

By: Duncan

S.B. No. 1664

A BILL TO BE ENTITLED

AN ACT

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.

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

SECTION 1. Subchapter A, Chapter 609, Government Code, is amended by adding Section 609.015 to read as follows:

Sec. 609.015. BENEFICIARY CAUSING DEATH OF PARTICIPATING EMPLOYEE. (a) Any benefits, funds, or account balances payable on the death of a participating employee 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) 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. However, the plan may 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) For the purposes of this section, a person has been convicted of or adjudicated as having caused the death of a participating employee if the person:

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

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

10           SECTION 2. Subsection (c), Section 659.140, Government  
11 Code, is amended to read as follows:

12           (c) The ~~[Each member of the]~~ state policy committee must:

13           (1) be composed of employees and retired state  
14 employees receiving benefits under Chapter 814; and

15           (2) [a state employee. The membership must] represent  
16 employees at different levels of employee classification.

17           SECTION 3. Subsection (b), Section 659.143, Government  
18 Code, is amended to read as follows:

19           (b) The presiding officer of a local employee committee  
20 shall recruit at least five but not more than 10 additional members.  
21 The members must represent different levels of employee  
22 classification. One or more members may be retired state employees  
23 receiving retirement benefits under Chapter 814.

24           SECTION 4. Section 813.404, Government Code, is amended to  
25 read as follows:

26           Sec. 813.404. CONTRIBUTIONS FOR SERVICE NOT PREVIOUSLY  
27 ESTABLISHED. For each month of membership, military, or equivalent

1 membership service not previously credited in the retirement  
2 system, a member claiming credit in the elected class shall pay a  
3 contribution in an amount equal to the greater of:

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

6 (2) the appropriate member contribution provided by  
7 Section 815.402 for [~~six percent of the monthly state salary paid~~  
8 ~~to~~] a person who holds, at the time the credit is established, the  
9 office for which credit is sought.

10 SECTION 5. Subsection (a), Section 813.505, Government  
11 Code, is amended to read as follows:

12 (a) A member claiming credit in the employee class for  
13 membership service not previously established shall, for each month  
14 of the service, pay a contribution in an amount equal to the greater  
15 of:

16 (1) the appropriate member contribution provided by  
17 Section 815.402 [~~six percent of the member's monthly state~~  
18 ~~compensation~~] for the service during the time for which credit is  
19 sought; or

20 (2) \$18.

21 SECTION 6. Subsections (a), (c), (d), and (e), Section  
22 814.007, Government Code, are amended to read as follows:

23 (a) Any benefits, funds, or account balances [~~A benefit~~]  
24 payable on the death of a member or annuitant may not be paid to a  
25 person convicted of or adjudicated as having caused [~~causing~~] that  
26 death but instead are [~~is~~] payable as if the convicted person had  
27 predeceased the decedent.

(c) The retirement system shall 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. The reduced amount is payable to a person entitled as provided by this section to receive the benefit.

(d) The retirement system 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. However, the retirement system may delay payment of any benefits, funds, or account balances [~~a benefit~~] payable on the death of a member or annuitant pending the results of a criminal investigation or civil proceeding and other [~~of~~] legal proceedings relating to the cause of death.

(e) For the purposes of this section, a person has been convicted of or adjudicated as having caused [~~causing~~] 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

[~~(2) has~~] 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 7. The heading to Section 814.009, Government Code,

is amended to read as follows:

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

SECTION 8. Subchapter A, Chapter 814, Government Code, is amended by adding Sections 814.0095 and 814.0096 to read as follows:

Sec. 814.0095. CHARITABLE DEDUCTION FROM ANNUITY.

(a) Except as provided by Section 814.0096(c), a person who receives an annuity under this subchapter may, on a printed or electronic form filed with the retirement system, authorize the retirement system 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, Chapter 659.

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

(c) An authorization under this section remains in effect for the period described by Section 659.137 unless the person revokes the authorization by giving notice to the board of trustees.

