

BILL ANALYSIS

Senate Research Center

S.B. 1664
By: Duncan
State Affairs
9/2/2011
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 1664 amends current law relating to the powers and duties of and contributions to and benefits from the systems and programs administered by the Employees Retirement System of Texas.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of trustees of the Employees Retirement System of Texas in SECTION 9 (Sections 814.0095 and 814.0096, Government Code) and SECTION 18 (Section 1551.068, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 609, Government Code, by adding Section 609.015, as follows:

Sec. 609.015. BENEFICIARY CAUSING DEATH OF PARTICIPATING EMPLOYEE. (a) Provides that any benefits, funds, or account balances payable on the death of a participating employee may not be paid to a person convicted or adjudicated as having caused that death but instead are payable as if the convicted person had predeceased the decedent.

(b) Provides that the plan is not required to change the recipient of any benefits, funds, or account balances under this section unless it receives actual notice of the conviction or adjudication of a beneficiary. Authorizes the plan, however, to delay payment of any benefits, funds, or account balances payable on the death of a participating employee pending the results of a criminal investigation or civil proceeding and other legal proceedings relating to the cause of death.

(c) Provides that, for the purposes of this section, a person has been convicted or adjudicated as having caused the death of a participating employee if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court or jury in a criminal proceeding of, causing the death of the participating employee, regardless of whether sentence is imposed or probated, and no appeal of the conviction is pending and the time provided for appeal has expired; or

(2) is found liable by a court or jury in a civil proceeding for causing the death of the participating employee and no appeal of the judgment is pending and the time provided for appeal has expired.

SECTION 2. Amends Section 659.140(c), Government Code, as follows:

(c) Requires the state employee charitable campaign policy committee to be composed of employees and retired state employees receiving benefits under Chapter 814 (Benefits), and represent employees at different levels of employee classification. Deletes existing text requiring each member of the state policy committee to be a state

employee. Deletes existing text requiring that membership represent employees at different levels of employee classification.

SECTION 3. Amends Section 659.143(b), Government Code, to authorize one or more members to be retired state employees receiving retirement benefits under Chapter 814.

SECTION 4. Redesignates Section 811.010, Government Code, as added by Chapter 232 (S.B. 1589), Acts of the 81st Legislature, Regular Session, 2009, as Section 811.012, Government Code, and amends it as follows:

Sec. 811.012. PROVISION OF CERTAIN INFORMATION TO COMPTROLLER. Redesignates existing Section 811.010 as Section 811.012. (a) Requires that the Employees Retirement System of Texas (ERS), not later than June 1, 2016, and once every five years after that date, rather than not later than June 1 of each year, provide to the comptroller of public accounts (comptroller), for the purpose of assisting the comptroller in the identification of persons entitled to unclaimed property reported to the comptroller, the name, address, social security number, and date of birth of each member, retiree, and beneficiary from ERS' records.

(b)-(c) Makes no changes to these subsections.

SECTION 5. Amends Section 813.404, Government Code, as follows:

Sec. 813.404. CONTRIBUTIONS FOR SERVICE NOT PREVIOUSLY ESTABLISHED. Requires a member claiming credit in the elected class, for each month of membership, military, or equivalent membership service not previously credited in ERS, to pay a contribution in an amount equal to the greater of:

(1) eight percent of the monthly salary paid to members of the legislature at the time the credit is established; or

(2) the appropriate member contribution provided by Section 815.402 (Collection of Member Contributions) for a person who holds, rather than six percent of the monthly state salary paid to a person who holds, at the time the credit is established, the office for which credit is sought.

SECTION 6. Amends Section 813.505(a), Government Code, to require a member claiming credit in the employee class for membership service not previously established to, for each month of the service, pay a contribution in an amount equal to the greater of the appropriate member contribution provided by Section 815.402, rather than six percent of the member's monthly state compensation, for the service during the time for which credit is sought, or \$18.

SECTION 7. Amends Sections 814.007(a), (c), (d), and (e), Government Code, as follows:

(a) Provides that any benefits, funds, or account balances payable, rather than a benefit payable, on the death of a member or annuitant, may not be paid to a person convicted of or adjudicated as having caused that death, rather than causing that death, but instead are payable as if the convicted person had predeceased the decedent.

