

GOVERNMENT CODE
CHAPTER 838. CREDITABLE SERVICE
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 838.001. TYPES OF CREDITABLE SERVICE. The types of service creditable in the retirement system are:

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

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 73.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER B. ESTABLISHMENT OF SERVICE

Sec. 838.101. CURRENT SERVICE. Membership service is credited in the retirement system for each month in which a member holds a judicial office and for which the member makes the required contribution.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 73.101 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 838.102. SERVICE CREDIT PREVIOUSLY CANCELED. If a person who has withdrawn contributions to the retirement system and canceled service credit under Section 837.003 subsequently rejoins the retirement system, the member may not become eligible for retirement benefits from the retirement system unless the person redeposits with the system the amount withdrawn, plus all membership fees due, plus interest computed on the basis of the state fiscal year at an annual rate of five percent from the date of withdrawal to the date of redeposit. Payment under this section reestablishes the service credit canceled by the refund.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 73.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 838.103. MILITARY SERVICE. (a) An eligible member may establish service credit in the retirement system for military service performed that is creditable in the retirement system.

(b) A member eligible to establish military service credit is one who:

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

(2) does not receive and is not eligible to receive federal retirement payments based on 20 years or more of active federal military duty or its equivalent; and

(3) has been released from military duty under conditions not dishonorable.

(c) Military service creditable in the retirement system is active duty federal military service.

(d) A member may establish one month of service credit for each month or fraction of a month of duty, but not more than 48 months of service credit in the retirement system for military service.

(e) A member may establish credit under this section by depositing with the retirement system in a lump sum a contribution computed for each month of military service claimed at the rate of six percent of the member's current monthly state compensation, plus, if the member does not establish the credit before the first anniversary of the date of first eligibility, interest computed on the basis of the state fiscal year at an annual rate of 10 percent from the date of first eligibility to the date of deposit.

(f) The state shall contribute for each month of military service established under this section an amount computed on the basis of the member's current monthly state compensation at the rate of state contribution, as provided by Section 840.103(a), for the fiscal year in which the credit is established.

(g) The board of trustees may require members applying for credit under this section to submit any information the board considers necessary to enable it to determine eligibility for credit, amount of service, or amounts of required contributions.

(h) The retirement system shall use military service credit in computing death benefits and in determining eligibility to select an optional death benefit plan.

(i) Repealed by Acts 1997, 75th Leg., ch. 1048, Sec. 56(a), eff. Sept. 1, 1997.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 73.103 and

amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 32, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1048, Sec. 31, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 1111, Sec. 30, eff. Sept. 1, 2003.

Sec. 838.1031. MILITARY SERVICE CREDIT GOVERNED BY UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT RIGHTS ACT. The retirement system may adopt rules to comply with the Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. Section 4301 et seq.) and other federal laws affecting the crediting of military service.

Added by Acts 1995, 74th Leg., ch. 586, Sec. 37, eff. Aug. 28, 1995.

Sec. 838.1035. SERVICE IN EXCESS OF 20 YEARS. (a) Subject to the limitation on the amount of a retirement annuity under Section 839.102(d), an eligible member may establish service credit in the retirement system for service in excess of 20 years performed before September 1, 2005.

(b) A member eligible to establish credit under Subsection (a) is one who elects to make contributions under Section 840.1025.

(c) A member may not establish more than 120 months of service credit under this section.

(d) A member may establish credit under this section by depositing with the retirement system a contribution computed for each month of qualifying service claimed at the rate of six percent of the member's current monthly state salary.

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

Added by Acts 2005, 79th Leg., ch. 1033, Sec. 5, eff. Sept. 1, 2005.

Sec. 838.104. SERVICE ON DOMESTIC RELATIONS OR SPECIAL JUVENILE COURT. (a) An eligible member may establish equivalent membership service credit in the retirement system for service performed as judge of a domestic relations or special juvenile court.

(b) A member eligible to establish credit under this section is one who served as judge:

(1) of a domestic relations or special juvenile court on the date that the court was abolished by the Family District Court Act (former Article 1926a, Vernon's Texas Civil Statutes); or

(2) of a district or appellate court on the date that a domestic relations or special juvenile court was abolished by the Family District Court Act (former Article 1926a, Vernon's Texas Civil Statutes), but formerly served as judge of a court abolished by that Act.

