

By: Huffman, et al.

S.B. No. 321

A BILL TO BE ENTITLED

AN ACT

relating to contributions to, benefits from, and the administration of the Employees Retirement System of Texas.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 803.202, Government Code, is amended by adding Subsection (c) to read as follows:

(c) A member of the Employees Retirement System of Texas who is subject to Chapter 820 is eligible to participate in the program provided by this chapter.

SECTION 2. Chapter 805, Government Code, is amended by adding Section 805.0015 to read as follows:

Sec. 805.0015. APPLICABILITY. This chapter does not apply to a member of the employees retirement system who is subject to Chapter 820.

SECTION 3. Section 811.001, Government Code, is amended by adding Subdivision (5-a) and amending Subdivision (16) to read as follows:

(5-a) "Cash balance group member" means a member subject to Chapter 820.

(16) "Service credit" means the amount of membership and, if applicable, military service ascribed to a person's account in the retirement system for which all required contributions have been made to, and are being held by, the retirement system.

SECTION 4. Section 812.101(c), Government Code, is amended

1 to read as follows:

2 (c) For a law enforcement or custodial officer, the
3 withdrawal of accumulated contributions under Subsection (a)
4 includes all of the officer's contributions made under Section
5 815.402(h) or 820.101(b), as applicable.

6 SECTION 5. Section 813.001, Government Code, is amended to
7 read as follows:

8 Sec. 813.001. TYPES OF CREDITABLE SERVICE. The types of
9 service creditable in the retirement system are membership service
10 and, if applicable, military service~~[7]~~ and equivalent membership
11 service.

12 SECTION 6. Subchapter A, Chapter 813, Government Code, is
13 amended by adding Section 813.0015 to read as follows:

14 Sec. 813.0015. PROVISIONS APPLICABLE TO CASH BALANCE GROUP
15 MEMBERS. The following provisions of this chapter do not apply to a
16 cash balance group member:

17 (1) Sections 813.102, 813.104, 813.106, 813.202,
18 813.402, 813.403, 813.404, 813.502, 813.504, 813.505, 813.506,
19 813.509, 813.511, 813.513, and 813.514; and

20 (2) Subchapter D.

21 SECTION 7. Section 813.401, Government Code, is amended to
22 read as follows:

23 Sec. 813.401. SERVICE CREDITABLE IN ELECTED CLASS. Service
24 creditable in the elected class of membership is:

25 (1) membership service in an office included in that
26 class; and

27 (2) for members other than cash balance group members:

1 (A) military service established as provided by
2 Subchapter D; and

3 (B) [~~3~~] equivalent membership service
4 specifically made creditable in that class.

5 SECTION 8. Section 814.009(a), Government Code, is amended
6 to read as follows:

7 (a) A person who receives an annuity under this subtitle
8 [~~subchapter~~] may, on a form prescribed by and filed with the
9 retirement system, authorize the retirement system to deduct from
10 the person's monthly annuity payment the amount of a fee for the
11 person's membership in a state employee organization that:

12 (1) is a certified eligible state employee
13 organization under Section 403.0165; or

14 (2) has at least 2,500 retirees as members on January 1
15 preceding the fiscal year for which the deduction is made.

16 SECTION 9. Section 814.0095(a), Government Code, is amended
17 to read as follows:

18 (a) Except as provided by Section 814.0096(c), a person who
19 receives an annuity under this subtitle [~~subchapter~~] may, on a
20 printed or electronic form filed with the retirement system,
21 authorize the retirement system to deduct from the person's monthly
22 annuity payment the amount of a contribution to the state employee
23 charitable campaign in the manner and for the same purposes for
24 which a state employee may authorize deductions to that campaign
25 under Subchapter I, Chapter 659.

26 SECTION 10. Subchapter B, Chapter 814, Government Code, is
27 amended by adding Section 814.1005 to read as follows:

1 Sec. 814.1005. INAPPLICABILITY OF SUBCHAPTER TO CASH
2 BALANCE GROUP MEMBERS. This subchapter does not apply to a cash
3 balance group member.

4 SECTION 11. Sections 815.311(a) and (b), Government Code,
5 are amended to read as follows:

6 (a) The retirement system shall deposit in a member's
7 individual account in the employees saving account the following
8 amounts, as applicable:

9 (1) the amount of contributions to the retirement
10 system that is deducted from the member's compensation;

11 (2) the portion of a deposit required to reinstate
12 service credit previously canceled that represents only the amount
13 withdrawn;

14 (3) the portion of a deposit required to establish
15 service credit not previously established that represents only the
16 required contribution; ~~and~~

17 (4) the portion of a deposit required to establish
18 military service credit that represents only the member's
19 contribution for that credit; and

20 (5) interest and gain sharing interest in accordance
21 with Sections 820.102 and 820.103, respectively.

