

By: Whitmire

S.B. No. 1379

A BILL TO BE ENTITLED

AN ACT

relating to a deferred retirement option for certain members of the Employees Retirement System of Texas.

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

SECTION 1. Chapter 814, Government Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. DEFERRED RETIREMENT OPTION PLAN

Sec. 814.701. DEFINITION. In this subchapter, "plan" means the deferred retirement option plan provided by this subchapter.

Sec. 814.702. PARTICIPATION IN PLAN. (a) A contributing member of the retirement system who is a commissioned peace officer for the Department of Public Safety, the Texas Alcoholic Beverage Commission, the Parks and Wildlife Department, or the office of the inspector general of the Texas Department of Criminal Justice may elect to participate in the plan if the member:

(1) is eligible to retire and receive a standard service retirement annuity;

(2) meets one of the following requirements:

(A) has at least 25 years of service credit as a commissioned peace officer; or

(B) is at least 55 years old with at least 20 years of service credit as a commissioned peace officer; and

(3) remains in a position with the state.

(b) An election to participate in the plan must be on a form

1 prescribed by and filed with the retirement system. An election may
2 be made only once and must state the period that the member wishes
3 to participate in the plan. The maximum period a member may
4 participate in the plan is 60 consecutive months. An election under
5 this section is irrevocable after filing.

6 (c) The effective date of a member's participation in the
7 plan is the first day of the month after the month in which an
8 election is filed and approved by the retirement system. The
9 retirement system shall approve each election filed by a member who
10 is eligible to make the election.

11 (d) The filing of an election to participate in the plan is
12 not considered for any purpose an application for retirement and a
13 participant of the plan is not considered a retiree for any purpose.

14 Sec. 814.703. COMPUTATION OF PARTICIPANT'S SERVICE AND
15 ANNUITY. (a) A person participating in the plan remains a member of
16 the retirement system during the period of participation, unless
17 the member terminates membership under Section 812.005, but the
18 member may not, during participation, accrue additional service
19 credit in the retirement system. A member and the state continue to
20 make contributions for the member's service performed during the
21 member's participation in the plan, and those contributions are not
22 eligible for withdrawal by the participant.

23 (b) For purposes of the plan, the computation of the service
24 retirement annuity of a member participating in the plan is
25 determined as of the effective date of participation.

26 (c) Participation in the plan does not affect a member's
27 participation in the group benefits program under Chapter 1551,

1 Insurance Code.

2 (d) A participating member is not eligible to receive a
3 partial lump-sum distribution under Section 814.1082.

4 Sec. 814.704. BENEFITS UNDER PLAN. (a) On the effective
5 date of a member's participation in the plan, the retirement system
6 shall make the transfers required by Section 815.319(a) to the
7 retirement annuity reserve account as if the member had retired on
8 that date. The retirement system shall transfer monthly, during
9 the period of the member's participation in the plan, from the
10 retirement annuity reserve account to an account for the member in
11 the deferred retirement option account the amount the member would
12 have received that month if the member had retired on the effective
13 date of plan participation.

14 (b) When a member who is participating in or who has
15 participated in the plan leaves employment, including a member who
16 leaves employment due to a disability, the person is entitled to the
17 accumulated amount in the member's account in the deferred
18 retirement option account. The amount is payable in a lump sum or
19 in periodic installments at the option of the member. The board of
20 trustees by rule shall determine the number and frequency of
21 installment payments.

22 (c) If a member dies during participation in the plan or
23 after participation but before retirement, the decedent's
24 designated beneficiary is entitled to the accumulated amount in the
25 decedent's account in the deferred retirement option account as if
26 the decedent had retired immediately before dying.

27 (d) Payment of the benefit provided under the plan is in

1 addition to any annuity otherwise payable under this subtitle.

2 Sec. 814.705. INTEREST. Interest on money in a member's
3 account in the deferred retirement option account is earned monthly
4 and is computed at the rate of 2.5 percent a year on the mean balance
5 of the account.

6 Sec. 814.706. TERMINATION OF PARTICIPATION IN PLAN. A
7 member terminates participation in the plan by:

8 (1) termination of employment;

9 (2) death; or

10 (3) expiration of the period for which participation
11 was approved.

12 Sec. 814.707. ADMINISTRATIVE COSTS. Only to the extent
13 necessary to cover the costs associated with administering the
14 plan, the retirement system may require participating members to
15 pay a fee in an amount set by rule. A fee charged under this section
16 may be assessed against the participating member's contributions to
17 the plan.

18 Sec. 814.708. PLAN CONTINGENT ON CERTAIN TAX TREATMENT.

19 (a) This subchapter may take effect only on receipt by the
20 retirement system of a favorable private letter ruling from the
21 Internal Revenue Service regarding the federal tax consequences of
22 the creation and implementation of the plan on the qualified status
23 of the retirement system benefit plan.

24 (b) If the retirement system does not receive the favorable
25 private letter ruling described by Subsection (a), this subchapter
26 has no effect.

27 SECTION 2. Section 815.310(b), Government Code, is amended

1 to read as follows:

2 (b) All assets of the trust fund shall be credited,
3 according to the purpose for which they are held, to one of the
4 following accounts:

- 5 (1) employees saving account;
- 6 (2) state accumulation account;
- 7 (3) retirement annuity reserve account;
- 8 (4) interest account; [~~or~~]
- 9 (5) expense account; or
- 10 (6) deferred retirement option account.

11 SECTION 3. Subchapter D, Chapter 815, Government Code, is
12 amended by adding Section 815.316 to read as follows:

13 Sec. 815.316. DEFERRED RETIREMENT OPTION ACCOUNT. (a) The
14 retirement system shall deposit in the deferred retirement option
15 account the amounts required to be deposited in the account by
16 Section 814.704(a).

17 (b) The retirement system shall pay from the account all
18 benefits accrued during participation in the deferred retirement
19 option plan.

20 SECTION 4. (a) Not later than the 30th day after the
21 effective date of this Act, the Employees Retirement System of
22 Texas shall seek the private letter ruling described by Section
23 814.708(a), Government Code, as added by this Act.

24 (b) The Employees Retirement System of Texas shall
25 implement the deferred retirement option plan established under
26 Subchapter H, Chapter 814, Government Code, as added by this Act,
27 not later than the first day of the month following the receipt of a

1 favorable private letter ruling under Section 814.708(a),
2 Government Code, as added by this Act. If the Employees Retirement
3 System of Texas does not receive a favorable private letter ruling
4 under Section 814.708(a), Government Code, as added by this Act,
5 the Employees Retirement System shall notify the standing
6 committees of the legislature with primary jurisdiction over public
7 retirement systems that Subchapter H, Chapter 814, Government Code,
8 should be repealed or other legislative action taken.

9 SECTION 5. This Act takes effect immediately if it receives
10 a vote of two-thirds of all the members elected to each house, as
11 provided by Section 39, Article III, Texas Constitution. If this
12 Act does not receive the vote necessary for immediate effect, this
13 Act takes effect September 1, 2011.