(c) A member may establish credit under this section by depositing with the retirement system a contribution in an amount, except as provided by Subsection (f), computed at the rate of six percent of the state salary of a district judge for the member's full tenure on the abolished court, plus interest computed at the rate of interest credited to a person's account in the Texas County and District Retirement System for the period of the service or, for service performed before January 1, 1968, at the rate of six percent a calendar year.

(d) A member who establishes credit under this section forfeits all rights to benefits based on the claimed service in the Texas County and District Retirement System, except rights to benefits based on the amount paid by the county for the service that exceeds the amount of state salary that would have been paid for the service.

(e) The Texas County and District Retirement System shall transfer to the retirement system the amount credited to the member's account, whether contributed by the member or the member's employer, plus accumulated interest, except any amount representing contributions or interest on salary that exceeds the state salary that would have been paid for the service.

(f) The retirement system shall credit the amount transferred by the Texas County and District Retirement System against the member's required payment under this section. If the total of the amount transferred and the amount paid by the member exceeds the amount required by this section, the retirement system shall leave the excess in the retirement system trust fund.

(g) The amount of contributions credited in the retirement system to a member who establishes credit under this section is the amount that the member would have contributed to the retirement system, the Judicial Retirement System of Texas, or the Judicial Retirement System of Texas Plan One as a district judge at the time

the service was performed.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 73.104 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 838.105. ALTERNATIVE PAYMENTS TO ESTABLISH OR REESTABLISH SERVICE CREDIT. (a) The board of trustees may adopt rules to provide procedures for making installment payments to establish or reestablish credit in the retirement system as alternatives to lump-sum payments otherwise authorized or required by this subtitle. The methods may include payment by payroll deduction.

(b) Except as provided by Subsection (c), payments may not be made under a rule adopted under this section:

(1) to establish or reestablish service credit of a person who has retired or died; or

(2) to establish current service under Section 838.101.

(c) Under a rule adopted under this section, the designated beneficiary of a deceased member or, if none exists, the personal representative of the decedent's estate may establish or reestablish service for which the member was eligible at the time of death if the establishment or reestablishment of the service would result in the payment of a death benefit annuity.

(d) The payment for the establishment or reestablishment of service under Subsection (c) must be made in a lump sum and completed before the first payment of a death benefit annuity, but not later than the 60th day after the date the retirement system receives notice of the death.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 33, eff. Sept. 1, 1993. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 32, eff. Sept. 1, 1997.

Sec. 838.106. CREDIT FOR YEAR IN WHICH ELIGIBLE FOR OFFICE. (a) A member may establish service credit in the retirement system for any calendar year during which the member:

(1) held an office included in the membership of the retirement system; or

(2) was eligible to take the oath for an office included in the membership of the retirement system.

(b) A member may establish service credit under this section by depositing with the retirement system a contribution computed for each month of credit claimed at the rate of six percent of the member's current monthly salary, plus, if the member does not establish credit before the first anniversary of the date of first eligibility, interest computed on the basis of the state fiscal year at an annual rate of 10 percent from the date of first eligibility to the date of deposit.

Added by Acts 2001, 77th Leg., ch. 1240, Sec. 5, eff. Jan. 1, 2002. Amended by Acts 2003, 78th Leg., ch. 1111, Sec. 31, eff. Sept. 1, 2003.

Sec. 838.107. SERVICE NOT PREVIOUSLY ESTABLISHED. The state shall make contributions for service not previously established that is established under Section 838.105 or 838.106 in the amount provided by Section 838.103(f) for military service. The state contributions will be made at the time the service credit is granted.

Added by Acts 1993, 73rd Leg., ch. 791, Sec. 35, eff. Sept. 1, 1993.

Sec. 838.108. CREDIT PURCHASE OPTION. (a) An eligible member may establish not more than 60 months of equivalent membership service credit.

(b) A member is eligible to establish service credit under this section only for the purpose of becoming eligible to retire, or retiring, under Section 839.101(a)(3).

(c) 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.

(d) 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.

(e) 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 retirement system.

(f) The board of trustees may adopt rules to administer this section, including rules that impose restrictions on the application of this section as necessary to cost-effectively administer this section.

Added by Acts 2003, 78th Leg., ch. 714, Sec. 1, eff. Sept. 1, 2003.
Amended by Acts 2005, 79th Leg., ch. 347, Sec. 22, eff. Sept. 1, 2005.