(c) Requires ERS to reduce any annuity computed in part on the age of the convicted or adjudicated person to a lump sum equal to the present value of the remainder of the annuity.

(d) Provides that ERS is not required to change the recipient of any benefits, funds, or account balances under this section unless it receives actual notice of the conviction or adjudication of a beneficiary. Authorizes ERS, however, to delay payment of any benefits, funds, or account balances payable on the death of a member or annuitant pending the results of a criminal investigation or civil proceeding and other legal proceedings relating to the cause of death. Makes a conforming and nonsubstantive change.

(e) Provides that, for the purposes of this section, a person has been convicted of or adjudicated as having caused the death of a member or annuitant if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court or jury in a criminal proceeding of, causing the death of the member or annuitant, regardless of whether sentence is imposed or probated, and no appeal of the conviction is pending and the time provided for appeal has expired; or

(2) is found liable by a court or jury in a civil proceeding for causing the death of the member or annuitant and no appeal of the judgment is pending and the time provided for appeal has expired.

SECTION 8. Amends the heading to Section 814.009, Government Code, to read as follows:

Sec. 814.009. DEDUCTION FROM ANNUITY FOR STATE EMPLOYEE ORGANIZATION.

SECTION 9. Amends Subchapter A, Chapter 814, Government Code, by adding Sections 814.0095 and 814.0096, as follows:

Sec. 814.0095. CHARITABLE DEDUCTION FROM ANNUITY. (a) Authorizes a person who receives an annuity under this subchapter, except as provided by Section 814.0096(c), on a printed or electronic form filed with ERS, to authorize ERS to deduct from the person's monthly annuity payment the amount of a contribution to the state employee charitable campaign in the manner and for the same purposes for which a state employee may authorize deductions to that campaign under Subchapter I (Charitable Contributions), Chapter 659.

(b) Requires that an authorization under this section direct the board of trustees of ERS (board) to deposit the deducted funds with the comptroller for distribution as required by Section 659.132(g) (relating to an authorization to direct the comptroller to distribute deducted funds) in the same manner in which a state employee's deduction is distributed.

(c) Provides that an authorization under this section remains in effect for the period described by Section 659.137 (Duration of Deduction) unless the person revokes the authorization by giving notice to the board.

(d) Authorizes the board to adopt rules to administer this section. Requires that any rules adopted be consistent with the comptroller's rules related to the state employee charitable campaign.

Sec. 814.0096. COORDINATION WITH STATE EMPLOYEE CHARITABLE CAMPAIGN POLICY COMMITTEE. (a) Requires the board and the state employee charitable campaign policy committee established under Section 659.140 (State Employee Charitable Campaign Policy Committee) to coordinate responsibility for the administration of charitable deductions from annuity payments to the state employee charitable campaign under Section 814.0095.

(b) Provides that the state employee charitable campaign policy committee is authorized to approve a budget that includes funding for as many of the expenses incurred by ERS associated with the implementation and administration of annuitants' participation in the state employee charitable campaign as is practicable, including notification of annuitants.

(c) Requires the board, except as provided by this subsection, to charge an administrative fee to cover any costs not paid under Subsection (b) in the implementation of Section 814.0095 to the charitable organizations participating in the state employee charitable campaign conducted under that section in the

same proportion that the contributions to that charitable organization bear to the total of contributions in that campaign. Requires the board to determine the most efficient and effective method of collecting the administrative fee and to adopt rules for the implementation of this subsection.

(d) Authorizes the board and the state employee charitable campaign policy committee, if necessary, to make the annuity deduction authorization under Section 814.0095(a) available in stages to subgroups of ERS' annuity recipients as money becomes available to cover the expenses under Subsection (b).

