

By: Duncan, et al.
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S.B. No. 1459

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. Subsection (a), Section 411.1402, Government
Code, is amended to read as follows:

(a) The Employees Retirement System of Texas is entitled to
obtain from the department, the Federal Bureau of Investigation
Criminal Justice Information Services Division, or another law
enforcement agency criminal history record information maintained
by the department, division, or agency that relates to a person who
is:

(1) an applicant for employment with, or who is or has
been employed by, the retirement system;

(2) a consultant, contract employee, independent
contractor, intern, or volunteer for the retirement system or an
applicant to serve in one of those positions; or

(3) a candidate for appointment or election to the
board of trustees of the retirement system or an advisory committee
to that board.

SECTION 2. Subsection (a), Section 661.091, Government
Code, is amended to read as follows:

(a) A contributing member of the Employees Retirement

1 System of Texas who retires is entitled to a lump-sum payment [~~be~~
2 ~~paid in a lump sum~~], from funds of the agency or department from
3 which the member retires, for the member's accrued vacation time as
4 of the date of retirement, unless the member opts to receive for
5 that accrued vacation time service credit under Section 813.511(a).

6 SECTION 3. Section 811.007, Government Code, is amended to
7 read as follows:

8 Sec. 811.007. IMMUNITY FROM LIABILITY. The board of
9 trustees, executive director, members of an advisory committee
10 appointed by the board of trustees, and employees of the retirement
11 system are not liable for any action taken or omission made or
12 suffered by them in good faith in the performance of any duty in
13 connection with any program or system administered by the
14 retirement system.

15 SECTION 4. Subsection (b), Section 812.003, Government
16 Code, is amended to read as follows:

17 (b) An office or employment that is included in the coverage
18 of the Teacher Retirement System of Texas, the Judicial Retirement
19 System of Texas Plan One, or the Judicial Retirement System of Texas
20 Plan Two or, except as provided by Section 9.01, Chapter 238
21 (S.B. 378), Acts of the 73rd Legislature, Regular Session, 1993, is
22 with a university system or institution of higher education, as
23 defined by Section 61.003, Education Code, is not a position with a
24 department, commission, board, agency, or institution of the state
25 for purposes of this subtitle.

26 SECTION 5. Subsection (c), Section 813.202, Government
27 Code, is amended to read as follows:

1 (c) The state shall contribute for service established
2 under this section an amount in the same ratio to the member's
3 contribution and interest paid under Subsection (b) for the service
4 as the state's contribution bears to the contribution for current
5 service required of a member of the employee class at the time the
6 service is established under this section. The state's
7 contribution and interest must be paid from the fund or account from
8 which the member receives compensation at the time the service is
9 established or, if the member does not hold a position at the time
10 the service is established, from the fund or account from which the
11 member received compensation when the member most recently held a
12 position.

13 SECTION 6. Subsection (b), Section 813.302, Government
14 Code, is amended to read as follows:

15 (b) A member eligible to establish military service credit
16 is one who:

17 (1) does not receive and is not eligible to receive
18 federal retirement payments based on 20 years or more of active
19 federal military duty [~~or its equivalent~~];

20 (2) has been released from military duty under
21 conditions not dishonorable; and

22 (3) has credit in the retirement system for membership
23 service performed after the member's date of release from active
24 military duty.

25 SECTION 7. Subsection (k), Section 813.509, Government
26 Code, is amended to read as follows:

27 (k) A member [~~who was not a member on the date hired and was~~

1 ~~hired on or after September 1, 2009,~~] or a death benefit beneficiary
2 of that member may use sick leave creditable under this section only
3 for purposes of calculating the member's or beneficiary's annuity.

4 SECTION 8. Subsections (a) and (j), Section 813.511,
5 Government Code, are amended to read as follows:

6 (a) A member who holds a position included in the employee
7 class of membership during the month that includes the effective
8 date of the member's retirement and who retires based on service or
9 a disability is entitled to service credit in the retirement system
10 for the member's annual leave that has accumulated and is unused on
11 the last day of employment, unless the member opts to receive for
12 that accumulated leave a lump-sum payment under Section 661.091.

