

GOVERNMENT CODE
CHAPTER 834. BENEFITS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 834.001. TYPES OF BENEFITS. The types of benefits payable by the retirement system are:

- (1) service retirement benefits;
- (2) disability retirement benefits; and
- (3) 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. 44.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 834.002. APPLICATION FOR RETIREMENT. A member may apply for service or disability retirement by filing an application for retirement with the board of trustees 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. 44.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 834.003. CERTIFICATION BY CHIEF JUSTICE. An annuity may not be paid under this subtitle until the chief justice of the supreme court certifies to the comptroller of public accounts and to the board of trustees that the applicant for the annuity is entitled to it.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 834.004. INELIGIBILITY FOR BENEFITS. An annuity that is based on service of a member who is removed from judicial office by impeachment, or otherwise for official misconduct, may not be paid under this subtitle.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.004 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 834.005. DISCLAIMER OF BENEFITS. The retirement system shall give effect to a full or partial disclaimer of benefits executed in accordance with Section 37A, Texas Probate Code, unless the benefit to be disclaimed is a lifetime annuity.

Added by Acts 1997, 75th Leg., ch. 1048, Sec. 28, eff. Sept. 1, 1997.

SUBCHAPTER B. SERVICE RETIREMENT BENEFITS

Sec. 834.101. ELIGIBILITY FOR SERVICE RETIREMENT ANNUITY. (a) A member is eligible to retire and receive a base service retirement annuity if the member:

(1) is at least 65 years old, currently holds a judicial office, and has at least 10 years of service credited in the retirement system;

(2) is at least 65 years old and has at least 12 years of service credited in the retirement system, regardless of whether the member currently holds a judicial office;

(3) has at least 20 years of service credited in the retirement system, regardless of whether the member currently holds a judicial office; or

(4) has served at least 12 years on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70, regardless of whether the member currently holds a judicial office.

(b) A member who meets service requirements provided by Subsection (a)(1) or (a)(2) is eligible to retire and receive a service retirement annuity actuarially reduced as provided by Section 834.102(d) from the standard service retirement annuity, if the member is at least 60 years old.

(c) A member's resignation from a judicial office before applying for an annuity does not make the member ineligible for the annuity unless the member applies for an annuity under Subsection (a)(1).

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 29, eff. Sept. 1, 1997; Acts 2005, 79th Leg., ch. 942, Sec. 2, eff. Sept. 1, 2005.

Sec. 834.102. SERVICE RETIREMENT ANNUITY. (a) The base service retirement annuity is an amount equal to 50 percent of the state salary, as adjusted from time to time, being paid a judge of a court of the same classification as the court on which the retiree

last served before retirement.

(b) The retirement system shall increase by 10 percent of the amount of the applicable state salary under Subsection (a) or (d) the annuity of a member who on the effective date of retirement:

(1) has not been out of judicial office for more than one year; or

(2) has served as a visiting judge in this state and the first anniversary of the last day of that service has not occurred.

(c) The service retirement annuity of a member qualifying for retirement under Section 834.101(a) is the applicable state salary under Subsection (a), multiplied by a percentage amount that is the sum of 50 percent plus the product of two percent multiplied by the number of years of subsequent service credit the member accrues under Section 835.1015(a). After including any increase under Subsection (b), the service retirement annuity under this subsection may not be an amount that is greater than 80 percent of the applicable salary under Subsection (a).

(d) The service retirement annuity of a person qualifying for retirement under Section 834.101(b) is an amount computed as a percentage of the state salary, as adjusted from time to time, being paid a judge of a court of the same classification as the court on which the retiree last served before retirement, according to the following schedule:

| age at retirement | percentage of state salary |
|------------------------------|----------------------------|
| at least 60 but less than 61 | 40 percent |
| at least 61 but less than 62 | 41.7 percent |
| at least 62 but less than 63 | 43.6 percent |
| at least 63 but less than 64 | 45.6 percent |
| at least 64 but less than 65 | 47.7 percent |

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Amended by Acts 1981, 67th Leg., 1st C.S., p. 208, ch. 18, Sec. 39, eff. Nov. 10, 1981; Acts 1987, 70th Leg., ch. 740, Sec. 1, 2, eff. June 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 2001, 77th Leg., ch. 1240, Sec. 3, eff. Jan. 1, 2002; Acts 2005, 79th Leg., ch. 1033, Sec. 2, eff. Sept. 1, 2005.

Sec. 834.103. OPTIONAL SERVICE RETIREMENT ANNUITY. (a) Instead of a service retirement annuity payable under Section 834.102, a retiring member may elect to receive an optional service retirement annuity, payable throughout the life of the retiree and actuarially reduced, under tables adopted by the board of trustees, from the annuity otherwise payable to its actuarial equivalent.

