforcement or custodial officers are exposed because of the nature of law enforcement or custodial duties is payable under the same terms and conditions that apply to other occupational disability retirement annuities under this subtitle, except that the source and amount of the annuity are as provided by this section.

(b) Except as provided by Subsection (c), an occupational disability retirement annuity under this section is an amount, but not more than 100 percent, computed on the basis of the officer's average monthly compensation, times a percentage derived by application of Section 814.107(b).

(c) A disability retirement annuity under this section is not reducible because of age and may not be less than 50 percent of the officer's average monthly compensation regardless of the amount of service credited to the officer in the employee class.

(d) The portions of the annuity under this section payable from the law enforcement and custodial officer supplemental retirement fund are the amount remaining after deduction of any amount payable under Section 814.206, except the portion of an amount that exceeds the minimum payments provided by Section 814.206(b) and that is made for service other than as a law

enforcement or custodial officer and any amount by which an annuity is increased under Subsection (e).

(e) If a retiring member or retiree under this section presents evidence satisfactory to the retirement system that the person's occupational disability makes the person incapable of substantial gainful activity solely because of the disability and is considered a total disability under federal social security law, the retirement system shall increase the person's occupational disability retirement annuity to 100 percent of the officer's average monthly compensation.

(f) An annuity increase under Subsection (e) is not payable before the first month following the month in which the satisfactory evidence is received by the retirement system under Subsection (e).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 200, ch. 18, Sec. 15, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.207 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 18, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 1231, Sec. 16, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1111, Sec. 20, eff. Sept. 1, 2003.

Sec. 814.208. MEDICAL EXAMINATION OF DISABILITY RETIREE. (a) Once each year during the first five years after a member retires for disability, and once in each three-year period after that, the retirement system may require a disability retiree to undergo a medical examination.

(b) An examination under this section may be held at the retiree's residence or at any place mutually agreed to by the retirement system and the retiree. The retirement system may designate a physician to perform the examination. The retiree shall pay the expense of the examination.

(c) If a disability retiree refuses to submit to a medical examination as provided by this section, the executive director shall discontinue the retiree's annuity payments until the retiree submits to an examination. If a retiree has not submitted to an examination as provided by this section before the first anniversary of the date of first refusal, the executive director shall revoke all rights of the retiree to an annuity.

(d) If the medical board finds that a disability retiree is no longer mentally or physically incapacitated for the performance of duty, it shall certify its findings and submit them to the executive director. If the executive director concurs in this certification, the annuity terminates and membership is restored as provided by Section 814.210.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.208 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 17, eff. Sept. 1, 1991.

Sec. 814.210. RESTORATION OF DISABILITY RETIREE TO ACTIVE SERVICE. (a) If a retiree who is receiving a disability retirement annuity returns to state service or if the retiree is found to be no longer incapacitated for the further performance of duty, the person must again become a member of the retirement system or, if the person holds a position included in the elected class of membership, may elect to become a member. If a person becomes a member under this section, the executive director shall terminate the person's annuity payments.

(b) A person who becomes a member under this section is entitled to service credit for all service previously established and not canceled by a withdrawal of contributions.

(c) If a person's disability retirement annuity is discontinued under this section, the person's selection of any optional annuity becomes void.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.210 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 17, eff. Sept. 1, 1991.

Sec. 814.211. REFUND AT ANNUITY DISCONTINUANCE. (a) Except as provided by Subsection (b), if a disability retirement annuity is discontinued, the member is entitled to a lump-sum payment from the retirement annuity reserve account in an amount, if any, by which the amount in the member's individual account in the employees saving account at the time of disability retirement exceeds the amount of payments payable before the date the annuity

was discontinued.

(b) The benefit provided by this section is not payable to a member who, after discontinuance of a disability retirement annuity, returns to state service or elects a service retirement annuity.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 5, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.211 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 17, eff. Sept. 1, 1991.

#### SUBCHAPTER D. DEATH BENEFIT ANNUITIES

Sec. 814.301. SELECTION OF DEATH BENEFIT PLAN BY MEMBER. (a) A contributing member who has at least 10 years of service credit in the elected or employee class of membership may select a death benefit plan for the payment, if the member dies while the member is eligible to select a plan, of a death benefit annuity to a person designated by the member. Death benefit annuities available for selection by a member described in this subsection are the optional annuities provided by Sections 814.108(c)(1) and (c)(4), payable as if the member had retired at the time of death.

(b) If a member of a retirement system administered by the board of trustees selects death benefit plans under more than one board-administered retirement system, each plan selected may take effect. If a member selects a death benefit plan under only one retirement system administered by the board of trustees, the plan applies to service credit in other board-administered retirement systems.

