

PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to

submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. [~~Square brackets and strikethrough~~] indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

TITLE 22. EXAMINING BOARDS

PART 23. TEXAS REAL ESTATE COMMISSION

CHAPTER 535. GENERAL PROVISIONS SUBCHAPTER D. THE COMMISSION

22 TAC §535.46

The Texas Real Estate Commission (TREC) proposes new 22 TAC §535.46, Broker Responsibility Advisory Committee, in Chapter 535, General Provisions.

The proposed new rule establishes an advisory committee called the Broker Responsibility Advisory Committee, which is tasked with advising TREC as to issues surrounding broker responsibility issues within the real estate industry. This committee will also make recommendations to TREC regarding possible legislative and rule changes associated with broker responsibility issues impacting both the real estate industry and the consumer.

Vanessa E. Burgess, General Counsel, has determined that for the first five-year period the proposed new rule is in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed new rule. There is no significant economic cost anticipated for persons who are required to comply with the proposed new rule. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Burgess also has determined that for each year of the first five years the section as proposed is in effect, the public benefit anticipated as a result of enforcing the section will be the establishment of an advisory committee with specific requirements associated with both the dedicated scope and membership of that committee.

For each year of the first five years the proposed new rule is in effect the amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;

-increase or decrease the number of individuals subject to the rule's applicability; or

-positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Vanessa Burgess, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The new rule is proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statute affected by this proposal is Texas Occupations Code, Chapters 1101. No other statute, code or article is affected by the proposed new rule.

§535.46. Broker Responsibility Advisory Committee.

(a) The Commission establishes a Broker Responsibility Advisory Committee to regularly examine issues surrounding broker responsibility within the real estate industry, make recommendations regarding possible legislative changes associated with broker responsibility, and examine Commission rules related to broker responsibility.

(b) The committee consists of 9 members appointed by the Commission who must meet the following requirements:

(1) members must hold an active real estate broker license issued by the Commission; and

(2) members must have been engaged in the practice of brokerage activity for at least five years prior to appointment and be actively engaged in that practice.

(c) The Commission may appoint a non-voting member(s) from the Commission.

(d) Appointments to the committee shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

(e) Members of the committee serve staggered four-year terms with terms beginning on January 1.

(f) Notwithstanding subsection (e) of this section, the Commission shall initially appoint nine members as follows:

(1) three members to serve a two-year term to expire on December 31, 2026, regardless of the date the members are appointed;

(2) three members to serve a three-year term to expire on December 31, 2027, regardless of the date the members are appointed; and

(3) three members to serve a four-year term to expire on December 31, 2028, regardless of the date the members are appointed.

(g) A member whose term has expired holds office until the member's successor is appointed. If a vacancy occurs during a member's term, the Commission shall appoint a person to fill the unexpired term.

(h) At a regular meeting in January of each year, the committee shall elect from its members a presiding officer, assistant presiding officer, and secretary.

(i) The Commission may remove a committee member if the member:

(1) does not have the qualifications required by subsection (b) of this section;

(2) cannot discharge the member's duties for a substantial part of the member's term;

(3) is absent from more than half of the regularly scheduled committee meetings that the member is eligible to attend during each calendar year, unless the absence is excused by majority vote of the committee; or

(4) violates Chapter 1101 or Chapter 1102.

(j) If the executive director of the Commission has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the Commission that the potential ground exists.

(k) The validity of an action of the committee is not affected by the fact that it is taken when a ground for removal of a committee member exists.

(l) The committee may meet at the call of a majority of its members. The committee shall meet at the call of the Commission.

(m) A quorum of the committee consists of five members.

(n) The committee shall conduct its meetings in substantial compliance with Robert's Rules of Order.

(o) The secretary of the committee shall work with Commission staff to prepare and approve written minutes of each meeting and submit the minutes for filing with the Commission.

(p) At least twice a year, the presiding officer of the committee shall report on the activities of the committee to the Commission. The committee may submit its written recommendations concerning broker responsibility to the Commission at any time the committee deems appropriate. If the Commission submits a rule to the committee for development, the presiding officer of the committee or the presiding officer's designate shall report to the Commission after each meeting at which the proposed rule is discussed on the committee's consideration of the rule.

(q) The committee is automatically abolished on September 1, 2031, unless the Commission subsequently establishes a different date.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 22, 2023.

TRD-202301889

Vanessa E. Burgess

General Counsel

Texas Real Estate Commission

Earliest possible date of adoption: July 9, 2023

For further information, please call: (512) 936-3284



SUBCHAPTER I. LICENSE RENEWAL

22 TAC §535.92

The Texas Real Estate Commission (TREC) proposes amendments to 22 TAC §535.92, Continuing Education Requirements, in Chapter 535, General Provisions.

The proposed amendments to §535.92 include expand a real estate license holder's opportunity to earn up to four hours of continuing education elective credit for attendance at a single Commission meeting and clarify that such credit may only be awarded for attendance at one Commission meeting per renewal cycle. The remainder of the changes are either updates to terminology or form for consistency throughout the chapter or are made to reflect updated processes.

Vanessa E. Burgess, General Counsel, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for the state or for units of local government as a result of enforcing or administering the sections. There is no adverse economic effect anticipated for small businesses, micro-businesses, rural communities, or local or state employment as a result of implementing the proposed amendments. There is no significant economic cost anticipated for persons who are required to comply with the proposed amendments. Accordingly, no Economic Impact Statement or Regulatory Flexibility Analysis is required.

Ms. Burgess also has determined that for each year of the first five years the section as proposed are in effect, the public benefit anticipated as a result of enforcing the section will be increased opportunity for license holders to obtain continuing education credit and greater clarity and consistency in the rules.

For each year of the first five years the proposed amendments are in effect the amendments will not:

- create or eliminate a government program;
- require the creation of new employee positions or the elimination of existing employee positions;
- require an increase or decrease in future legislative appropriations to the agency;
- require an increase or decrease in fees paid to the agency;
- create a new regulation;
- expand, limit or repeal an existing regulation;
- increase or decrease the number of individuals subject to the rule's applicability; or
- positively or adversely affect the state's economy.

