

GOVERNMENT CODE  
CHAPTER 823. CREDITABLE SERVICE  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 823.001. TYPES OF CREDITABLE SERVICE. The types of service creditable in the retirement system are:

- (1) prior service;
- (2) membership service;
- (3) military service; and
- (4) equivalent membership service.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 823.002. SERVICE CREDITABLE IN A YEAR. (a) The board of trustees by rule shall determine how much service in any year is equivalent to one year of service credit, but in no case may all of a person's service in one school year be creditable as more than one year of service. Service that has been credited by the retirement system on annual statements for a period of five or more years may not be deleted or corrected because of an error in crediting unless the error concerns three or more years of service credit or was caused by fraud.

(b) Expired.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 6, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 201, Sec. 44, eff. Sept. 1, 2003.

Sec. 823.003. BENEFITS BASED ON SERVICE CREDIT. Except as otherwise provided under the optional retirement program, years of service on which the amount of a benefit is based consist of the number of years of service credit to which a member is entitled.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 823.004. COMPUTATION OF AND PAYMENT FOR CREDIT. (a) All credit for military service, out-of-state service, developmental leave, work experience in a career or technological field, and service transferred to the retirement system under Chapter 805 shall be computed on a September 1 through August 31 school year. Payments for service described by this section must be completed not later than the later of the member's retirement date or the last day of the month in which the member submits a retirement application.

(b) The retirement system by rule may establish an irrevocable employer pick-up of member contributions as described by Section 414(h)(2) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414(h)(2)) for the purchase of any service credit authorized by law.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 7, eff. Sept. 1, 1995. Amended by Acts 1997, 75th Leg., ch. 1416, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1122, Sec. 2, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1229, Sec. 5, eff. Sept. 1, 2001.

Sec. 823.005. ACCEPTANCE OF ROLLOVERS AND TRANSFERS FROM OTHER PLANS. Subject to rules adopted by the board of trustees, the retirement system shall accept an eligible rollover distribution or a direct transfer of funds from another qualified plan in payment of all or a portion of any deposit a member is permitted to make with the system for credit for service. The rules adopted by the board shall condition the acceptance of a rollover or transfer from another plan on the receipt from the other plan of information necessary to enable the retirement system to determine the eligibility of any transferred funds for tax-free rollover treatment or other treatment under federal income tax law.

Added by Acts 1995, 74th Leg., ch. 555, Sec. 7, eff. Sept. 1, 1995.

Sec. 823.006. LIMITS ON ANNUAL CONTRIBUTIONS FOR PURCHASE OF SERVICE CREDIT. Notwithstanding any other provision of this subtitle, the retirement system may limit the purchase of service credit to the extent required by applicable limits on the amount of annual contributions a participant may make to a qualified plan under Sections 401(a) and 415(c), Internal Revenue Code of 1986.

Added by Acts 1999, 76th Leg., ch. 1540, Sec. 2, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 1359, Sec. 9, eff. Sept. 1, 2005.

SUBCHAPTER C. ESTABLISHMENT OF MEMBERSHIP SERVICE

Sec. 823.201. CURRENT MEMBERSHIP SERVICE. (a) Membership

service is credited in the retirement system for each year in which a member is an employee and for which the member renders sufficient service for credit under Section 823.002 and makes and maintains with the retirement system the deposits required by this subtitle or prior law.

(b) The board of trustees may adopt rules for the granting of membership service credit.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 202, ch. 18, Sec. 21, eff. Nov. 10, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.201 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 823.203. MEMBERSHIP SERVICE FOR OPTIONAL RETIREMENT PROGRAM. A member may not establish service credit in the retirement system for any period when the member was participating in the optional retirement program under Chapter 830.

Added by Acts 1999, 76th Leg., ch. 1540, Sec. 3, eff. Sept. 1, 1999.

#### SUBCHAPTER D. ESTABLISHMENT OF MILITARY SERVICE

Sec. 823.301. CREDITABLE MILITARY SERVICE. (a) Except as provided by Section 823.101(2), military service creditable in the retirement system is active federal duty in the armed forces of the United States, other than as a student at a service academy, that was performed:

(1) as a direct result of being inducted or of first enlisting for duty on a date when the federal government was actively inducting persons into the armed forces under federal draft laws;

(2) as a reservist or member of the national guard who was ordered to duty under the authority of federal law;

(3) during a time when the federal government was actively inducting persons into the armed forces under federal draft laws; or

(4) as a result of voluntarily entering on active duty.