(d) The board of trustees may adopt rules to administer this section. Any rules adopted must be consistent with the comptroller's rules related to the state employee charitable

1 campaign.

2 Sec. 814.0096. COORDINATION WITH STATE EMPLOYEE CHARITABLE  
3 CAMPAIGN POLICY COMMITTEE. (a) The board of trustees and the  
4 state employee charitable campaign policy committee established  
5 under Section 659.140 shall coordinate responsibility for the  
6 administration of charitable deductions from annuity payments to  
7 the state employee charitable campaign under Section 814.0095.

8 (b) The state employee charitable campaign policy committee  
9 is authorized to approve a budget that includes funding for as many  
10 of the expenses incurred by the retirement system associated with  
11 the implementation and administration of annuitants' participation  
12 in the state employee charitable campaign as is practicable,  
13 including notification of annuitants.

14 (c) Except as provided by this subsection, the board of  
15 trustees shall charge an administrative fee to cover any costs not  
16 paid under Subsection (b) in the implementation of Section 814.0095  
17 to the charitable organizations participating in the state employee  
18 charitable campaign conducted under that section in the same  
19 proportion that the contributions to that charitable organization  
20 bear to the total of contributions in that campaign. The board of  
21 trustees shall determine the most efficient and effective method of  
22 collecting the administrative fee and shall adopt rules for the  
23 implementation of this subsection.

24 (d) If necessary, the board of trustees and the state  
25 employee charitable campaign policy committee may make the annuity  
26 deduction authorization under Section 814.0095(a) available in  
27 stages to subgroups of the retirement system's annuity recipients

1 as money becomes available to cover the expenses under Subsection  
2 (b).

3 SECTION 9. Subsection (d), Section 814.104, Government  
4 Code, is amended to read as follows:

5 (d) Except as provided by Section 814.102 or by rule adopted  
6 under Section 813.304(d) or 803.202(a)(2), a member who was not a  
7 member on the date hired, was hired on or after September 1, 2009,  
8 and has service credit in the retirement system is eligible to  
9 retire and receive a service retirement annuity if the member:

10 (1) is at least 65 years old and has at least 10 years  
11 of service credit in the employee class; or

12 (2) has at least 10 [~~5~~] years of service credit in the  
13 employee class and the sum of the member's age and amount of service  
14 credit in the employee class, including months of age and credit,  
15 equals or exceeds the number 80.

16 SECTION 10. Subsection (d), Section 814.1075, Government  
17 Code, is amended to read as follows:

18 (d) The standard combined service retirement annuity that  
19 is payable under this section is based on retirement at either the  
20 age of 55 or the age at which the sum of the member's age and amount  
21 of service credit in the employee class equals or exceeds the number  
22 80. The annuity of a law enforcement or custodial officer who  
23 retires before reaching the age of 55 under any eligibility  
24 criteria is actuarially reduced by five percent for each year the  
25 member retires before the member reaches age 55, with a maximum  
26 possible reduction of 25 percent. The actuarial reduction  
27 described by this section is in addition to any other actuarial

1 reduction required by law.

2 SECTION 11. Section 815.303, Government Code, is amended to  
3 read as follows:

4 Sec. 815.303. SECURITIES LENDING. (a) The retirement  
5 system may, in the exercise of its constitutional discretion to  
6 manage the assets of the retirement system, select one or more  
7 commercial banks, depository trust companies, or other entities to  
8 serve as custodian or custodians of the system's securities and to  
9 lend the securities under rules or policies adopted by the board of  
10 trustees and as required by this section.

11 (b) To be eligible to lend securities under this section, a  
12 bank or brokerage firm must:

13 (1) be experienced in the operation of a fully secured  
14 securities loan program;

15 (2) maintain adequate capital in the prudent judgment  
16 of the retirement system to assure the safety of the securities;

17 (3) execute an indemnification agreement satisfactory  
18 in form and content to the retirement system fully indemnifying the  
19 retirement system against loss resulting from borrower default in  
20 its operation of a securities loan program for the system's  
21 securities; and

22 (4) require any securities broker or dealer to whom it  
23 lends securities belonging to the retirement system to deliver to  
24 and maintain with the custodian or securities lending agent  
25 collateral in the form of cash or [~~United States government~~]  
26 securities that are obligations of the United States or agencies or  
27 instrumentalities of the United States in an amount equal to but not



1 less than 100 percent of the market value, from time to time, as  
2 determined by the retirement system, of the loaned securities.