Comments on the proposal may be submitted through the online comment submission form at <https://www.trec.texas.gov/rules-and-laws/comment-on-proposed-rules>, to Vanessa Burgess, General Counsel, Texas Real Estate Commission, P.O. Box 12188, Austin, Texas 78711-2188, or via email to general.counsel@trec.texas.gov. The deadline for comments is 30 days after publication in the *Texas Register*.

The amendments are proposed under Texas Occupations Code, §1101.151, which authorizes the Texas Real Estate Commission to adopt and enforce rules necessary to administer Chapters 1101 and 1102; and to establish standards of conduct and ethics for its license holders to fulfill the purposes of Chapters 1101 and 1102 and ensure compliance with Chapters 1101 and 1102.

The statute affected by this proposal is Texas Occupations Code, Chapter 1101. No other statute, code or article is affected by the proposed amendments.

§535.92. Continuing Education Requirements.

(a) Required continuing education. 18 hours of continuing education are required for each renewal of a real estate sales agent or broker license and must include:

- (1) a four hour Legal Update I: Laws, Rules and Forms course;
- (2) a four hour Legal Update II: Agency, Ethics and Hot Topics course;
- (3) three hours on the subject of real estate contracts from one or more Commission approved courses; and
- (4) a six hour broker responsibility course, if the license holder:

(A) sponsors one or more sales agent at any time during the current license period;

(B) is a designated broker of a business entity that sponsors one or more sales agent at any time during the designated broker's current license period; or

(C) is a delegated supervisor under §535.2(e) of this chapter (relating to Broker Responsibility) [title].

(b) Awarding continuing education credit. The Commission will award credit to a license holder for an approved continuing education course upon receipt of a course completion roster from a CE provider as required under §535.75 of this chapter (relating to Responsibilities and Operations of Continuing Education Providers) [title].

(c) Continuing education credit for qualifying courses. Real estate license holders may receive continuing education elective credit for qualifying real estate courses or qualifying real estate inspection courses that have been approved by the Commission or that are accepted by the Commission for satisfying educational requirements for obtaining or renewing a license. Qualifying real estate courses must be at least 30 classroom hours in length to be accepted for continuing education elective credit.

(d) Continuing education credit for course taken outside of Texas. A course taken by a Texas license holder to satisfy continuing education requirements of a country, territory, or state other than Texas may be approved on an individual basis for continuing education elective credit in Texas upon the Commission's determination that:

- (1) the Texas license holder held an active real estate license in a country, territory, or state other than Texas at the time the course was taken;
- (2) the course was approved for continuing education credit for a real estate license by a country, territory, or state other than Texas and, if a correspondence course, was offered by an accredited college or university;
- (3) the Texas license holder's successful completion of the course has been evidenced by a course completion certificate, a letter from the provider or [such] other proof [as is] satisfactory to the Commission;

(4) the subject matter of the course was predominately devoted to a subject acceptable for continuing education credit in Texas; and

(5) the Texas license holder has filed a Credit Request for an Out-of-State Course [Credit Request], with the Commission.

(e) Continuing education credit for courses offered by the State Bar. To request continuing education elective credit for real estate related courses approved by the State Bar of Texas for minimum continuing legal education participatory credit, a license holder is required to file an Individual Credit Request for State Bar Course.

(f) Continuing education credit for attendance at Commission meeting. A real estate license holder may receive up to four hours of continuing education elective credit per license period for attendance in person at a single quarterly [February] Commission meeting. Credit will only be awarded to license holders who attend the meeting in its entirety; no partial credit for attendance will be awarded. Credit will not be awarded to license holders appearing as a party to a contested case before the Commission.

(g) Continuing education credit for instructors. Instructors may receive continuing education credit for real estate qualifying courses subject to the following guidelines:

(1) An instructor may receive credit for those segments of the course that the instructor teaches by filing an [a completed] Instructor Credit Request.

(2) An instructor may receive full course credit by attending any segment that the instructor does not teach in addition to those segments the instructor does teach.

(h) Limitations. The Commission will not award credit to a license holder who attends or instructs the same course more than once during:

(1) the term of the current license period; or

(2) the two-year period preceding the filing of a [an] renewal application for a license after the license expiration date as provided for under §535.91 [§535.93] of this subchapter (relating to Renewal of a Real Estate License) [title] or return to active status as provided for under Subchapter L of this chapter (relating to Inactive License Status) [Chapter].

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 22, 2023.

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Vanessa E. Burgess

General Counsel

Texas Real Estate Commission

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For further information, please call: (512) 936-3284



TITLE 34. PUBLIC FINANCE

PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS

CHAPTER 25. MEMBERSHIP CREDIT

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figures in 34 TAC §§25.162, 25.302, and 25.303 are not included in the print version of the Texas Register. The figures are available in the on-line version of the June 9, 2023, issue of the Texas Register.)

The Teacher Retirement System of Texas (TRS) proposes amendments to §25.162 relating to State Personal or Sick Leave Credit of Chapter 25, Subchapter L, in Title 34, Part 3, of the Texas Administrative Code and §25.302 relating to Calculation of Actuarial Costs of Service Credit, and §25.303 relating to Calculation of Actuarial Cost for Purchase of Compensation Credit of Chapter 25, Subchapter P, in Title 34, Part 3, of the Texas Administrative Code.

BACKGROUND AND PURPOSE

Each rule TRS proposes to amend currently incorporates one or more actuarial table used to calculate the cost of a service credit or compensation credit purchase. The proposed amendments incorporate new actuarial tables into each rule that have been updated based on the TRS Board of Trustees (Board) most recently approved actuarial assumptions and new investment return assumption. The new actuarial tables were prepared by the TRS actuary of record, Gabriel, Roeder, Smith & Company.