(b) A member may not establish more than five years of service credit in the retirement system under this subchapter for military service. Service may be established in one-year increments except as otherwise provided by this subchapter.

(c) The board of trustees may adopt rules expanding the military service creditable in the retirement system in order to comply with the requirements of federal law.

(d) Military service that is terminated by sentence of a court-martial is not creditable under this section.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1987, 70th Leg., ch. 61, Sec. 3, eff. Aug. 31, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 1, eff. Nov. 12, 1991; Acts 1997, 75th Leg., ch. 1416, Sec. 5, eff. Sept. 1, 1997.

Sec. 823.302. MILITARY SERVICE CREDIT. (a) An eligible member may establish service credit in the retirement system for military service performed that is creditable as provided by Section 823.301.

(b) A member eligible to establish military service credit is one who has at least five years of service credit in the retirement system for actual service in public schools, except that a member meeting this condition does not qualify for insurance coverage under Chapter 1575, Insurance Code, until the member has 10 or more years of membership service credit.

(c) A member may establish credit under this section by depositing with the retirement system for each year of military service claimed a contribution in an amount equal to:

(1) the member's contributions to the retirement system during the most recent full year of membership service that preceded the military service, if the military service was performed while the person was a member of the retirement system; or

(2) the member's contributions to the retirement system during the first full year of membership service, if the military service was performed before the person became a member of the retirement system.

(d) In addition to the contribution required by Subsection (c), a member claiming credit for military service must pay a fee of eight percent, compounded annually, of the required contribution

from the date of first eligibility to the date of deposit.

(e) After a member makes the deposits required by this section, the retirement system shall grant the member one year of military service credit for each year of military service approved. Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 203, ch. 18, Sec. 22, eff. Sept. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 2, eff. Nov. 12, 1991; Acts 1995, 74th Leg., ch. 555, Sec. 8, eff. Sept. 1, 1995; Acts 2003, 78th Leg., ch. 1276, Sec. 10A.521, eff. Sept. 1, 2003.

Sec. 823.303. MILITARY LEAVE CREDIT. A member who performs military service creditable in the retirement system but who does not establish credit for the service by making the deposits required by Section 823.302 is entitled to credit of a year for each year of military service performed, if the member requests the credit in writing before the later of the date of application for retirement or the effective date of retirement. The credit is usable only in determining eligibility for, but not the amount of, benefits under Section 824.406.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.303 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1416, Sec. 7, eff. Sept. 1, 1997.

Sec. 823.304. REEMPLOYED VETERAN'S CREDIT. (a) A person eligible to establish reemployed veteran's credit is one who qualifies under the Veteran's Reemployment Rights Act, 38 U.S.C. Section 2021 et seq., for the benefits of reemployment in a position included within the membership of the retirement system and who is entitled under that Act to additional credit and benefits from the retirement system because of the person's active duty in the armed forces of the United States.

(b) A person who receives credit under this section may not receive military service credit under Sections 823.301 and 823.302 for the same service.

(c) A person may establish credit under this section by depositing with the retirement system for each year of service claimed an amount equal to:

(1) the member contributions to the retirement system, as determined by the retirement system, that the person would have made had the person continued to be employed in the person's former position covered by the retirement system during the entire period of active duty in the armed forces for which the person is to receive retirement credit; and

(2) a fee of five percent, compounded annually, of the required contribution from the date of the person's first eligibility to establish the credit to the date of deposit.

(d) To the extent required by the Veteran's Reemployment Rights Act and permitted by Sections 401(a) and 415 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 401 and 415), the retirement system may:

(1) grant the person service credit for the period of active duty in the armed forces as if the person had been employed in a position eligible for membership and credit with the retirement system; and

(2) include in relevant benefit computations under this subtitle the annual compensation, as determined by the retirement system, that would have been otherwise received by the person for service covered by the retirement system during any year in which the person had active duty in the armed forces.

(e) The state shall deposit with the retirement system an amount equal to the state contributions, as determined by the retirement system, that the state would have made had the person continued to be employed in the person's former position covered by the retirement system during the entire period of active duty in the armed forces for which the person has received service credit under this section. The state shall deposit the required amount with the retirement system not later than the 30th day after the date the state receives notice from the retirement system of the amount of state contributions required for service credit established by a person under this section.

(f) The board of trustees may adopt rules that modify the terms of this section for the purpose of compliance with the

Uniformed Services Employment and Reemployment Rights Act of 1994 (38 U.S.C. Section 4301 et seq.).

