

CHAPTER 828

S.B. No. 993

An Act relating to credit in the Employees Retirement System of Texas for service as a custodial officer and to designation of persons entitled to credit; defining 'custodial officer'; and placing certain duties on the Texas Department of Corrections and the State Auditor; amending Title 110B, Revised Statutes, by amending Subdivision (8), Section 21.001 and adding Section 23.506.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subdivision (8), Section 21.001, Title 110B, Revised Statutes, is amended to read as follows:

"(8) 'Custodial officer' means a member of the retirement system who is employed by the Texas Department of Corrections and certified by that department as having a normal job assignment that requires frequent or infrequent regularly planned contact with, and in close proximity to, inmates of that institution without the protection of bars, doors, security screens, or similar devices and includes assignments normally involving supervision or the potential for supervision of inmates in inmate housing areas, educational or recreational facilities, industrial shops, kitchens, laundries, medical areas, agricultural shops or fields, or in other areas on or away from property of the institution [~~normal duties with the department that require the person to supervise and have direct contact with inmates of that institution~~]."

SECTION 2. Subchapter F, Chapter 23, Title 110B, Revised Statutes, is amended by adding Section 23.506 to read as follows:

"Section 23.506. **CUSTODIAL OFFICER SERVICE.** (a) *The Texas Department of Corrections by rule shall adopt standards for determining eligibility for service credit as a custodial officer, based on the need to encourage early retirement of persons whose duties are hazardous and require them to have routine contact with inmates of the Texas Department of Corrections on a regular basis.*

"(b) To be creditable as custodial officer service, service performed must meet the requirements of the rules adopted under Subsection (a) of this section and may be performed by persons in one of the following job categories:

"(1) all persons classified as Correctional Officer I through warden, including training officers and special operations reaction team officers;

"(2) all other employees assigned to work on a unit and whose jobs require routine contact with inmates, including but not limited to farm managers, livestock supervisors, maintenance foremen, shop foremen, medical assistants, food service supervisors, stewards, education consultants, commodity specialists, and correctional counselors;

"(3) employees assigned to administrative offices whose jobs require routine contact with inmates, including but not limited to investigators, compliance monitors, accountants routinely required to audit unit operations, sociologists, interviewers, classification officers, and supervising counselors; and

"(4) administrative positions whose jobs require response to emergency situations involving inmates, including but except as specified not limited to the director, deputy directors, assistant directors, and not more than 25 administrative duty officers.

“(c) The Texas Department of Corrections shall determine a person’s eligibility to receive credit as a custodial officer. A determination of the department, if verified by the State Auditor under Subsection (e) of this section, is final and may not be appealed. If not so verified, a determination is subject to change by the retirement system.

“(d) The Texas Department of Corrections shall certify to the retirement system, at the times and in the manner prescribed by the retirement system, the names of persons determined by the department to be eligible for service credit as custodial officers and such other information as the retirement system requires to enable it properly to maintain retirement records.

“(e) As part of the normal audit of the Texas Department of Corrections, the State Auditor shall verify the accuracy of reports submitted to the retirement system under this section.”

SECTION 3. (a) Except as provided by this section, a person who on the effective date of this Act is certified as a custodial officer continues to be so certified as long as the person remains employed by the Texas Department of Corrections.

(b) If a person certified as a custodial officer on the effective date of this Act changes positions, by promotion or otherwise, except by reclassification or title change required by the legislature or the state classification officer, to a position that does not qualify for custodial service as provided by Subdivision (8), Section 21.001 and Section 23.506, Title 110B, Revised Statutes, as amended and added by this Act, the person becomes ineligible to continue to receive credit for custodial officer service.

(c) A person who on the effective date of this Act is certified as a custodial officer, who changes to a position as described by Subsection (b) of this section, and who later resumes service in the position the person held on the effective date of this Act or in another position held before the effective date of this Act does not become eligible to receive credit for custodial officer service in the resumed position unless the position meets the requirements of Subdivision (8), Section 21.001 and Section 23.506, Title 110B, Revised Statutes, as amended and added by this Act, and the rules adopted under Section 23.506.

SECTION 4. As soon as possible after rules adopted by the Texas Department of Corrections under Section 23.506, Title 110B, Revised Statutes, as added by this Act, take effect, the department shall apply the rules to all future service to be credited in the Employees Retirement System of Texas as custodial officer service to persons who are members of the retirement system.

SECTION 5. This Act takes effect September 1, 1985.

SECTION 6. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 3, 1985, by the following vote: Yeas 31, Nays 0; Senate concurred in House amendment on May 27, 1985, by a viva-voce vote; passed the House, with amendment, on May 23, 1985, by a non-record vote.

Approved: June 15, 1985

Effective: September 1, 1985