Proposed amended §25.162 updates the actuarial table for the purchase of one year of service credit based on accumulated state personal or sick leave. Proposed amended §25.302 updates several actuarial tables relating to the purchase of service credit that must be purchased based on the actuarial present value of the credit, such as service credit for unreported service or out-of-state service. Lastly, proposed amended §25.303 updates several actuarial tables relating to the purchase of compensation credit that statute must be purchased based on the actuarial present value of the compensation. Minor, conforming changes to text have also been made to proposed amended §25.302 and §25.303 to incorporate these tables

The proposed amended rules and updated tables are proposed to become effective on September 1, 2023 and will be used to calculate the cost of any relevant service or compensation credit purchases initiated beginning in the 2023-2024 school year and going forward.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amendments will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of administering the proposed amendments.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed amendments will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed amendments will be to ensure that TRS administers the TRS retirement plan in accordance with the latest actuarial assumptions adopted by the Board. Mr. Green has also determined that there is no economic cost to entities or persons required to comply with the proposed amendments. To the extent the newly incorporated actuarial tables increase the cost of service credit purchases under the proposed amended rules, these increased costs result from TRS's obligation to comply with its governing statutes that require TRS to calculate the cost of the relevant types of service

and compensation credit based on the actuarial present value of the additional service or compensation credit.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amendments. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed amendments. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amendments will be in effect the proposed amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not require an increase or decrease in fees paid to TRS; will not create a new regulation; will not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

TAKINGS IMPACT ASSESSMENT

TRS has determined that since there are no private real property interests affected by the proposed amendments, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed amendments because the proposed new rule does not impose a cost on regulated persons.

COMMENTS

Comments may be submitted in writing to Brian Guthrie, TRS Executive Director, 1000 Red River Street, Austin, Texas 78701-2698. Written comments must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

SUBCHAPTER L. OTHER SPECIAL SERVICE CREDIT

34 TAC §25.162

STATUTORY AUTHORITY

The amendments are proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board and Government Code §823.403, which provides that an eligible member is entitled to receive service credit based on the member's accumulated sick and personal leave if the member pays to TRS at the time service credit is granted 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 TRS actuary of record and adopted by the Board.

CROSS-REFERENCE TO STATUTE

The proposed amendments implement Chapter 823, Subchapter E, Texas Government Code, concerning establishment of equivalent membership service.

§25.162. *State Personal or Sick Leave Credit.*

(a) An eligible member may purchase one year of service credit in the Teacher Retirement System of Texas ("TRS") for accumulated state personal or sick leave in accordance with Government Code §823.403 and subject to approval of TRS.

(b) A member is eligible to purchase one year of service credit if the member has at least ten years of TRS service credit for actual service with one or more employers defined by Government Code §821.001(7), retires from such an employer, and has at least 50 days or 400 hours of accumulated state personal or sick leave on the last day of employment before retirement. Not more than an aggregate of five days of unused state personal or sick leave may be accumulated per year. State personal and sick leave may be combined, if needed, for the purpose of calculating the necessary 50 days or 400 hours. No more than one year of service credit may be purchased even if more time has been accumulated.

(c) Credit purchased under this section may be used only for the purpose of calculating the amount of a retirement plan benefits but may not be used to determine eligibility for retirement plan benefits.

(d) To establish service credit under this section, an eligible member must submit an employer certification in the form and manner prescribed by TRS. Additionally, the eligible member must deposit with TRS, in the manner prescribed by TRS, the actuarial present value of the additional standard retirement annuity benefits that would be attributable to the conversion of the unused state personal or sick leave into the service credit, as described in subsection (e) of this section.

(e) To compute these amounts, TRS will use the State Personal or Sick Leave Conversion Factor Tables furnished by the TRS actuary of record. Specifically, TRS will select the applicable conversion factor from the table based on the age of the member in full years and months at the effective date of retirement. To obtain the cost of the service credit, the conversion factor will be multiplied by the increase in the monthly standard retirement annuity resulting from the conversion of state personal or sick leave to an additional one year of service credit. The increase in the annuity will be determined using the standard retirement annuity without an adjustment for an optional service retirement annuity plan selected by the member because any optional plan selected by the member is required by Government Code §824.204(b) to be the actuarial equivalent of the member's standard retirement annuity.

Figure: 34 TAC §25.162(e)

[Figure: 34 TAC §25.162(e)]

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 26, 2023.

TRD-202301926

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Earliest possible date of adoption: July 9, 2023

For further information, please call: (512) 542-6506



SUBCHAPTER P. CALCULATION OF FEES AND COSTS

34 TAC §25.302, §25.303

STATUTORY AUTHORITY

The amendments are proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board; Government Code §823.401, which provides that eligible members may establish equivalent member service credit based on certain types of out-of-state service by depositing with TRS 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 based on rates and tables recommended by the TRS actuary of record and adopted by the Board; Government Code §823.402, which provides that eligible members may establish equivalent membership service credit for certain developmental leave by depositing with TRS 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 based on rates and tables recommended by the TRS actuary of record and adopted by the Board; Government Code §823.404, which provides that an eligible member may establish equivalent membership service credit for work experience for which the member is entitled to a salary step under Education Code §21.403(b) if the member deposits with TRS, 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 TRS actuary of record and adopted by the Board; Government Code §823.406, which provides that a member may establish membership service credit for service performed during a 90-day waiting period to become a member by depositing with TRS, 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 TRS actuary of record and adopted by the Board; and Government Code §825.403, which provides that to establish service or compensation credit for unreported service or compensation, a person must deposit with TRS 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 or compensation credit based on rates and tables recommended by the TRS actuary of record and adopted by the Board.

CROSS-REFERENCE TO STATUTE

The proposed amendments implement Chapter 823, Subchapter E, Texas Government Code, concerning establishment of equivalent membership service and Government Code §825.403, concerning the collection of member's contributions.