22 (b) Except as provided by Section 820.102 or 820.103,
23 interest [~~Interest~~] on money in an individual account in the
24 employees saving account is earned monthly and is computed at the
25 rate of two percent a year on the mean balance of the member's
26 account for the fiscal year.

27 SECTION 12. Section 815.314, Government Code, is amended to

1 read as follows:

2 Sec. 815.314. INTEREST ACCOUNT. Except as provided by
3 Section 815.317, 820.102, or 820.103, the retirement system shall
4 deposit in the interest account all income, interest, and dividends
5 from deposits and investments of assets of the retirement system.

6 SECTION 13. Section 815.317(d), Government Code, is amended
7 to read as follows:

8 (d) Member contributions to the fund deducted under Section
9 815.402(h) or 820.101(b), as applicable:

10 (1) earn interest at the same rate as money in an
11 individual account in the employees saving account under Section
12 815.311; and

13 (2) are subject to the same computations and
14 limitations that apply to member contributions under Section
15 815.311.

16 SECTION 14. Section 815.401(a), Government Code, is amended
17 to read as follows:

18 (a) Each member annually shall pay a membership fee of \$2. A
19 contributing member shall pay the fee with the member's first
20 contribution to the retirement system in each fiscal year in the
21 manner provided by Section 815.402 or 820.101, as applicable, for
22 payment of the member's contribution to the retirement system.

23 SECTION 15. The heading to Section 815.402, Government
24 Code, is amended to read as follows:

25 Sec. 815.402. COLLECTION OF CERTAIN MEMBER CONTRIBUTIONS.

26 SECTION 16. Section 815.402(a), Government Code, is amended
27 to read as follows:

1 (a) Except as provided by Section 813.201, each payroll
2 period, each department or agency of the state shall cause to be
3 deducted from the [each member's] compensation of each member,
4 other than a cash balance group member, a contribution of:

5 (1) 9.5 percent of the compensation if the member is
6 not a member of the legislature, for service rendered after August
7 31, 2015, and before September 1, 2017;

8 (2) for service by a member who is not a member of the
9 legislature rendered on or after September 1, 2017, the lesser of:

10 (A) 9.5 percent of the ~~[member's annual]~~
11 compensation; or

12 (B) a percentage of the ~~[member's annual]~~
13 compensation equal to 9.5 percent reduced by one-tenth of one
14 percent for each one-tenth of one percent that the state
15 contribution rate for the fiscal year to which the service relates
16 is less than the state contribution rate established for the 2017
17 fiscal year; or

18 (3) 9.5 percent of the compensation if the member is a
19 member of the legislature.

20 SECTION 17. Section 815.403(a), Government Code, is amended
21 to read as follows:

22 (a) During each fiscal year, the state shall contribute to
23 the retirement system:

24 (1) an amount equal to 9.5 ~~[7.4]~~ percent of the total
25 compensation of all members of the retirement system for that year;

26 (2) money to pay lump-sum death benefits for retirees
27 under Section 814.501;

1 (3) an amount for the law enforcement and custodial
2 officer supplemental retirement fund equal to 2.13 percent of the
3 aggregate state compensation of all custodial and law enforcement
4 officers for that year;

5 (4) money necessary for the administration of the law
6 enforcement and custodial officer supplemental retirement fund;
7 and

8 (5) money for service credit not previously
9 established, as provided by Section 813.202(c) or 813.302(d).

10 SECTION 18. Sections 815.406(a) and (c), Government Code,
11 are amended to read as follows:

12 (a) The state shall pick up the employee contribution
13 required of each of its employees by Section 815.402 or 820.101, as
14 applicable, for all compensation earned [~~after December 31, 1987~~].

15 The state shall pay to the retirement system the picked-up
16 contributions from the same source of funds that is used in paying
17 earnings to the employees. Such payments shall be in lieu of
18 contributions by the employees. The state shall pick up these
19 contributions by a corresponding reduction in the cash salary of
20 the employees, by an offset against a future salary increase, or by
21 a combination of a salary reduction and offset against a future
22 salary increase. Employees do not have the option of choosing to
23 receive the contributed amounts directly instead of having them
24 paid by the state to the retirement system.

25 (c) Employee contributions picked up as provided by
26 Subsection (a) shall be transmitted to the retirement system in the
27 manner required by Section 815.402 or 820.101, as applicable.

1 Employee contributions picked up by the state and credited to the
2 employee's account shall be treated for all other purposes as if the
3 amount were a part of the member's compensation and had been
4 deducted pursuant to Section 815.403(a).

5 SECTION 19. Subchapter E, Chapter 815, Government Code, is
6 amended by adding Section 815.407 to read as follows:

7 Sec. 815.407. LEGACY PAYMENTS. (a) In addition to the
8 state contributions required by this subtitle, each fiscal year the
9 state shall make an actuarially determined payment in the amount
10 necessary to amortize the system's unfunded actuarial liabilities
11 by not later than the fiscal year ending August 31, 2054.

