

GOVERNMENT CODE
CHAPTER 839. BENEFITS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 839.001. 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.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.001 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 839.002. APPLICATION FOR RETIREMENT. (a) A member may apply for service or disability retirement 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.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.002 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 839.003. 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.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.003 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 839.004. 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. 33, eff. Sept. 1, 1997.

SUBCHAPTER B. SERVICE RETIREMENT BENEFITS

Sec. 839.101. ELIGIBILITY FOR SERVICE RETIREMENT ANNUITY. (a) A member is eligible to retire and receive a 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 839.102(c) 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).

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.101 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 36, eff. Sept. 1, 1993; Acts 1997, 75th Leg., ch. 1048, Sec. 34, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 463, Sec. 1, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 1029, Sec. 1, eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 942, Sec. 1, eff. Sept. 1, 2005.

Sec. 839.102. SERVICE RETIREMENT ANNUITY. (a) Except as provided by Subsections (b), (c), (d), and (f), the standard service retirement annuity is an amount equal to 50 percent of the state salary being paid at the time the member retires to a judge of a court of the same classification as the last court to which the retiring member was elected or appointed.

(b) The retirement system shall increase by 10 percent of the amount of the applicable state salary under Subsection (a) or (c) 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 standard service retirement annuity of a person qualifying for retirement under Section 839.101(b) is an amount computed as a percentage of the state salary being paid at the time the member retires to a judge of a court of the same classification as the last court to which the retiring member was elected or appointed, 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.

(d) The service retirement annuity of a member qualifying for retirement under Section 839.101(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 840.1025(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).

(e) [Blank].

(f) The service retirement annuity of a member qualifying for retirement under Section 839.101(a)(4) 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 840.1027. 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).

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, eff. Sept. 1, 1985. Amended by Acts 1987, 70th Leg., ch. 740, Sec. 3, eff. June 20, 1987. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.102 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1993, 73rd Leg., ch. 791, Sec. 37, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 1240, Sec. 6, eff. Jan. 1, 2002; Acts 2005, 79th Leg., ch. 1033, Sec. 6, eff. Sept. 1, 2005; Acts 2005, 79th Leg., ch. 1203, Sec. 3, eff. Sept. 1, 2005.

Sec. 839.103. OPTIONAL SERVICE RETIREMENT ANNUITY. (a) Instead of a service retirement annuity payable under Section 839.102, a retiring member may elect to receive an optional service retirement annuity provided by the board of trustees or one of the following optional service retirement annuities, actuarially reduced to an actuarially equivalent value and consisting of:

(1) an annuity payable during the retiring member's life and continuing after death in the same amount, throughout the life of one person designated by the retiring member before retirement;

(2) an annuity payable during the retiring member's life and continuing after death in an amount equal to one-half of the amount payable during the retiring member's life, throughout the life of one person designated by the retiring member before retirement;

(3) an annuity payable for the greater of the rest of the retiring member's life or 60 months; or

(4) an annuity payable for the greater of the rest of the retiring member's life or 120 months.

(b) An annuity selected under Subsection (a)(3) or (a)(4) that is payable after the retiring member's death shall be paid to one or more persons designated by the retiring member before or after retirement or, if no person has been designated or all designees die before all payments are made, to the retiree's estate.

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

(d) If a person who is nominated by a retiree in the written designation under Subsection (a) predeceases the retiree, the reduced annuity of a retiree who has elected an optional lifetime retirement annuity under Subsection (a) 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 and is payable to the retiree for the remainder of the retiree's life.

(f) The computation of an optional service retirement annuity payable throughout the life of a named individual must include the age of that individual.

(g) An optional service retirement annuity may not provide that more than 50 percent of the value of the annuity, as determined at the time of retirement, be used to provide a benefit to a person other than the person on whose service the annuity is based.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.103 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 33, eff. Sept. 1, 1991.