§25.302. *Calculation of Actuarial Costs of Service Credit.*

(a) When a member is purchasing TRS service credit for which the law requires that the actuarial cost or actuarial present value be deposited and for which the method in this section is referenced by another section of this title, TRS will calculate the cost using the cost factors obtained from the Actuarial Cost Tables adopted and method described in this section. For [Effective September 1, 2015, for] purposes of this section, TRS will use the age of the member and the ser-

vice credit established by the member on September 1 of the school year in which the cost of the purchase is established.

(b) The factors for individuals whose membership was established before September 1, 2007 and who have five years of service credit on August 31, 2014, and maintain membership in TRS until the time of purchase, are shown in the tables adopted as part of this subsection~~], which shall be used when the service credit cost is paid on or after September 1, 2019, or an installment agreement is entered into on or after September 1, 2019].~~ Within each set of tables, the number of years of service credit to be purchased will determine which specific table will be used. Each of the tables cross-references the member's age in rows with years of credited service (before purchase) in columns. The intersection of the participant's age and service is the cost per \$1,000 of salary. The cost factor for a participant with more years of service credit than shown on the table is the same as the factor shown for the highest number of years of service credit on the table for the participant. TRS will calculate the cost to purchase service credit under this section by dividing the participant's salary by 1000 and multiplying the resulting quotient by the appropriate cost factor obtained from the table. The tables set forth the cost, per \$1,000 of salary, to purchase from one year to fifteen years of service credit. The number of years of service credit available for purchase is determined by the laws and rules applicable to the type of service credit to be purchased. For the purpose of calculating the required amount for a member who is not grandfathered to use a three-year salary average under §51.12 of this title (relating to Applicability of Certain Laws in Effect Before September 1, 2005), the term "salary" is defined as follows:

(1) For the upper region of the table (where the factors appear above the line), salary is the greater of the annual salary for the last year of credited service or the average of the member's highest years of compensation calculated on September 1 of the school year in which the cost of the service credit is established. The fewer of five years of compensation or all of the member's years of compensation shall be used for the average; or

(2) For the lower region of the table (where the factors appear below the line), salary is the average of the member's highest five years of compensation calculated on September 1 of the school year in which the cost of the service credit is established. A member's highest five years of compensation shall be calculated as if the member were retiring at the time the service credit is purchased. The lower region of the table (where the factors appear below the line) reflects those age and service combinations where the purchase of service credit results in immediate eligibility of the member for unreduced retirement benefits.

Figure: 34 TAC §25.302(b)(2)
[Figure: 34 TAC §25.302(b)(2)]

(c) For the purpose of calculation of actuarial cost for service credit for a member described in subsection (b) of this section who is grandfathered to use a three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section except that a three-year salary average shall be used instead of a five-year salary average. Additionally, the cost shall be 103.5 percent of the cost as calculated under subsection (b) of this section.

(d) For individuals whose membership was established on or after September 1, 2007 and who have five years of service credit on August 31, 2014, and maintain membership in TRS until the time of purchase, the methodology described in subsection (b) of this section shall be used to determine cost of additional service credit, but TRS shall use the factors in the tables adopted as part of this subsection~~], which shall be used when the service credit cost is paid on or after September 1, 2019, or an installment agreement is entered into on or after September 1, 2019].~~ If the member is not grandfathered to use a

three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section.

Figure: 34 TAC §25.302(d)
[Figure: 34 TAC §25.302(d)]

(e) If an individual established membership on or after September 1, 2007 and has five years of service credit on August 31, 2014, and maintains membership in TRS until the time of purchase, but is grandfathered to use a three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section except that a three-year salary average shall be used instead of a five-year salary average. The cost of establishing additional service credit for a grandfathered member described in this subsection, shall be 1.035 times the cost as calculated under subsection (d) of this section.

(f) An individual who first was a member of TRS before September 1, 2007, but who terminated membership through withdrawal of accumulated contributions and then again joined TRS on or after September 1, 2007, and has five years of service credit on August 31, 2014 and maintains membership in TRS until the time of purchase, is subject to the calculation of cost for additional service credit under subsections (d) and (e) of this section.

(g) For members who do not have five years of service credit on August 31, 2014 or whose current membership began after August 31, 2014, the methodology described in subsections (b) and (c) of this section shall be used to determine the cost of additional service credit, but TRS shall use the factors in the tables adopted as a part of this subsection.

Figure: 34 TAC §25.302(g)
[Figure: 34 TAC §25.302(g)]

(h) For the purpose of calculation of actuarial cost for service credit for a member described in subsection (g) of this section who is not grandfathered to use a three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section.

(i) If the individual did not have five years of service credit on August 31, 2014 or whose current membership began after August 31, 2014, but is grandfathered to use a three-year salary average, the term "salary" shall have the same meaning as in subsection (b) of this section except that a three-year salary average shall be used instead of a five-year salary average. The cost of establishing additional service credit for a grandfathered member described in this subsection shall be 1.035 times the cost as calculated under subsection (g) of this section.

(j) The tables adopted in this section shall be used when the service credit cost is paid on or after September 1, 2023, or an installment agreement is entered into on or after September 1, 2023.

§25.303. *Calculation of Actuarial Cost for Purchase of Compensation Credit.*

(a) When a member is purchasing TRS compensation credit for which the law requires that the actuarial cost or actuarial present value be deposited and for which the method in this section is referenced by another section of this title, TRS will calculate the cost using the cost factors obtained from the Actuarial Cost Tables adopted and the method described in this section. ~~[For purchases in which the cost is established and the purchase is initiated in the 2016-17 school year or after.]~~ TRS will use the age of the member and the service credit established by the member on September 1 of the school year in which the cost of the purchase is established.

(b) Each of the tables cross-references the member's age in rows with years of credited service in columns. The intersection of the participant's age and service is the cost factor that shall be applied in determining the cost to purchase compensation credit. TRS will calculate the cost to purchase compensation credit under this section by

dividing the difference between participant's final average salary before and after the purchase by 1,000 and multiplying the quotient by the appropriate cost factor obtained from the table. The eligibility of additional compensation credit available for purchase is determined by the laws and rules applicable to the type of compensation sought to be credited.