SECTION 10. Amends Section 814.104(d), Government Code, to provide that, except as provided by Section 814.102 (Eligibility of Elected Members for Service Retirement) or by rule adopted under Section 813.304(d) (relating to board authorization of retirement benefits) or 803.202(a)(2) (relating to retirement from ERS administered by the board), a member who was not a member on the date hired, was hired on or after September 1, 2009, and has service credit in ERS is eligible to retire and receive a service retirement annuity if the member is at least 65 years old and has at least 10 years of service credit in the employee class; or has at least 10 years of service credit, rather than 5 years of service credit, in the employee class and the sum of the member's age and amount of service credit in the employee class, including months of age and credit, equals or exceeds the number 80.

SECTION 11. Amends Section 814.1075(d), Government Code, to provide that the actuarial reduction described by this section is in addition to any other actuarial reduction required by law.

SECTION 12. Amends Section 815.303, Government Code, as follows:

Sec. 815.303. SECURITIES LENDING. (a) Authorizes ERS, in the exercise of its constitutional discretion to manage the assets of ERS, to select one or more commercial banks, depository trust companies, or other entities to serve as custodian or custodians of ERS's securities and to lend the securities under rules or policies adopted by the board and as required by this section.

(b) Requires a bank or brokerage firm, to be eligible to lend securities under this section, to:

(1)-(3) Makes no changes to these subdivisions; and

(4) require any securities broker or dealer to whom it lends securities belonging to ERS to deliver to and maintain with the custodian or securities lending agent collateral in the form of cash or securities that are obligations of the United States or agencies or instrumentalities of the United States in an amount equal to but not less than 100 percent of the market value, from time to time, as determined by ERS, of the loaned securities. Makes a nonsubstantive change.

SECTION 13. (a) Amends Section 815.317, Government Code, by adding Subsection (a-1), to require the comptroller to deposit fees collected under Section 133.102(e)(7), Local Government Code, to the credit of the law enforcement and custodial officer supplemental retirement fund.

(b) Amends Section 133.102(e), Local Government Code, to require the comptroller to allocate the court costs received under this section to certain accounts and funds so that each receives to the extent practicable, utilizing historical data as applicable, the same amount of money the account or fund would have received if the court costs for the accounts and funds had been collected and reported separately, except that the account or fund may not receive less than certain percentages, including that the law enforcement and custodial officer supplemental retirement fund, rather than the operator's and chauffeur's license fund, receive 11.1426 percent.

(c) Effective date, this section, notwithstanding any other provision of this Act: September 1, 2013.

SECTION 14. Amends Section 815.402, Government Code, by adding Subsections (a-1) and (h-1), as follows:

(a-1) Provides that, notwithstanding Subsection (a)(1) (relating to the amounts that an employee who is not a member of the legislature may contribute), if the state contribution to ERS is computed using a percentage less than 6.5 percent for the state fiscal year beginning September 1, 2011, the member's contribution is not required to be computed using a percentage equal to the percentage used to compute the state contribution for that biennium. Provides that this subsection expires September 1, 2012.

(h-1) Provides that, notwithstanding Subsection (h) (relating to an additional contribution for an employee who is a law enforcement or custodial officer), if the state contribution to the law enforcement and custodial officer supplemental retirement fund is computed using a percentage less than 0.5 percent for the state fiscal year beginning September 1, 2011, the member's contribution is not required to be computed using a percentage equal to the percentage used to compute the state contribution for that biennium. Provides that this subsection expires September 1, 2012.

SECTION 15. Amends Subchapter D, Chapter 834, Government Code, by adding Section 834.305, as follows:

Sec. 834.305. BENEFICIARY CAUSING DEATH OF MEMBER OR ANNUITANT.

(a) Provides that any benefits, funds, or account balances payable on the death of a member or annuitant may not be paid to a person convicted of or adjudicated as having caused that death but instead are payable as if the convicted person had predeceased the decedent.

(b) Authorizes a person who becomes eligible under this section to select death or survivor benefits to select benefits as if the person were the designated beneficiary.

(c) Requires the judicial retirement system of Texas plan one (judicial retirement system) to reduce any annuity computed in part on the age of the convicted or adjudicated person to a lump sum equal to the present value of the remainder of the annuity. Provides that the reduced amount is payable to a person entitled as provided by this section to receive the benefit.