12 (b) Before each regular legislative session, the retirement
13 system shall provide the Legislative Budget Board with the amount
14 necessary to make the actuarially determined payment required under
15 Subsection (a). The director of the Legislative Budget Board,
16 under the direction of the Legislative Budget Board, shall include
17 that payment in the general appropriations bill prepared for
18 introduction at each regular legislative session under Section
19 322.008. This subsection expires September 1, 2055.

20 SECTION 20. Subtitle B, Title 8, Government Code, is
21 amended by adding Chapter 820 to read as follows:

22 CHAPTER 820. CASH BALANCE BENEFIT

23 SUBCHAPTER A. GENERAL PROVISIONS

24 Sec. 820.001. DEFINITION. In this chapter, "accumulated
25 account balance" means the total of amounts in a member's
26 individual account in the employees saving account, including:

27 (1) amounts deducted from the compensation of the

1 member;

2 (2) other member deposits required to be placed in the
3 member's individual account; and

4 (3) interest credited to amounts in the member's
5 individual account, including interest and gain sharing interest
6 credited in accordance with Sections 820.102 and 820.103,
7 respectively.

8 Sec. 820.002. APPLICABILITY. This chapter applies only to
9 a member of the employee or elected class of membership who:

10 (1) was hired or took office on or after September 1,
11 2022; and

12 (2) was not a member on the date the member was hired
13 or took office.

14 Sec. 820.003. CONFLICT OF LAW. To the extent of a conflict
15 between this chapter, including a rule adopted by the retirement
16 system under authority of this chapter, and any other law, this
17 chapter prevails.

18 Sec. 820.004. RULES. The board of trustees may adopt rules
19 necessary to implement this chapter.

20 SUBCHAPTER B. CASH BALANCE BENEFITS

21 Sec. 820.051. APPLICATION FOR CASH BALANCE BENEFIT. (a) A
22 member may apply for a cash balance annuity by filing an application
23 for retirement with the board of trustees.

24 (b) An application for a cash balance annuity may not be
25 made:

26 (1) after the date the member wishes to retire; or

27 (2) more than 90 days before the date the member wishes

1 to retire.

2 Sec. 820.052. ELIGIBILITY FOR CASH BALANCE BENEFIT. A
3 member:

4 (1) who has service credit in the employee class of
5 membership is eligible to retire and receive a cash balance annuity
6 if the member:

7 (A) is at least 65 years old and has five years of
8 service credit in that class; or

9 (B) has at least five years of service credit in
10 that class and the sum of the member's age and amount of service
11 credit in that class, including months of age and credit, equals or
12 exceeds the number 80;

13 (2) who:

14 (A) has at least 20 years of service credit as a
15 law enforcement or custodial officer is eligible to retire
16 regardless of age and receive a cash balance annuity in an amount
17 computed and funded as provided by Section 820.053; or

18 (B) is at least 55 years old and has at least 10
19 years of service credit as a law enforcement or custodial officer is
20 eligible to retire and receive a cash balance annuity in an amount
21 computed and funded as provided by Section 820.053, provided that
22 the member is only entitled to the enhanced benefit described by
23 Section 820.053(a)(2)(B) if the member has at least 20 years of
24 service as a law enforcement or custodial officer; or

25 (3) who has service credit in the elected class of
26 membership is eligible to retire and receive a cash balance annuity
27 if the member:

1 (A) is at least 60 years old and has eight years
2 of service credit in that class; or

3 (B) is at least 50 years old and has 12 years of
4 service credit in that class.

5 Sec. 820.053. CASH BALANCE BENEFITS FOR MEMBERS. (a) The
6 state match for the cash balance benefit for:

7 (1) service credited to the employee class of
8 membership is an amount computed by multiplying the member's
9 accumulated account balance by 150 percent;

10 (2) service credited to the employee class of
11 membership by a member eligible to retire under this chapter as a
12 law enforcement or custodial officer is an amount computed by
13 multiplying the member's accumulated account balance by:

14 (A) except as provided by Paragraph (B), 150
15 percent; and

16 (B) for the portion of the accumulated account
17 balance based on the member's additional two percent contribution
18 under Section 820.101(b), including interest, attributable to
19 service as a law enforcement or custodial officer, 300 percent,
20 paid from the law enforcement and custodial officer supplemental
21 retirement fund; and

22 (3) subject to Subsection (c), service credited to the
23 elected class of membership is an amount computed by multiplying
24 the member's accumulated account balance by 150 percent.

25 (b) The retirement system shall compute a member's cash
26 balance annuity under this section by taking the sum of the member's
27 accumulated account balance and the state match computed under

1 Subsection (a) and annuitizing that amount over the life expectancy
2 of the member as of the effective date of the member's retirement
3 using mortality and other tables adopted by the board for that
4 purpose under Section 815.105.