(c) For individuals whose membership was established before September 1, 2007 and who have five years of service credit on August 31, 2014, and maintain membership in TRS until the time of purchase, the methodology described in subsection (b) of this section shall be used to determine cost of additional compensation credit, but TRS shall use the factors in the tables adopted as part of this subsection.

Figure: 34 TAC §25.303(c)

[Figure: 34 TAC §25.303(e)]

(d) For individuals whose membership was established on or after September 1, 2007 and who have five years of service credit on August 31, 2014, and maintain membership in TRS until the time of purchase, the methodology described in subsection (b) of this section shall be used to determine cost of additional compensation credit, but TRS shall use the factors in the tables adopted as part of this subsection.

Figure: 34 TAC §25.303(d)

[Figure: 34 TAC §25.303(d)]

(e) For members who do not have five years of service credit on August 31, 2014 or whose current membership began after August 31, 2014, the methodology described in subsection (b) of this section shall be used to determine the cost of additional compensation credit, but TRS shall use the factors in the tables adopted as a part of this subsection.

Figure: 34 TAC §25.303(e)

[Figure: 34 TAC §25.303(e)]

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 26, 2023.

TRD-202301927

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

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For further information, please call: (512) 542-6506



CHAPTER 29. BENEFITS

(Editor's note: In accordance with Texas Government Code, §2002.014, which permits the omission of material which is "cumbersome, expensive, or otherwise inexpedient," the figures in 34 TAC §§29.11, 29.21, and 29.71 are not included in the print version of the Texas Register. The figures are available in the on-line version of the June 9, 2023, issue of the Texas Register.)

The Teacher Retirement System of Texas (TRS) proposes amendments to §29.11 relating to Actuarial Tables and §29.21 relating to Beneficiary Tables of Chapter 29, Subchapter A, in Title 34, Part 3, of the Texas Administrative Code and §29.71 relating to Tables of Chapter 29, Subchapter F, in Title 34, Part 3, of the Texas Administrative Code.

BACKGROUND AND PURPOSE

Each rule TRS proposes to amend currently incorporates one or more actuarial table used to calculate the retirement benefits of TRS retirees based on various retirement selections, such as electing for early-age retirement or a partial lump-sum option payment. The proposed amendments incorporate new actuarial tables into each rule that have been updated based on the TRS Board of Trustees (Board) most recently approved actuarial assumptions and new investment return assumption. The new actuarial tables were prepared by the TRS actuary of record, Gabriel, Roeder, Smith & Company.

Proposed amended §29.11 updates several actuarial tables relating to early-age retirement reduction factors, reduction factors for service and disability retirement options, and reserve transfer factors. Proposed amended §29.21 updates the tables for unisex joint beneficiary life expectancy that are used when calculating life expectancy for the purposes of option beneficiary changes made under §824.1013, Government Code. Lastly, proposed amended §29.71 updates the actuarial table relating to the reduction factors to be applied to the annuity payments of retirees that elect to receive a partial lump-sum payment at the time of retirement. Minor, conforming changes to text have also been made to proposed amended §29.11 to incorporate these tables.

The proposed amended rules and updated tables are proposed to become effective on September 1, 2023, and will generally be used to calculate the benefits for all service or disability retirements or option beneficiary changes that will be effective in the 2023-2024 school year and going forward.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amendments will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of administering the proposed amendments.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed amendments will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed amendments will be to ensure that TRS administers the TRS retirement plan in accordance with the latest actuarial assumptions adopted by the Board. Mr. Green has also determined that there is no economic cost to entities or persons required to comply with the proposed amendments. To the extent the newly incorporated actuarial tables increase the reduction of a retiree's annuity payment under the proposed amended rules, these increased costs result from TRS's obligation to comply with its governing statutes that require TRS to reduce a member's retirement annuity to its actuarial equivalent based on the member's retirement selections.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amendments. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed amendments. Therefore, no lo-

cal employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amendments will be in effect the proposed amendments will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not require an increase or decrease in fees paid to TRS; will not create a new regulation; will not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

TAKINGS IMPACT ASSESSMENT

TRS has determined that since there are no private real property interests affected by the proposed amendments, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed amendments because the proposed new rule does not impose a cost on regulated persons.

COMMENTS

Comments may be submitted in writing to Brian Guthrie, TRS Executive Director, 1000 Red River Street, Austin, Texas 78701-2698. Written comments must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

SUBCHAPTER A. RETIREMENT

34 TAC §29.11, §29.21

STATUTORY AUTHORITY

The amendments are proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board; Government Code §824.1013, which limits the monthly payments a new option beneficiary may receive after a beneficiary change under that section to the life expectancy of the beneficiary designated at retirement; Government Code §824.202, which provides the early-age retirement reduction factors and authorizes the Board to adopt tables that interpolate the application of each reduction factor by each month of age of retiree between two years of age; Government Code §824.204, which requires that an optional annuity payment be actuarially reduced from the standard annuity payment to its actuarially equivalent based on the service retirement option selected; Government Code §824.308, which requires that an optional annuity payment be actuarially reduced from the standard annuity payment to its actuarially equivalent based on the disability retirement option selected; and Government Code §825.309, which describes that if TRS transfers funds to a retired reserve account the amount transferred from the state contribution account must be an amount determined under actuarial tables adopted by the Board sufficient for the payments of benefits as they become due.

CROSS-REFERENCE TO STATUTE

The proposed amendments implement Chapter 824, Subchapter B (concerning Beneficiaries), Subchapter C (concerning Service Retirement Benefits), and Subchapter D (concerning Disability Retirement Benefits), Texas Government Code and Chapter 825, Subchapter D (concerning Management of Assets), Texas Government Code.

§29.11. Actuarial Tables.

(a) Actuarial tables furnished by the TRS actuary of record will be used for computation of benefits. Factors for ages or types of annuities not included in the tables will be computed from the same data by the same general formulas.