3 SECTION 12. Section 815.402, Government Code, is amended by  
4 adding Subsections (a-1) and (h-1) to read as follows:

5 (a-1) Notwithstanding Subsection (a)(1), if the state  
6 contribution to the retirement system is computed using a  
7 percentage less than 6.5 percent for the state fiscal year  
8 beginning September 1, 2011, the member's contribution is not  
9 required to be computed using a percentage equal to the percentage  
10 used to compute the state contribution for that biennium. This  
11 subsection expires September 1, 2012.

12 (h-1) Notwithstanding Subsection (h), if the state  
13 contribution to the law enforcement and custodial officer  
14 supplemental retirement fund is computed using a percentage less  
15 than 0.5 percent for the state fiscal year beginning September 1,  
16 2011, the member's contribution is not required to be computed  
17 using a percentage equal to the percentage used to compute the state  
18 contribution for that biennium. This subsection expires September  
19 1, 2012.

20 SECTION 13. Subchapter D, Chapter 834, Government Code, is  
21 amended by adding Section 834.305 to read as follows:

22 Sec. 834.305. BENEFICIARY CAUSING DEATH OF MEMBER OR  
23 ANNUITANT. (a) Any benefits, funds, or account balances payable  
24 on the death of a member or annuitant may not be paid to a person  
25 convicted of or adjudicated as having caused that death but instead  
26 are payable as if the convicted person had predeceased the  
27 decedent.

1       (b) A person who becomes eligible under this section to  
2 select death or survivor benefits may select benefits as if the  
3 person were the designated beneficiary.

4       (c) The retirement system shall reduce any annuity computed  
5 in part on the age of the convicted or adjudicated person to a lump  
6 sum equal to the present value of the remainder of the annuity. The  
7 reduced amount is payable to a person entitled as provided by this  
8 section to receive the benefit.

9       (d) The retirement system is not required to change the  
10 recipient of any benefits, funds, or account balances under this  
11 section unless it receives actual notice of the conviction or  
12 adjudication of a beneficiary. However, the retirement system may  
13 delay payment of any benefits, funds, or account balances payable  
14 on the death of a member or annuitant pending the results of a  
15 criminal investigation or civil proceeding and other legal  
16 proceedings relating to the cause of death.

17       (e) For the purposes of this section, a person has been  
18 convicted of or adjudicated as having caused the death of a member  
19 or annuitant if the person:

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

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

1 has expired.

2       SECTION 14. Subchapter D, Chapter 839, Government Code, is  
3 amended by adding Section 839.306 to read as follows:

4       Sec. 839.306. BENEFICIARY CAUSING DEATH OF MEMBER OR  
5 ANNUITANT. (a) Any benefits, funds, or account balances payable  
6 on the death of a member or annuitant may not be paid to a person  
7 convicted of or adjudicated as having caused that death but instead  
8 are payable as if the convicted person had predeceased the  
9 decedent.

10       (b) A person who becomes eligible under this section to  
11 select death or survivor benefits may select benefits as if the  
12 person were the designated beneficiary.

13       (c) The retirement system shall reduce any annuity computed  
14 in part on the age of the convicted or adjudicated person to a lump  
15 sum equal to the present value of the remainder of the annuity. The  
16 reduced amount is payable to a person entitled as provided by this  
17 section to receive the benefit.

18       (d) The retirement system is not required to change the  
19 recipient of any benefits, funds, or account balances under this  
20 section unless it receives actual notice of the conviction or  
21 adjudication of a beneficiary. However, the retirement system may  
22 delay payment of any benefits, funds, or account balances payable  
23 on the death of a member or annuitant pending the results of a  
24 criminal investigation or civil proceeding and other legal  
25 proceedings relating to the cause of death.