(b) Optional service retirement annuities available to a retiring member are those available to retiring members of the Employees Retirement System of Texas under Section 814.108(c).

(c) A person may apply for an optional service retirement annuity by filing an application for the annuity with the retirement system before the 31st day after the date of the person's retirement.

(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 under Section 814.108(c) 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 service retirement annuity must include the ages of the retiring member and the member's designated beneficiary at the time of the member's retirement.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 30, eff. Sept.

1, 1991.

SUBCHAPTER C. DISABILITY RETIREMENT BENEFITS

Sec. 834.201. ELIGIBILITY FOR DISABILITY RETIREMENT ANNUITY. (a) A member is eligible, regardless of age, to retire from regular active service for disability and receive a disability retirement annuity if the member has at least seven years of service credit in the retirement system.

(b) A member otherwise eligible may not receive a disability retirement annuity unless the chief justice of the supreme court certifies that the member is mentally or physically incapacitated for the further performance of regular judicial duties.

(c) A disability retirement annuity may be denied on the ground that a claimed physical incapacity is caused by or results from an intemperate use of alcohol or narcotic drugs.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 834.202. INFORMATION ABOUT PHYSICAL INCAPACITY. (a) A member who applies for retirement because of physical incapacity shall file with the supreme court written reports by two physicians licensed to practice medicine in this state, fully reporting the claimed physical incapacity.

(b) The chief justice of the supreme court may appoint a physician licensed in this state to make any additional medical investigation the court finds necessary.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.202 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 834.203. DISABILITY RETIREMENT ANNUITY. (a) Except as provided by Subsection (b) or (c), a disability retirement annuity is an amount computed as provided by Section 834.102.

(b) The amount of a disability retirement annuity is not reducible because of the age of the retiring member but may be increased as provided by Section 834.102(b), if applicable.

(c) Instead of a disability retirement annuity computed as provided by Section 834.102, a retiring member may elect to receive an optional disability retirement annuity payable as provided by Section 834.103.

(d) A disability retirement annuity is payable for the duration of the retiree's disability. If a retiree who has selected an optional disability retirement annuity dies while receiving the annuity, the annuity is payable throughout the life of the retiree's designated beneficiary or for a guaranteed period after the date of retirement, depending on the option selected.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.203 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER D. DEATH BENEFITS

Sec. 834.301. SELECTION OF DEATH BENEFIT PLAN BY MEMBER. (a) A member who has at least 10 years of service credit in the retirement system may select a death benefit plan for the payment, if the member dies before retirement, of a death benefit annuity to one or more persons 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).

(b) Section 814.301(b) applies to a death benefit plan selected by a member in applicable circumstances.

(c) The computation of a death benefit annuity must include the ages of the member and of 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 board of trustees on a form prescribed by the board. After selection, a death benefit plan may take effect at death unless the member amends the plan, selects a retirement annuity at the time of the member's retirement, or becomes ineligible to select a plan.

(e) A death benefit annuity is payable beginning on the day after the date the member dies.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 31, eff. Sept. 1, 1991.

Sec. 834.302. SELECTION OF DEATH BENEFIT PLAN BY SURVIVOR OF MEMBER. (a) If a member eligible to select a death benefit plan under Section 834.301(a) 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.

(b) If a person dies who meets the description in Section 834.302(b), the person's designated beneficiary or the guardian of surviving minor children may select a death benefit plan under that 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. 44.302 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 30, eff. Sept. 1, 1997.

Sec. 834.303. RETURN OF CONTRIBUTIONS. (a) Except as provided by Subsection (c), if a member dies before retirement, the amount of the member's contributions to the retirement system is payable as a lump-sum death benefit.

(b) The benefit provided by this section is payable to a person designated by the member in a signed document filed with the board of trustees. If a member does not designate a beneficiary, the benefit is payable to the member's estate.

(c) A death benefit may not be paid under this section if a death benefit annuity has been selected as provided by Section 834.301 or 834.302.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.303 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 834.304. RETURN OF EXCESS CONTRIBUTIONS. (a) Except as provided by Subsection (c), if a person dies after retirement, a lump-sum death benefit is payable in an amount, if any, by which the retiree's contributions to the retirement system on the date of retirement exceed the amount of annuity payments made before the retiree's death.

(b) The benefit provided by this section is payable to the retiree's designated beneficiary. If a retiree dies without having designated a beneficiary, the benefit is payable to the person entitled to distribution of the decedent's estate, if that person or the personal representative of the decedent's estate claims the benefit before the second anniversary of the decedent's death.

(c) A death benefit may not be paid under this section if an optional retirement annuity has been selected as provided by Section 834.103 or 834.203.

Acts 1981, 67th Leg., p. 1876, ch. 453, Sec. 1, eff. Sept. 1, 1981. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 44.304 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.