(b) The Teacher Retirement System adopts the actuary's early age reduction factors. The factor tables are as follows:

Figure: 34 TAC §29.11(b)

[Figure: 34 TAC §29.11(b)]

(c) The Teacher Retirement System adopts the actuary's factors for service retirement options. The factor tables are as follows:

Figure: 34 TAC §29.11(c)

[Figure: 34 TAC §29.11(c)]

(d) The Teacher Retirement System adopts the actuary's factors for disabled member retirement options. The factor tables are as follows:

Figure: 34 TAC §29.11(d)

[Figure: 34 TAC §29.11(d)]

(e) The Teacher Retirement System adopts the actuary's reserve transfer factors. The reserve transfer factor tables are as follows:

Figure: 34 TAC §29.11(e)

[Figure: 34 TAC §29.11(e)]

(f) The board of trustees may change the tables or adopt new tables from time to time by amending this section; provided, however, that any such change does not result in any retiree or member eligible for service retirement with an unreduced annuity as of the date of the change receiving a smaller benefit than the benefit computed immediately before the change. [If such a change would result in a smaller benefit, then TRS will use the tables in effect immediately prior to the change to calculate the benefits for any retiree or member eligible for service retirement with an unreduced annuity as of the date of the change.]

§29.21. Beneficiary Tables.

Tables for Unisex Joint Beneficiary Life furnished by the TRS actuary of record (actuary) will be used in calculating a life expectancy under §824.1013 of the Government Code. A fraction of a year shall be converted to whole months with any partial month being rounded upward to a full month. Life expectancy shall be determined as of the date of the retirement in question and the age of the original beneficiary at that time. The Teacher Retirement System of Texas adopts the actuary's Tables for Unisex Joint Beneficiary Life.

Figure: 34 TAC §29.21

[Figure: 34 TAC §29.21]

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 26, 2023.

TRD-202301928

Don Green
Chief Financial Officer
Teacher Retirement System of Texas
Earliest possible date of adoption: July 9, 2023
For further information, please call: (512) 542-6506



SUBCHAPTER F. PARTIAL LUMP-SUM PAYMENT

34 TAC §29.71

STATUTORY AUTHORITY

The amendments are proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board, and Government Code §824.2045, which requires the service retirement annuity selected by a retiree to be actuarially reduced to reflect the lump-sum option selected by the member and shall be actuarially equivalent to a standard or optional service retirement annuity, as applicable, reduced for early age without the partial lump-sum distribution.

CROSS-REFERENCE TO STATUTE

The proposed amendments implement Chapter 825, Subchapter C (concerning Service Retirement Benefits), Texas Government Code.

§29.71. Tables.

(a) Any eligible retiree who selects a partial lump-sum option will receive an actuarially reduced annuity to reflect the selection of the lump-sum option. TRS will use Factor Tables for Partial Lump-Sum Option Payments furnished by the TRS actuary of record.

Figure: 34 TAC §29.71(a)

[Figure: 34 TAC §29.71(a)]

(b) The member's age in whole years will be used from column one and the percentage of standard annuity factor from column three, four, or five depending on the number of months of lump-sum selected, will be used to determine the percentage of standard annuity that will be paid to a person who elects to participate in the partial lump-sum option plan.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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Don Green

Chief Financial Officer

Teacher Retirement System of Texas

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For further information, please call: (512) 542-6506



CHAPTER 47. QUALIFIED DOMESTIC RELATIONS ORDERS

34 TAC §47.17

The Teacher Retirement System of Texas (TRS) proposes amendments to §47.17 relating to Calculation for Alternate Payee Benefits Before a Member's Benefit Begins, of Chapter 47, in Title 34, Part 3, of the Texas Administrative Code.

BACKGROUND AND PURPOSE

TRS proposes to amend §47.17 to incorporate a new actuarial table used to calculate distributions made to an alternate payee under Government Code §804.005. The proposed new actuarial table to be incorporated into the rule that has been updated based on the TRS Board of Trustees (Board) most recently approved actuarial assumptions and new investment return assumption. The new actuarial table was prepared by the TRS actuary of record, Gabriel, Roeder, Smith & Company.

The proposed amended rule and updated table are proposed to become effective on September 1, 2023 and will generally be used to calculate the benefits for all distributions made to an alternate payee under Government Code §804.005 and will be effective in the 2023-2024 school year and going forward.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amendments to rule §47.17 will be in effect, there will be no foreseeable fiscal implications to state or local governments as a result of administering the proposed amendments to §47.17.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed amendments to §47.17 will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed amendments to §47.17 will be to ensure that TRS administers the TRS retirement plan in accordance with the latest actuarial assumptions adopted by the Board. Mr. Green has also determined that there is no economic cost to entities or persons required to comply with the proposed amendments to §47.17. To the extent the newly incorporated actuarial table increases the reduction to the amount of a distribution payable to an alternate payee under the proposed amended rules, this reduction results from TRS's obligation to comply with Government Code §804.005 that requires that a distribution made pursuant to that section be the actuarial equivalent of the accrued retirement benefit of the member of the retirement system.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amendments to §47.17. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed amendments to §47.17. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amendments to §47.17 will be in effect the proposed amendments to §47.17 will not create or eliminate a government program; will not require the creation or elimination of employee positions; will not require an increase or decrease in future leg-

islative appropriations to TRS; will not require an increase or decrease in fees paid to TRS; will not create a new regulation; will not expand, limit, or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

TAKINGS IMPACT ASSESSMENT

TRS has determined that since there are no private real property interests affected by the proposed amendments to §47.17, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed amendments to §47.17 because the proposed new rule does not impose a cost on regulated persons.