26       (e) For the purposes of this section, a person has been  
27 convicted of or adjudicated as having caused the death of a member

1 or annuitant if the person:

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

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

11 SECTION 15. Subsection (a), Section 1551.004, Insurance  
12 Code, is amended to read as follows:

13 (a) In this chapter, "dependent" with respect to an  
14 individual eligible to participate in the group benefits program  
15 ~~[under Section 1551.101 or 1551.102]~~ means the individual's:

16 (1) spouse;  
17 (2) unmarried child younger than 26 ~~[25]~~ years of age;  
18 (3) child of any age who the board of trustees  
19 determines lives with or has the child's care provided by the  
20 individual on a regular basis if:

21 (A) the child is mentally ~~[retarded]~~ or  
22 physically incapacitated to the extent that the child is dependent  
23 on the individual for care or support, as determined by the board of  
24 trustees;

25 (B) the child's coverage under this chapter has  
26 not lapsed; and

27 (C) the child is at least 26 ~~[25]~~ years old and

1 was enrolled as a participant in the health benefits coverage under  
2 the group benefits program on the date of the child's 26th [~~25th~~]  
3 birthday;

4 (4) child of any age who is unmarried, for purposes of  
5 health benefit coverage under this chapter, on expiration of the  
6 child's continuation coverage under the Consolidated Omnibus  
7 Budget Reconciliation Act of 1985 (Pub. L. No. 99-272) and its  
8 subsequent amendments; and

9 (5) ward, as that term is defined by Section 601, Texas  
10 Probate Code, who is 26 years of age or younger.

11 SECTION 16. Subchapter B, Chapter 1551, Insurance Code, is  
12 amended by adding Section 1551.068 to read as follows:

13 Sec. 1551.068. QUALIFICATION OF GROUP BENEFITS PROGRAM.  
14 Notwithstanding any provision of this chapter or any other law, it  
15 is intended that the provisions of this chapter be construed and  
16 administered in a manner that coverages under the group benefits  
17 program will be considered in compliance with applicable federal  
18 law. The board of trustees may adopt rules that modify the coverage  
19 provided under the program by adding, deleting, or changing a  
20 provision of the program, including rules that modify eligibility  
21 and enrollment requirements and the benefits available under the  
22 program.

23 SECTION 17. Section 1551.220, Insurance Code, is amended to  
24 read as follows:

25 Sec. 1551.220. BENEFICIARY CAUSING DEATH OF PARTICIPANT OR  
26 BENEFICIARY OF PARTICIPANT. (a) Any benefits, funds, or account  
27 balances [~~A benefit~~] payable on the death of a participant or the

beneficiary of a participant in the group benefits program may not be paid to a person convicted of or adjudicated as having caused ~~[causing]~~ that death but instead are ~~[is]~~ payable as if the convicted person had predeceased the decedent.

(b) The Employees Retirement System of Texas 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. However, the retirement system may delay payment of any benefits, funds, or account balances ~~[a benefit]~~ payable on the death of a participant or beneficiary of a participant pending the results of a criminal investigation or civil proceeding and other ~~[of]~~ legal proceedings relating to the cause of death.

(c) For the purposes of this section, a person has been convicted of or adjudicated as having caused ~~[causing]~~ 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

~~[(2) —has]~~ 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 18. Subchapter E, Chapter 1551, Insurance Code, is

1 amended by adding Section 1551.226 to read as follows:

2 Sec. 1551.226. TOBACCO CESSATION COVERAGE. (a) The board  
3 of trustees shall develop a plan for providing under any health  
4 benefit plan provided under the group benefits program tobacco  
5 cessation coverage for participants.

6 (b) The plan developed under Subsection (a) must include  
7 coverage for prescription drugs that aid participants in ceasing  
8 the use of tobacco products.