(c) The computation of a death benefit annuity selected under this section must include the ages of the member and the member's designated beneficiary at the time of the member's death.

(d) A member may select a death benefit plan by filing an application for a plan with the retirement system on a form prescribed by the retirement system. After selection, a death benefit plan takes effect at death unless the member amends the plan, selects a retirement annuity at the time of retirement, has chosen a plan that cannot take effect, or becomes ineligible to select a plan.

(e) A beneficiary designation that names a former spouse as beneficiary is invalid for purposes of this section unless the designation is made after the date of the divorce.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 18, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 586, Sec. 19, eff. Aug. 28, 1995; Acts 2005, 79th Leg., ch. 347, Sec. 15, eff. Sept. 1, 2005.

Sec. 814.302. SELECTION OF DEATH BENEFIT PLAN BY SURVIVOR OF MEMBER. (a) If a contributing member eligible to select a death benefit plan under Section 814.301 dies without having made a selection, or if a selection cannot be made effective, the member's designated beneficiary may select a plan in the same manner as if the member had made the selection. If there is no designated beneficiary, the personal representative of the decedent's estate may make the selection for the benefit of the decedent's heirs or devisees. In lieu of selecting a death benefit plan, the designated beneficiary or, if there is none, the personal representative of the decedent's estate, may elect to receive a refund of contributions and any applicable payment under Section 814.401.

(b) If a person dies who, at the time of death, was a contributing member of a retirement program administered by the board of trustees and was eligible, having met the requirements of service credit and attained age, for a service retirement annuity based on service in one or more board-administered programs or was a contributing member of the employee class, had at least three years of service credit in that class, and would have been eligible to retire under the proportionate retirement program under Chapter 803, but was not eligible to select a death benefit plan, the person's surviving spouse may select a plan in the same manner that the decedent could have made the selection if the decedent had retired on the last day of the month in which the person died. If there is no surviving spouse, the guardian of the decedent's surviving minor children may select a plan. If the decedent is not survived by a spouse or minor children, an annuity may not be paid

under this subsection.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 19, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 586, Sec. 20, eff. Aug. 28, 1995; Acts 1999, 76th Leg., ch. 1541, Sec. 19, eff. Sept. 1, 1999; Acts 2005, 79th Leg., ch. 347, Sec. 16, eff. Sept. 1, 2005.

Sec. 814.304. ANNUITY FOR SURVIVOR OF ELECTED MEMBER. (a) Except as provided by Subsections (b) and (c), if a member who has at least eight years of service credit in the elected class of membership dies, a death benefit annuity is payable in an amount computed at the rate of one-half of the standard service retirement annuity to which the member would have been entitled at the member's age at the time of death or at the age of 60, whichever is later.

(b) The annuity provided by this section is payable only to the member's surviving spouse. If the member is not survived by a spouse, a benefit may not be paid under this section.

(c) An annuity may not be paid under this section if, at the time of death, the member was eligible to select a death benefit annuity under Section 814.301.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.304 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 814.305. ANNUITY FOR SURVIVOR OF LAW ENFORCEMENT OR CUSTODIAL OFFICER. If a member who has at least 20 years of service credit as a law enforcement or custodial officer dies, the amount of the death benefit annuity payable for the member's service as a law enforcement or custodial officer is an amount computed and funded as provided by Section 814.107, including any applicable reduction factors.

Added by Acts 1983, 68th Leg., p. 1977, ch. 360, Sec. 1, eff. Sept. 1, 1983. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.305 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 20, eff. Sept. 1, 1991.

#### SUBCHAPTER E. MEMBER DEATH BENEFITS

Sec. 814.401. MEMBER DEATH BENEFITS GENERALLY. (a) Except as provided by Subsection (d), if a member dies under a circumstance described in Subsection (c), a lump-sum death benefit is payable from the state accumulation account in an amount computed at the rate of five percent of the amount in the member's individual account in the employees saving account at the time of death, times the number of full years of service credit the member had at the time of death, but not more than 100 percent of the amount in the member's individual account.

(b) The benefit provided by this section is payable to the beneficiary designated by the member under Section 814.403(b). If a member does not designate a beneficiary or if the beneficiary designation cannot be made effective, the benefit is payable to the member's estate.

(c) A benefit is payable under this section only if the member at the time of death was:

- (1) actively employed by the state;
- (2) receiving workers' compensation benefits for an injury sustained while employed by the state; or
- (3) on authorized sick leave.

(d) A death benefit may not be paid under this section if, at the time of death, a death benefit annuity became effective.

(e) A beneficiary designation that names a former spouse as beneficiary is invalid unless the designation is made after the date of the divorce.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 6, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 21, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 586, Sec. 21, eff. Aug. 28, 1995; Acts 2001, 77th Leg., ch. 1231, Sec. 17, eff. Sept. 1, 2001.