COMMENTS

Comments may be submitted in writing to Brian Guthrie, TRS Executive Director, 1000 Red River Street, Austin, Texas 78701-2698. Written comments must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

STATUTORY AUTHORITY

The amendments to §47.17 are proposed under the authority of Government Code §825.102 which authorizes the TRS Board of Trustees to adopt rules for the eligibility for membership, the administration of the funds of the retirement system, and the transaction of business of the board and Government Code §804.005, which requires that a distribution made pursuant to that section be the actuarial equivalent of the accrued retirement benefit of the member of the retirement system, determined as if the member retired on the date of the alternate payee's election.

CROSS-REFERENCE TO STATUTE

The proposed amendments to §47.17 implements Chapter 804, Subchapter A, Texas Government Code, concerning Qualified Domestic Relations Orders.

§47.17. Calculation for Alternate Payee Benefits Before a Member's Benefit Begins.

(a) An alternate payee of a TRS member is eligible to receive the benefits described by Government Code §804.005 if:

- (1) the alternate payee has a qualified domestic relations order ("QDRO") approved by TRS;
- (2) the alternate payee submits a written request to TRS to receive these benefits; and
- (3) the member meets the requirements of subsection (b) of this section.

(b) The alternate payee of a TRS member may only elect to receive benefits under this section if the member:

- (1) has not retired;
- (2) has attained the greater of either the age of 62 and is eligible to retire without reduction for early age retirement, or normal retirement age and service requirements for service retirement; and
- (3) retains credit and contributions in TRS attributable to that service.

(c) If an alternate payee elects to receive benefits under this section, the benefits will become payable once TRS receives a written request for the benefits and a certified copy of the domestic relations order determined to be a QDRO.

(d) In figuring these benefits for the alternate payee and the adjusted standard annuity of the member's benefit as set forth in this section, TRS shall consider the member's benefit as a normal age standard service retirement annuity without regard to any optional annuity chosen or beneficiary designated by the member.

(e) The beginning of monthly payments under this section terminates any interest that the alternate payee who receives the payment might otherwise have in benefits that accrue to the account of the member after the date the initial payment to the alternate payee is made.

(f) An alternate payee who elects this method of payment has only a right to receive an annuity for life as calculated in this section and does not have the right to pass on any portion of his/her benefit upon his/her death. There is no reversion of the alternate payee's benefit to the member upon the alternate payee's death, irrespective of whether the death occurs before or after the member's benefit commencement.

(g) TRS will use Tables for Life Annuity Factors furnished by the TRS actuary of record to calculate the actuarially equivalent portion of the member's accrued benefit payable to an alternate payee under this section.

Figure: 34 TAC §47.17(g)
[Figure: 34 TAC §47.17(g)]

(h) Except as otherwise provided by this section, TRS shall calculate the alternate payee's actuarial equivalent benefit in the following manner:

(1) Determine the member's accrued monthly benefit as of the alternate payee's benefit commencement date.

(2) Determine the member's age and the alternate payee's age as of the alternate payee's benefit commencement date.

(3) Determine the appropriate percent of the member's accrued benefit payable to the alternate payee under the terms of the QDRO.

(4) Multiply the member's accrued benefit times the life annuity factor at member's age times the alternate payee's percent. Then, divide that figure by the life annuity factor at alternate payee's age.

(i) Except as otherwise provided by this section, TRS shall calculate a member's adjusted standard annuity by reducing the member's standard annuity monthly benefit at the time of retirement by an amount equal to the percent of the member's benefit payable to the alternate payee under the QDRO multiplied by the member's accrued monthly benefit as of the alternate payee's benefit commencement date.

(j) If the member dies before retiring:

(1) the member's adjusted standard annuity must be used for any benefit due after death if a standard annuity is used to calculate that benefit;

(2) the balance of the accumulated contributions in the member savings account payable to a beneficiary must be adjusted to reflect the payment to the alternate payee by reducing the accumulated contributions in the member savings account by the QDRO percentage described in subsection (h)(3) of this section; and

(3) a benefit payable under Government Code §824.402(a)(1) and (2) or a lump sum payment of \$2,500.00 plus an applicable monthly benefit as described in Government Code §824.404 is not reduced by payments made to the alternate payee under this section.

(k) If the member dies after retiring:

(1) the \$10,000.00 lump sum survivor benefits or the \$2,500.00 lump sum payment plus an applicable monthly benefit

payable to a beneficiary under Government Code §824.501 and §824.404, are not reduced as a result of payments to an alternate payee under this section; and

(2) any payments paid pursuant to Government Code §824.407 must be reduced by first reducing the account balance at the time of retirement by the QDRO percentage described in subsection (h)(3) of this section.

(l) If the member elects to terminate membership in TRS before retirement, the accumulated contributions in the member account before a refund is processed must be reduced by the QDRO percentage described in subsection (h)(3) of this section.

(m) When new law provides for an increase in the benefit payable to the member after the commencement of the payment of an annuity to the member, the increase will be distributed by increasing the member's and the alternate payee's benefit as provided by the law for an increase to the member's benefit so long as there is no additional actuarial cost to TRS or unless provided otherwise by the legislature.

(n) To reinstate withdrawn service reduced under subsection (l) of this section, a person must deposit the amount withdrawn or refunded and the fees required by law. Benefits payable based wholly or in part on the terminated service will be reduced as described in this section as if the service had not been terminated.

(o) When a member who has an alternate payee receiving benefits under this section elects a partial lump-sum option, TRS will use the member's adjusted standard annuity in the calculation for the member's partial lump-sum payment.

(p) If the total distribution amount awarded to the alternate payee in a QDRO is limited to a specific dollar amount, TRS shall calculate the alternate payee's actuarial equivalent benefit as follows:

(1) Determine the alternate payee's age as of the alternate payee's benefit commencement date.

(2) Calculate the alternate payee's actuarial equivalent monthly benefit by multiplying the member's accrued benefit times the life annuity factor at member's age times the alternate payee's percent. Compare the product to the specific dollar limit amount. If the specific dollar limit amount is the smaller amount, divide the specific dollar limit amount awarded to the alternate payee by the life annuity factor at alternate payee's age to determine the alternate payee's monthly benefit. If the specific dollar limit amount is larger than the product of the member's accrued benefit times the life annuity factor at member's age times the alternate payee's percent, divide the product by life annuity factor at alternate payee's age to determine the alternate payee's monthly benefit.