Added by Acts 1991, 72nd Leg., 1st C.S., ch. 13, Sec. 3, eff. Nov. 12, 1991. Amended by Acts 1995, 74th Leg., ch. 555, Sec. 9, eff. Sept. 1, 1995.

SUBCHAPTER E. ESTABLISHMENT OF EQUIVALENT MEMBERSHIP SERVICE

Sec. 823.401. OUT-OF-STATE SERVICE. (a) Except as provided by Subsection (b), an eligible member may establish equivalent membership service credit for employment with a public school system maintained wholly or partly by another state or territory of the United States or by the United States for children of its citizens. A school receiving funds under 22 U.S.C. Section 2701 is considered a public school for the purposes of this section.

(b) A member may not establish credit under this section for service performed for a public school while a member of the armed forces, for which service the member was compensated by the United States.

(c) A member eligible to establish credit under this section is one who has at least five years of service credit in the retirement system for actual service in public schools.

(d) A member may establish credit under this section by depositing with the retirement system for each year of service credit the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees

(e) A deposit for at least one year of credit must be made with an initial application for credit, and all payments for service claimed under this section must be made before retirement.

(f) The amount of service credit a member may establish under this section may not exceed the lesser of the number of years of membership service credit the member has in the retirement system for actual service in public schools or 15 years.

(g) After a member makes the deposits required by this section, the retirement system shall grant the member one year of equivalent membership service credit for each year of service approved. The retirement system may not use service credit granted under this section in computing a member's annual average compensation.

(h) Repealed by Acts 2003, 78th Leg., ch. 201, Sec. 61(2) and Acts 2003, 78th Leg., ch. 1231, Sec. 9(2).

(i) In determining the amount of a contribution under Subsection (d) required of a member who did not work full time or worked fewer days or months than full-time employees in similar positions, the retirement system shall compute an annual rate of compensation from the member's reported compensation.

(j) The board of trustees may adopt rules providing for the adoption of a reciprocal agreement with a state or territory of a member's previous employment for the payment for service credit established under this section through the transfer from the state or territory to the retirement system of contributions made on behalf of the member in the form of an eligible rollover distribution as provided by Section 401(a)(31), Internal Revenue Code of 1986, and its subsequent amendments.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 203, ch. 18, Sec. 23, eff. Sept. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 2, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 84, Sec. 1, eff. May 15, 1995; Acts 1995, 74th Leg., ch. 555, Sec. 10, eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 1416, Sec. 8, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 454, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 201, Sec. 61(2), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1231, Sec. 9(2), eff. Sept. 1, 2004; Acts 2005, 79th Leg., ch. 1359, Sec. 10, eff. Sept. 1, 2005.

Sec. 823.402. DEVELOPMENTAL LEAVE. (a) An eligible member may establish equivalent membership service credit for developmental leave that is creditable in the retirement system.

(b) Developmental leave creditable in the retirement system is absence from membership service for a school year that is approved by the member's employer for study, research, travel, or another purpose designed, as determined by the employer, to improve

the member's professional competence.

(c) A member eligible to establish credit under this section is one who:

(1) has at least five years of service credit in the retirement system; and

(2) is an employee of a public school at the time the credit is sought.

(d) On or before the date a member takes developmental leave, the member shall file with the retirement system a notice of intent to take developmental leave, and the member's employer shall file with the retirement system a certification that the leave meets the requirements of Subsection (b).

(e) A member may establish credit under this section by depositing with the retirement system for each year of developmental leave claimed an amount equal to the sum of:

(1) the rate of member contributions required during the year of leave, times the member's annual rate of compensation during the member's most recent year of creditable service that preceded the year of leave; plus

(2) the amount that the state would have contributed had the member performed membership service during the year of leave at the member's annual rate of compensation during the most recent year of service that preceded the leave.

(f) A member may not establish more than two years of equivalent membership service credit under this section.

(g) A member may not establish credit under this section after the end of the first creditable school year that begins after the developmental leave has ended. The retirement system may not use credit established under this section in computing service retirement benefits until the member has at least 10 years of service credit for actual service in public schools.

(h) If credit established under this section is not used in determining benefits, all deposits made under this section are refundable to the member or, if applicable, the member's beneficiary.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.402 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 3, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1416, Sec. 9, eff. Sept. 1, 1997.