Sec. 814.402. MEMBER OCCUPATIONAL DEATH BENEFITS. (a) Except as provided by Subsection (b), if a member dies and the executive director determines that the death was an occupational death, a lump-sum death benefit is payable from the state accumulation account in an amount equal to one year's salary,

computed on the basis of the member's rate of compensation at the time of death.

(b) The benefit provided by this section is payable only to the member's surviving spouse or, if there is no surviving spouse, to the guardian of the member's surviving dependent minor children. If the member is not survived by a spouse or dependent minor children, a benefit may not be paid under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 7, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 814.403. RETURN OF CONTRIBUTIONS. (a) Except as provided by Subsection (d), if a member dies before retirement, the amount in the member's individual account in the employees saving account at the time of death is payable as a lump-sum death benefit.

(b) Except as provided by Subsection (c), the benefit provided by this section is payable to a person designated by the member in a signed and witnessed document filed with the retirement system before the member's death. A designation, change, or revocation of a beneficiary in a will or other document not filed with the retirement system is not effective. If a member does not designate a beneficiary or if the beneficiary designation cannot be made effective, the benefit is payable to the member's estate.

(c) A beneficiary designation that names a former spouse as beneficiary is invalid for purposes of this section unless the designation is made after the date of the divorce.

(d) A death benefit may not be paid under this section if, at the time of death, a death benefit annuity became effective.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 8, eff. Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.403 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 22, eff. Sept. 1, 1991; Acts 1995, 74th Leg., ch. 586, Sec. 22, eff. Aug. 28, 1995.

#### SUBCHAPTER F. RETIREE DEATH BENEFITS

Sec. 814.501. RETIREE DEATH BENEFITS GENERALLY. (a) A lump-sum death benefit in the amount of \$5,000 is payable if the board of trustees receives proof satisfactory to it of the death, on or after September 1, 1975, of a person retired under a retirement system administered by the board. The board by rule shall adopt procedures to provide for the payment of this benefit not later than the seventh day after the date the board receives the required proof of death.

(b) The benefit provided by this section is payable to a person designated by the retiree in a signed and witnessed document filed with the retirement system before the retiree's death. A designation, change, or revocation of a beneficiary in a will or other document not filed with the retirement system is not effective. If a retiree does not designate a beneficiary or if the beneficiary designation cannot be made effective, the benefit is payable to the retiree's estate.

(c) A beneficiary designation that names a former spouse as beneficiary is invalid for purposes of this section unless the designation is made after the date of the divorce.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.501 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 23, eff. Aug. 28, 1995; Acts 2005, 79th Leg., ch. 242, Sec. 1, eff. May 30, 2005.

Sec. 814.503. OCCUPATIONAL DISABILITY RETIREE DEATH BENEFITS. (a) Except as provided by Subsection (b), if a person who receives an occupational disability retirement annuity dies and the executive director determines that the death was an occupational death, a lump-sum death benefit is payable from the state accumulation account in an amount equal to one year's salary, computed on the basis of the retiree's rate of compensation at the time of disability retirement.

(b) The benefit provided by this section is payable only to the retiree's surviving spouse or, if there is no surviving spouse, to the guardian of the retiree's surviving dependent minor children. If the retiree is not survived by a spouse or dependent minor children, a benefit may not be paid under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1985, 69th Leg., ch. 91, Sec. 10, eff. Sept. 1,

1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.503 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 814.505. RETURN OF EXCESS CONTRIBUTIONS IN OTHER CIRCUMSTANCES. (a) Except as provided by Subsection (c), when a person who receives a service or disability retirement annuity dies, a lump-sum death benefit is payable from the retirement annuity reserve account in the amount, if any, by which the balance in the retiree's individual account in the employees saving account at the time of service retirement exceeds the total of annuity payments payable before the retiree's death.

(b) The benefit provided by Subsection (a) is payable to a person designated by the retiree at the time of retirement in a signed and witnessed document filed with the retirement system. If a retiree does not designate a beneficiary or if the beneficiary does not survive the retiree, the benefit is payable to the retiree's estate.

(c) A death benefit may not be paid under Subsections (a) and (b) if the retiree selected an optional service retirement annuity under Section 814.108.

(d) If the person designated as the beneficiary of an optional service retirement annuity, other than one selected under Section 814.108(c)(3) or 814.108(c)(4), predeceases the retiree, a lump-sum death benefit is payable from the retirement annuity reserve account in the amount, if any, by which the balance in the retiree's individual account in the employees saving account at the time of service retirement exceeds the sum of annuity payments payable to the retiree before death.

(e) The benefit provided by Subsection (d) is payable to the deceased retiree's estate.