(d) Provides that the judicial retirement system is not required to change the recipient of benefits, funds, or account balances under this section unless it receives actual notice of the conviction or adjudication of a beneficiary. Authorizes the judicial retirement system, however, to delay payment of a benefits, funds, or account balances payable on the death of a member or annuitant pending the results of a criminal investigation or civil proceeding and other legal proceedings relating to the cause of death.

(e) Provides that, for the purposes of this section, a person has been convicted or adjudicated as having caused the death of a member or annuitant if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court or jury in a criminal proceeding of, causing the death of the member or annuitant, regardless of whether sentence is imposed or probated, and no appeal of the conviction is pending and the time provided for appeal has expired; or

(2) is found liable by a court or jury in a civil proceeding for causing the death of the member or annuitant, and no appeal of the judgment is pending and the time provided for appeal has expired.

SECTION 16. Amends Subchapter D, Chapter 839, Government Code, by adding Section 839.306, as follows:

Sec. 839.306. BENEFICIARY CAUSING DEATH OF MEMBER OR ANNUITANT.

(a) Provides that any benefits, funds, or account balances payable on the death of a member or annuitant may not be paid to a person convicted or adjudicated as having caused that death but instead is payable as if the convicted person had predeceased the decedent.

(b) Authorizes a person who becomes eligible under this section to select death or survivor benefits to select benefits as if the person were the designated beneficiary.

(c) Requires the judicial retirement system of Texas plan two (judicial retirement system-plan two) to reduce any annuity computed in part on the age of the convicted or adjudicated person to a lump sum equal to the present value of the remainder of the annuity. Provides that the reduced amount is payable to a person entitled as provided by this section to receive the benefit.

(d) Provides that the judicial retirement system-plan two is not required to change the recipient of any benefits, funds, or account balances under this section unless it receives actual notice of the conviction or adjudication of a beneficiary. Authorizes the judicial retirement system-plan two, however, to delay payment of any benefits, funds, or account balances payable on the death of a member or annuitant pending the results of a criminal investigation or civil proceeding and of legal proceedings relating to the cause of death.

(e) Provides that, for the purposes of this section, a person has been convicted or adjudicated as having caused the death of a member or annuitant if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court or jury in a criminal proceeding of, causing the death of the member or annuitant, regardless of whether sentence is imposed or probated, and no appeal of the conviction is pending and the time provided for appeal has expired; or

(2) is found liable by a court or jury in a civil proceeding for causing the death of the member or annuitant and no appeal of the judgment is pending and the time provided for appeal has expired.

SECTION 17. Amends Section 1551.004(a), Insurance Code, to redefine "dependent," with respect to an individual eligible to participate in the state employees group benefits program.

SECTION 18. Amends Subchapter B, Chapter 1551, Insurance Code, by adding Section 1551.068, as follows:

Sec. 1551.068. QUALIFICATION OF GROUP BENEFITS PROGRAM. Provides that, notwithstanding any provision of this chapter or any other law, it is intended that the provisions of this chapter be construed and administered in a manner that coverages under the group benefits program will be considered in compliance with applicable federal law. Authorizes the board to adopt rules that modify the coverage provided under the program by adding, deleting, or changing a provision of the program, including rules that modify eligibility and enrollment requirements and the benefits available under any group benefits program coverages.

SECTION 19. Amends Section 1551.220, Insurance Code, as follows:

Sec. 1551.220. BENEFICIARY CAUSING DEATH OF PARTICIPANT OR BENEFICIARY OF PARTICIPANT. (a) Provides that any benefits, funds, or account balances payable on the death of a participant or the beneficiary of the participant in the

group benefits program may not be paid to a person convicted of or adjudicated as having caused that death but instead are payable as if the convicted person had predeceased the decedent.

(b) Provides that ERS is not required to change the recipient of any benefits, funds, or account balances under this section unless it receives actual notice of the conviction or adjudication of a beneficiary. Authorizes ERS, however, to delay payment of any benefits, funds, or account balances payable on the death of a participant or beneficiary of a participant pending the results of a criminal investigation or civil proceeding and other legal proceedings relating to the cause of death.