5 (c) For purposes of this section, a member of the elected
6 class of membership under Section 812.002(a)(2) shall have the
7 member's accumulated account balance computed as if the
8 contributions to the account were based on the state base salary,
9 excluding longevity pay payable under Section 659.0445, being paid
10 a district judge as set by the General Appropriations Act in
11 accordance with Section 659.012(a).

12 Sec. 820.054. DEATH AND DISABILITY BENEFITS.

13 (a) Notwithstanding any other law, a member subject to this
14 chapter, a retiree receiving a cash balance annuity under this
15 chapter, or the beneficiary of a member or retiree described by this
16 subsection, who qualifies for a death or survivor benefit annuity
17 or a disability retirement annuity under Chapter 814 is entitled to
18 a cash balance annuity under Section 820.053 instead of the annuity
19 otherwise provided under Chapter 814.

20 (b) The board of trustees may enter into contracts to
21 provide additional death and disability benefits under this
22 chapter.

23 SUBCHAPTER C. CONTRIBUTIONS AND INTEREST

24 Sec. 820.101. COLLECTION OF MEMBER CONTRIBUTIONS.

25 (a) Each payroll period, each department or agency of the state
26 shall cause to be deducted from the compensation of a member subject
27 to this chapter a contribution of six percent of the compensation of

1 the member.

2 (b) In addition to the contribution under Subsection (a),
3 each department or agency of the state that employs a law
4 enforcement or custodial officer who is a member subject to this
5 chapter shall deduct an additional two percent contribution from
6 the member's compensation, to be deposited in the law enforcement
7 and custodial officer supplemental retirement fund.

8 Sec. 820.102. ANNUAL INTEREST ADJUSTMENT. Each fiscal
9 year, the retirement system shall deposit for a member subject to
10 this chapter an amount equal to four percent of the member's
11 accumulated account balance deposited into the member's individual
12 account in the employees saving account.

13 Sec. 820.103. GAIN SHARING INTEREST ADJUSTMENT. (a) Each
14 fiscal year and subject to Subsection (b), the retirement system
15 shall compute the gain sharing interest rate applicable to the
16 subsequent fiscal year by:

17 (1) determining the average return on the investment
18 of the system's cash and securities during the preceding five
19 fiscal years, expressed as a percentage rate;

20 (2) subtracting four percentage points from the
21 percentage rate determined under Subdivision (1); and

22 (3) multiplying the sum determined under Subdivision
23 (2) by 50 percent.

24 (b) Subject to Subsection (c), in addition to the amount
25 deposited under Section 820.102, each fiscal year, the retirement
26 system shall:

27 (1) deposit into each member's individual account in

1 the employees saving account an amount equal to the gain sharing
2 interest rate determined under Subsection (a) for the fiscal year
3 multiplied by the member's accumulated account balance; and

4 (2) recalculate the annuity of a retiree or annuitant
5 under this chapter by multiplying the annuity by an amount equal to
6 the gain sharing interest rate determined under Subsection (a).

7 (c) The gain sharing interest rate applied under Subsection
8 (b) may not be less than zero or more than three percent.

9 (d) Subsection (b) applies only to a retiree who is
10 receiving a cash balance annuity under Section 820.053.

11 SECTION 21. Section 1551.102(b), Insurance Code, is amended
12 to read as follows:

13 (b) An individual is eligible to participate in the group
14 benefits program as provided by Subsection (a) if:

15 (1) the individual retires under the jurisdiction of
16 the Employees Retirement System of Texas; and

17 (2) the individual:

18 (A) receives or is eligible to receive an annuity
19 under Section 814.104(a)(2), Government Code, and has at least 10
20 years of eligible service credit;

21 (B) receives or is eligible to receive an annuity
22 under Chapter 803 or Section 814.104(a)(1), Government Code, has at
23 least 10 years of eligible service credit, and is at least 65 years
24 of age; ~~or~~

25 (C) receives or is eligible to receive an annuity
26 that is based on eligibility under Section 814.002, 814.102,
27 814.104(b), 814.107(a), 834.101, or 839.101, Government Code; or

1 (D) receives or is eligible to receive an annuity
2 under Subchapter B, Chapter 820, Government Code, and has at least
3 10 years of eligible service credit.

4 SECTION 22. The Employees Retirement System of Texas is
5 required to implement a provision of this Act only if the
6 legislature appropriates money specifically for that purpose. If
7 the legislature does not appropriate money specifically for that
8 purpose, the Employees Retirement System of Texas may, but is not
9 required to, implement a provision of this Act using other
10 appropriations available for that purpose.

11 SECTION 23. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas Constitution.
14 If this Act does not receive the vote necessary for immediate
15 effect, this Act takes effect September 1, 2021.