(f) If a beneficiary dies while receiving an optional service retirement annuity, other than one selected under Section 814.108(c)(3) or 814.108(c)(4), a lump-sum death benefit is payable from the retirement annuity reserve account in the amount, if any, by which the balance in the retiree's individual account in the employees saving account at the time of service retirement exceeds the sum of annuity payments payable to the retiree and the beneficiary before the beneficiary's death.

(g) If a beneficiary dies while receiving an optional service retirement annuity selected under Section 814.302 as described in Section 814.108(c)(1) or Section 814.304(a), a lump-sum death benefit is payable from the retirement annuity reserve account in the amount, if any, by which the balance in the member's individual account in the employees saving account at the time of death exceeds the sum of annuity payments payable to the beneficiary before the beneficiary's death.

(h) The benefits provided by Subsections (f) and (g) are payable to the deceased beneficiary's estate.

(i) A beneficiary designation that names a former spouse as beneficiary is invalid unless the designation is made after the date of the divorce.

Added by Acts 1989, 71st Leg., ch. 81, Sec. 1, eff. Sept. 1, 1989. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.505 and amended by Acts 1989, 71st Leg., ch. 1100, Sec. 4.04(a)(1) to (4), eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 23, eff. Sept. 1, 1991; Acts 2001, 77th Leg., ch. 1231, Sec. 18, eff. Sept. 1, 2001.

#### SUBCHAPTER G. INCREASES IN BENEFITS

Sec. 814.601. ANNUITY INCREASE AFTER DEATH OR RETIREMENT. (a) Except as provided by Subsections (b) and (e), on the first day of each fiscal year, the retirement system shall increase the amounts of annuities that are:

(1) computed as provided by Section 814.105 or a predecessor to that section, Section 814.1051, Section 814.206 or a predecessor to that section, or if the standard annuity is derived from Section 814.105 or a predecessor, as provided by Section 814.108 or a predecessor to that section;

(2) based on service that was credited in the retirement system as employee class service; and

(3) payable to a retiree of the retirement system, to the survivor of a retiree of the retirement system, or to the survivor of a deceased member of the retirement system.

(b) The retirement system may not increase under this section the amount of an annuity unless the retirement or death on which the annuity is based occurred before the first day of the

preceding fiscal year.

(c) The legislature may appropriate money from the general revenue fund to pay the costs of increasing the amounts of annuities under this section. On the first day of each fiscal year, the state comptroller of public accounts shall transfer to the retirement system any money appropriated for the fiscal year for the purpose of this section.

(d) If the amount of money appropriated for a fiscal year is insufficient to finance the rate of increase in annuities specified in the Act making the appropriation or if the Act fails to specify a rate of increase, the board of trustees shall set the rate as the rate that the amount of money appropriated will finance for the duration of the annuities payable to those persons entitled to receive an increase in annuities under this section.

(e) If an appropriation is not made for a fiscal year for the purpose of this section, the retirement system may not increase under this section the amount of annuities for that year.

Added by Acts 1981, 67th Leg., 1st C.S., p. 201, ch. 18, Sec. 16, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 24.601 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 39, Sec. 3, eff. April 22, 1993.

Sec. 814.602. ADJUSTMENT TO ANNUITIES. (a) Except as provided by Subsection (b), the board of trustees may adopt rules that adjust or modify annuities to the extent necessary to be consistent with changes in plan design. Any adjustment or modification must be made applicable to all members and annuitants who are similarly situated. Any rule adopted under this section supersedes conflicting portions of existing plan provisions and must be in compliance with Section 401(a) of the Internal Revenue Code of 1986 and Section 811.006.

(b) A rule adopted under this section may not result in a reduction in any existing annuity.

Added by Acts 1991, 72nd Leg., ch. 850, Sec. 24, eff. Sept. 1, 1991.

Sec. 814.603. SUPPLEMENTAL PAYMENTS. (a) The retirement system may make a supplemental payment as provided by this section to persons whose annuities are described by Section 814.107, 814.207, 814.305, or 814.601(a) and that are based on service retirements, disability retirements, or deaths. A supplemental payment made under this section is in addition to the regular monthly annuity payment. Supplemental payments under this section must comply with Section 811.006.

(b) The board of trustees shall determine the amount and timing of a supplemental payment and the manner in which the payment is made.

(c) The retirement system shall pay any supplemental payment made under this section from the retirement annuity reserve account and may transfer to that account from the state accumulation account any portion of the amount that exceeds the amount in the retirement annuity reserve account available to finance this supplemental payment and that is actuarially determined to be necessary to finance the supplemental payment.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 10, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 586, Sec. 24, eff. Aug. 28, 1995; Acts 2003, 78th Leg., ch. 1111, Sec. 21, eff. Sept. 1, 2003.