(c) Provides that, for the purposes of this section, a person has been convicted of or adjudicated as having caused the death of a participant or beneficiary of a participant if the person:

(1) pleads guilty or nolo contendere to, or is found guilty by a court or jury in a criminal proceeding of, causing the death of the participant or beneficiary of a participant, regardless of whether sentence is imposed or probated, and no appeal of the conviction is pending and the time provided for appeal has expired; or

(2) is found liable by a court or jury in a civil proceeding for causing the death of the member or annuitant and no appeal of the judgment is pending and the time provided for appeal has expired.

SECTION 20. Amends Subchapter E, Chapter 1551, Insurance Code, by adding Section 1551.226, as follows:

Sec. 1551.226. TOBACCO CESSATION COVERAGE. (a) Requires the board to develop a plan for providing under any health benefit plan provided under the group benefits program tobacco cessation coverage for participants.

(b) Requires the plan developed under Subsection (a) to include coverage for prescription drugs that aid participants in ceasing the use of tobacco products.

SECTION 21. Amends Subchapter G, Chapter 1551, Insurance Code, by adding Section 1551.3075, as follows:

Sec. 1551.3075. TOBACCO USER PREMIUM DIFFERENTIAL. (a) Requires the board to assess each participant in a health benefit plan provided under the group benefits program who uses one or more tobacco products a tobacco user premium differential, to be paid in monthly installments. Requires the board, except as provided by Subsection (b), to determine the amount of the monthly installments of the premium differential.

(b) Requires the board, if the General Appropriations Act for a state fiscal biennium sets the amount of the monthly installments of the tobacco user premium differential for that biennium, to assess the premium differential during that biennium in the amount prescribed by the General Appropriations Act.

SECTION 22. Amends Subchapter G, Chapter 1551, Insurance Code, by adding Section 1551.3076, as follows:

Sec. 1551.3076. EMPLOYER ENROLLMENT FEE. (a) Requires the board to assess each employer whose employees participate in the group benefits program an employer enrollment fee in an amount not to exceed a percentage of the employer's total payroll, as determined by the General Appropriations Act.

(b) Requires the board to deposit the enrollment fees to the credit of the employees life, accident, and health insurance and benefits fund to be used for the

purposes specified by Section 1551.401 (Employees Life, Accident, and Health Insurance and Benefits Fund).

SECTION 23. Amends Section 1551.314, Insurance Code, as follows:

Sec. 1551.314. CERTAIN STATE CONTRIBUTIONS PROHIBITED. Prohibits a state contribution from being:

(1) made for coverages under this chapter selected by an individual who receives a state contribution for coverages under a group benefits program provided by another state health plan or by an institution of higher education, as defined by Section 61.003 (Definitions), Education Code, rather than prohibits a state contribution from being made for coverages under this chapter selected by an individual who receives a state contribution, other than as a spouse, dependent, or beneficiary; or

(2) made for or used to pay a tobacco user premium differential assessed under Section 1551.3075.

SECTION 24. Makes application of Sections 609.015, 834.305, and 839.306, Government Code, as added by this Act, and Sections 814.007, Government Code, and 1551.220, Insurance Code, as added by this Act, prospective.

SECTION 25. (a) Authorizes the board, in cooperation with the comptroller and the state employee charitable campaign policy committee established under Section 659.140, Government Code, as amended by this Act, to adopt rules to implement Sections 814.0095 and 814.0096, Government Code, as added by this Act.

(b) Requires the board by rule to designate the start date on which annuity deductions begin under Sections 814.0095 and 814.0096, Government Code, as added by this Act.

SECTION 26. Makes application of Section 814.104(d), Government Code, prospective.

SECTION 27. Requires the board to develop and fully implement the plan for providing tobacco cessation coverage as required by Section 1551.226, Insurance Code, as added by this Act, and implement the tobacco user premium differential required under Section 1551.3075, Insurance Code, as added by this Act, not later than January 1, 2012.

SECTION 28. Provides that to the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 29. Effective date: September 1, 2011.