SUBCHAPTER C. DISABILITY RETIREMENT BENEFITS

Sec. 839.201. 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 and the medical board certify 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.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.201 by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 839.202. DISABILITY REPORTS. (a) A member who applies for retirement because of physical incapacity shall file with the retirement system and the chief justice of the supreme court written reports by two physicians licensed to practice medicine in this state, fully reporting the claimed physical incapacity.

(b) The retirement system shall refer an application for disability retirement to the medical board for its recommendations. The medical board may require an applicant to submit any additional information it considers necessary to enable it to make its recommendations.

(c) The chief justice of the supreme court may direct the retirement system to employ a physician under Section 840.203 or may direct the medical board to require additional information under Subsection (b).

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 839.203. DISABILITY RETIREMENT ANNUITY. (a) Except as provided by Subsection (b) or (c), a disability retirement annuity is an amount computed as provided by Section 839.102.

(b) The amount of a disability retirement annuity is not reducible because of the age of the retiring member.

(c) Instead of a disability retirement annuity computed as provided by Section 839.102, a retiring member may elect to receive an optional disability retirement annuity payable as provided by Section 839.103.

(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. Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.203 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER D. DEATH BENEFITS

Sec. 839.301. SELECTION OF DEATH BENEFIT PLAN BY MEMBER. (a) An eligible member may select a death benefit plan for the payment of a death benefit annuity, to be paid if the member dies before retirement. Except as provided by Subsections (c) and (d), a death benefit annuity is an amount computed, in the manner provided under Sections 839.102(a) and (b) for computation of a standard service retirement annuity, as if the member had retired on the date of death and payable, beginning on the day after the date of the member's death, in one of the following ways:

(1) throughout the life of one person designated by the member; or

(2) to one or more persons designated by the member, for a period of 120 months.

(b) A member eligible to select a death benefit plan is one who is a member and has at least 10 years of service credit in the retirement system.

(c) The retirement system shall, under tables adopted by the board of trustees as provided by Section 840.005, actuarially reduce the amount of a death benefit annuity payable under this section for the difference between the member's age on the date of death and age 65, if the member dies before attaining that age.

(d) The computation of a death benefit annuity selected under Subsection (a)(1) must include the age of the designated recipient.

(e) 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 takes effect at death unless the member amends the plan, selects a retirement annuity at the time of retirement, or has chosen a plan that cannot take effect.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.301 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1991, 72nd Leg., ch. 850, Sec. 33, eff. Sept. 1, 1991.

Sec. 839.302. SELECTION OF DEATH BENEFIT PLAN BY SURVIVOR OF MEMBER. If a member eligible to select a death benefit plan under Section 839.301 dies without having made a selection or if a plan selected 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.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.202 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989. Amended by Acts 1997, 75th Leg., ch. 1048, Sec. 35, eff. Sept. 1, 1997.

Sec. 839.303. MEMBER DEATH BENEFITS GENERALLY. (a) Except as provided by Subsection (c), if a contributing member dies, a lump-sum death benefit is payable from the retirement system in an amount computed at the rate of five percent of the amount in the member's individual account at the time of death times the number of full years of service credit the member had at the time of death.

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

(c) A death benefit 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 839.301.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.303 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 839.304. RETURN OF CONTRIBUTIONS. (a) Except as provided by Subsection (c), if a member dies before retirement, the

amount of the member's accumulated contributions 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, at the time of death, the member was eligible to select a death benefit annuity under Section 839.301.

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.304 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

Sec. 839.305. 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 839.103 or 839.203(c).

Added by Acts 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.305 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.

SUBCHAPTER E. INCREASES IN BENEFITS

Sec. 839.401. 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 payable by the system to a retiree, to the survivor of a retiree, or to the survivor of a deceased member.

(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 1985, 69th Leg., ch. 602, Sec. 1, Sept. 1, 1985. Renumbered from Vernon's Ann.Civ.St. Title 110B, Sec. 74.401 and amended by Acts 1989, 71st Leg., ch. 179, Sec. 1, eff. Sept. 1, 1989.