Sec. 823.403. CREDIT FOR ACCUMULATED PERSONAL OR SICK LEAVE. (a) A member who retires from an employer as defined by Section 821.001(7) based on service or a disability is entitled to membership service credit in the retirement system for the member's state personal or sick leave that has accumulated and is unused on the last day of employment pursuant to the terms of this section. State personal or sick leave is creditable in the retirement system in the amount of one year of service credit for 50 days or more, or 400 hours or more, of accumulated state personal or sick leave. An accumulation of less than 50 days is not creditable. Not more than five days of unused state personal or sick leave may be accumulated per year. Credit established under this section may be used only for the purpose of calculating benefits under Section 824.203.

(b) The employer shall, under rules adopted by the retirement system, certify the amount of a member's accumulated state personal or sick leave on the last day of employment before retirement.

(c) On receipt of a certification under Subsection (b) and payment under Subsection (d) of this section, the retirement system shall grant any credit to which a retiree who is a subject of the certification is entitled. The increase in the annuity payment begins with the first payment that becomes due after certification and payment.

(d) In order to receive credit, the member shall pay to the retirement system at the time service credit is granted under this section the actuarial present value of the additional standard retirement annuity benefits under the option selected by the member that would be attributable to the conversion of the unused state personal or sick leave into the service credit based on rates and tables recommended by the actuary and adopted by the board of trustees.

(e) In accordance with local policy, the employer from which the retiring member was compensated on the member's last day of employment may reimburse an employee for all or part of the cost of purchasing service credit under this section.

Added by Acts 1991, 72nd Leg., ch. 882, Sec. 1, eff. Sept. 1, 1992.  
Amended by Acts 1995, 74th Leg., ch. 260, Sec. 36, eff. May 30, 1995.

Sec. 823.404. WORK EXPERIENCE BY CAREER OR TECHNOLOGY TEACHER. (a) An eligible member may establish equivalent membership service credit for one or two years of work experience for which the member is entitled to salary step credit under Section 21.403(b), Education Code.

(b) A member is eligible to establish equivalent membership service credit under this section if the member has at least five years of membership service credit.

(c) A member may establish credit under this section by depositing with the retirement system, for each year of service, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the conversion of the work experience into service credit based on rates and tables recommended by the actuary and adopted by the board of trustees.

(d) After a member makes the deposits required by this section, the retirement system shall grant the member one year of equivalent membership service credit for each year of service approved.

Added by Acts 1999, 76th Leg., ch. 1122, Sec. 1, eff. Sept. 1, 1999.

Sec. 823.406. CREDIT PURCHASE OPTION FOR CERTAIN SERVICE. (a) A member may establish membership service credit under this section only for service performed during a 90-day waiting period to become a member after beginning employment.

(b) A member may establish service credit under this section by depositing with the retirement system, for each month of service credit, the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the retirement system's actuary and adopted by the board of trustees.

(c) After a member makes the deposits required by this section, the retirement system shall grant the member one month of equivalent membership service credit for each month of credit approved.

(d) The retirement system shall deposit the amount of the actuarial present value of the service credit purchased in the member's individual account in the employees saving account.

(e) The board of trustees may adopt rules to administer this section.

Added by Acts 2003, 78th Leg., ch. 201, Sec. 45, eff. Sept. 1, 2003.

#### SUBCHAPTER F. REINSTATEMENT OF SERVICE CREDIT

Sec. 823.501. CREDIT CANCELED BY MEMBERSHIP TERMINATION. (a) An eligible person who has terminated membership in the retirement system by withdrawal of contributions or absence from service may reinstate in the system the service credit canceled by the termination.

(b) A person eligible to reinstate service credit under this section is one who is a member of the retirement system at the time the service is reinstated.

(c) A member may reinstate canceled credit under this section by depositing with the retirement system:

(1) the amount withdrawn or refunded; plus  
(2) a reinstatement fee of six percent, compounded annually, of the amount withdrawn or refunded from the date of withdrawal or refund to the date of redeposit.

(d) The retirement system shall determine in each case the amount of money to be deposited by a member reinstating service credit under this section. The system may not provide benefits based on the service until the determined amount has been fully paid.

(e) Service credit canceled by a withdrawal of contributions not authorized by Section 822.005 is required to be reinstated under this section.

(f) A member may have an account that was terminated by absence from service reactivated by requesting the reactivation in writing. The beneficiary of a decedent who was a member at the time of death may have an account that was terminated by the decedent's absence from service reactivated by requesting the reactivation in writing before the first payment of a death benefit.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981.  
Amended by Acts 1981, 67th Leg., 1st C.S., p. 203, ch. 18, Sec. 24,

eff. Sept. 1, 1982. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 33.501 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 812, Sec. 4, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1416, Sec. 10, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1540, Sec. 5, eff. Sept. 1, 1999.