9 SECTION 19. Subchapter G, Chapter 1551, Insurance Code, is  
10 amended by adding Section 1551.3075 to read as follows:

11 Sec. 1551.3075. TOBACCO USER PREMIUM DIFFERENTIAL.  
12 (a) The board of trustees shall assess each participant in a  
13 health benefit plan provided under the group benefits program who  
14 uses one or more tobacco products a tobacco user premium  
15 differential, to be paid in monthly installments. Except as  
16 provided by Subsection (b), the board of trustees shall determine  
17 the amount of the monthly installments of the premium differential.

18 (b) If the General Appropriations Act for a state fiscal  
19 biennium sets the amount of the monthly installments of the tobacco  
20 user premium differential for that biennium, the board of trustees  
21 shall assess the premium differential during that biennium in the  
22 amount prescribed by the General Appropriations Act.

23 SECTION 20. Subchapter G, Chapter 1551, Insurance Code, is  
24 amended by adding Section 1551.3076 to read as follows:

25 Sec. 1551.3076. EMPLOYER ENROLLMENT FEE. (a) The board of  
26 trustees shall assess each employer whose employees participate in  
27 the group benefits program an employer enrollment fee in an amount

1 not to exceed a percentage of the employer's total payroll, as  
2 determined by the General Appropriations Act.

3 (b) The board of trustees shall deposit the enrollment fees  
4 to the credit of the employees life, accident, and health insurance  
5 and benefits fund to be used for the purposes specified by Section  
6 1551.401.

7 SECTION 21. Section 1551.314, Insurance Code, is amended to  
8 read as follows:

9 Sec. 1551.314. CERTAIN STATE CONTRIBUTIONS PROHIBITED. A  
10 state contribution may not be:

11 (1) made for coverages under this chapter selected by  
12 an individual who receives a state contribution~~[, other than as a~~  
13 ~~spouse, dependent, or beneficiary,~~] for coverages under a group  
14 benefits program provided by another state health plan or by an  
15 institution of higher education, as defined by Section 61.003,  
16 Education Code; or

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

19 SECTION 22. The change in law made by Sections 609.015,  
20 834.305, and 839.306, Government Code, as added by this Act, and  
21 Sections 814.007, Government Code, and 1551.220, Insurance Code, as  
22 amended by this Act, applies only to an offense committed on or  
23 after the effective date of this Act. An offense committed before  
24 the effective date of this Act is governed by the law in effect on  
25 the date the offense was committed, and the former law is continued  
26 in effect for that purpose. For purposes of this section, an  
27 offense was committed before the effective date of this Act if any



1 element of the offense occurred before that date.

2       SECTION 23. (a) The board of trustees of the Employees  
3 Retirement System of Texas, in cooperation with the comptroller of  
4 public accounts and the state employee charitable campaign policy  
5 committee established under Section 659.140, Government Code, as  
6 amended by this Act, may adopt rules to implement Sections 814.0095  
7 and 814.0096, Government Code, as added by this Act.

8       (b) The board of trustees of the Employees Retirement System  
9 of Texas by rule shall designate the start date on which annuity  
10 deductions begin under Sections 814.0095 and 814.0096, Government  
11 Code, as added by this Act.

12       SECTION 24. (a) Subsection (d), Section 814.104,  
13 Government Code, as amended by this Act, applies only to a member of  
14 the Employees Retirement System of Texas who retires on or after the  
15 effective date of this Act.

16       (b) A member of the Employees Retirement System of Texas who  
17 retires before the effective date of this Act is governed by the law  
18 as it existed immediately before the effective date of this Act, and  
19 that law is continued in effect for that purpose.

20       SECTION 25. The board of trustees of the Employees  
21 Retirement System of Texas shall develop and fully implement the  
22 plan for providing tobacco cessation coverage as required by  
23 Section 1551.226, Insurance Code, as added by this Act, and  
24 implement the tobacco user premium differential required under  
25 Section 1551.3075, Insurance Code, as added by this Act, not later  
26 than January 1, 2012.

27       SECTION 26. This Act takes effect September 1, 2011.