(q) When a member who is participating in the deferred retirement option plan ("DROP") has an alternate payee begin a distribution under this section, TRS will calculate the alternate payee's actuarial equivalent benefit by multiplying the member's accrued benefit times the life annuity factor at member's age plus the balance of the DROP times the alternate payee's percent. That figure shall then be divided by the life annuity factor at alternate payee's age.

(r) When a member who is participating in DROP has an alternate payee begin a distribution under this section, TRS will reduce the DROP account by applying the percentage of the member's accrued benefit payable to the alternate payee under the terms of the qualified domestic relations order beginning with the initial month that a distribution is payable to the alternate payee.

(s) If the amount of monthly retirement benefit awarded to the alternate payee in the QDRO is a stated monthly amount rather than a percentage, TRS shall determine the alternate payee's actuarial equivalent

benefit by multiplying the stated monthly amount times the life annuity factor at the member's age and then dividing the product by the life annuity factor at the alternate payee's age.

(t) If the amount of monthly retirement benefit awarded to the alternate payee in the QDRO is a percentage of the benefit but limited to no more than a stated monthly amount, TRS shall determine the alternate payee's actuarial equivalent benefit by multiplying the member's accrued benefit times the life annuity factor at member's age times the alternate payee's percent, then dividing that product by the life annuity factor at alternate payee's age. If the amount derived from this calculation is smaller than the stated monthly amount, the amount calculated is the alternate payee's actuarial equivalent benefit. If the amount derived from this calculation is larger than the stated monthly amount, the alternate payee's actuarial equivalent benefit is calculated by dividing the stated monthly amount by the life annuity factor at the alternate payee's age.

(u) If the amount of the monthly retirement benefit awarded to the alternate payee in the QDRO is a percentage of the benefit but limited to no more than a stated monthly amount, TRS shall determine the member's adjusted standard annuity by reducing the member's standard annuity monthly benefit at the time of retirement by the lesser of the stated monthly amount and the amount of the reduction calculated under subsection (i) of this section.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 26, 2023.

TRD-202301930

Don Green

Chief Financial Officer

Teacher Retirement System of Texas

Earliest possible date of adoption: July 9, 2023

For further information, please call: (512) 542-6506

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TITLE 37. PUBLIC SAFETY AND CORRECTIONS

PART 9. TEXAS COMMISSION ON JAIL STANDARDS

CHAPTER 265. ADMISSION

37 TAC §265.7

The Texas Commission on Jail Standards (TCJS) proposes an amendment to TAC, Title 37, §265.7, relating to telephone use. Current law requires that a telephone directory shall be available for inmates' use within the processing area. The proposed amendment will repeal this requirement and replace it with a provision allowing jails to allow inmates access to their contact lists upon booking. Inmate contact lists are usually on their cell phone, which is confiscated at booking. This change will allow inmates to make telephone calls to people whose phone number the inmates have not memorized. This amendment originates from a public petition the Commission received on February 9, 2023, from William Pailles, member of the public, who observed that telephone directories are no longer available widely, having been replaced by cell phones with internet access. This obsolescence of telephone directories makes the current rule obsolete.

Brandon Wood, Executive Director, has determined that for each year of the first five years that the sections will be in effect there will be no fiscal implications to state or local governments by enforcing and administering the rule as proposed.

TCJS has determined that during the first five years that the sections will be in effect:

- (1) The proposed amendment will not create or eliminate a government program;
- (2) Implementation of the proposed amendment will not affect the number of employee positions;
- (3) Implementation of the proposed amendment will not require an increase or decrease in future legislative appropriations;
- (4) The proposed amendment will not affect fees paid to the agency;
- (5) The proposed amendment will not create a new rule;
- (6) The proposed amendment will not repeal an existing rule;
- (7) The proposed amendment will not change the number of individuals subject to the rule; and
- (8) TCJS has insufficient information to determine the proposed amendment's affect on the state's economy.

Mr. Wood has also determined that the amendment will not have any adverse economic effect on small businesses, micro-businesses, or rural communities because they will not be required to alter their business practices, and the rules do not impose any additional costs on those required to comply with the rules.

The Commission anticipates no economic costs to persons who are required to comply with the sections as proposed.

Texas Government Code, §2001.0045 does not apply to this proposal because it does not impose a cost on regulated persons; is amended to reduce the burden or responsibilities imposed on regulated persons by the rules; and is necessary to protect the health, safety, and welfare of the residents of this state.

Mr. Wood has determined that for each year of the first five years the rules are in effect, the public will benefit from the adoption

of the rules. The Commission anticipates that jails will be able to remain in compliance despite the obsolescence of telephone directories, and inmates will be able to use their own contact lists to make telephone calls.

TCJS has determined that this proposal does not restrict or limit an owner's right to his or her property that would otherwise exist in the absence of government action and, therefore, does not constitute a taking under §2007.043 of the Government Code.

Comments on the proposed rule may be submitted in writing to William Turner, P.O. Box 12985, Austin, Texas 78711, Fax (512) 463-3185, or e-mail at will.turner@tcjs.state.tx.us

STATUTORY AUTHORITY

The amendment is proposed under the authority of Government Code, Chapter 511, which authorizes the Texas Commission on Jail Standards to adopt reasonable rules and procedures establishing minimum standards for the construction, equipment, maintenance, and operation of county jails.

This proposed change does not affect other rules or statutes.

§265.7. Telephone Use.

A telephone [~~and telephone directory~~] shall be available for inmates' use within the processing area. The facility shall allow reasonable access to a written or electronic contact list that is in the inmate's possession upon booking.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on May 23, 2023.

TRD-202301901

Brandon Wood

Executive Director

Texas Commission on Jail Standards

Earliest possible date of adoption: July 9, 2023

For further information, please call: (512) 463-2690