13 (j) A member ~~[who was not a member on the date hired and was~~
14 ~~hired on or after September 1, 2009,~~] or a death benefit beneficiary
15 of that member may use annual leave creditable under this section
16 only for purposes of calculating the member's or beneficiary's
17 annuity.

18 SECTION 9. Subsections (a) and (d), Section 814.105,
19 Government Code, are amended to read as follows:

20 (a) The ~~[Except as otherwise provided by this section, the]~~
21 standard service retirement annuity for service credited in the
22 employee class of membership is an amount computed as the member's
23 average monthly compensation for service in that class for the 60
24 ~~[36]~~ highest months of compensation multiplied by 2.3 percent for
25 each year of service credit in that class.

26 (d) The standard service retirement annuity computed under
27 this section ~~[Subsection (c)]~~ is reduced by five percent for each

1 year the member retires before the member reaches age 62 [~~60, with a~~
2 ~~maximum possible reduction of 25 percent~~].

3 SECTION 10. Section 814.107, Government Code, is amended by
4 amending Subsections (b) and (c) and adding Subsection (c-1) to
5 read as follows:

6 (b) The standard service retirement annuity payable for at
7 least 20 years of service credit as a law enforcement or custodial
8 officer is an amount computed on the basis of the member's average
9 monthly compensation for the 60 [~~36~~] highest months of compensation
10 in the employee class, times the sum of the percentage factor used
11 in the computation of a standard service retirement annuity under
12 Section 814.105 plus .5 percent.

13 (c) The standard combined service retirement annuity that
14 is payable under this section is based on retirement on or after the
15 attainment of the normal retirement age, which for purposes of this
16 section is the earlier of either the age of 57 [~~50~~] or the age at
17 which the sum of the member's age and amount of service credit in
18 the employee class equals the number 80. The annuity of a law
19 enforcement or custodial officer who retires before reaching the
20 age of 57 under any eligibility criteria is actuarially reduced by
21 five percent for each year of difference between the member's age at
22 retirement and 57. The actuarial reduction described by this
23 section is in addition to any other actuarial reduction required by
24 law.

25 (c-1) A law enforcement or custodial officer who retires
26 before attaining the [~~normal retirement~~] age of 50 is entitled only
27 to an annuity that is actuarially reduced from the annuity

1 available at the [~~normal retirement~~] age of 50 to the law
 2 enforcement or custodial officer whose service credit annuity
 3 amount is based on the sum of the member's age and amount of law
 4 enforcement or custodial officer service credit and employee class
 5 service credit, and is not entitled to have the annuity
 6 recalculated at normal retirement age. The standard or reduced
 7 annuity under this section is payable from the trust fund
 8 established by Section 815.310 and the law enforcement and
 9 custodial officer supplemental retirement fund in a ratio
 10 determined by the retirement system.

11 SECTION 11. Subsection (a), Section 814.1081, Government
 12 Code, is amended to read as follows:

13 (a) A person who retired and selected an optional service
 14 retirement annuity described by Section 814.108(c)(1), (c)(2), or
 15 (c)(5) may change the optional annuity selection to the selection
 16 of a standard service retirement annuity if:

17 (1) pursuant to a divorce decree, a court orders the
 18 change in the annuity selection to a standard service retirement
 19 annuity; or

20 (2) the retiree files [by filing] with the retirement
 21 system a request to change the annuity selection, if the retiree
 22 designated a person as beneficiary who:

23 (A) [~~(1)~~] was not at the time of designation and
 24 is not currently the retiree's spouse or dependent child; or

25 (B) is not currently the retiree's spouse or
 26 dependent child and [~~(2)~~] has executed since the designation a
 27 written, notarized instrument that releases the retirement system

from any claim to the annuity by the beneficiary and that transfers
all ~~[transfer and release, approved by a court of competent~~
~~jurisdiction pursuant to a divorce decree,]~~ of the beneficiary's
interest in the annuity to the retiree ~~[and is not currently the~~
~~retiree's spouse or dependent child]~~.

SECTION 12. Subchapter G, Chapter 814, Government Code, is
amended by adding Section 814.604 to read as follows:

Sec. 814.604. COST-OF-LIVING ADJUSTMENT. (a) The
retirement system shall grant a one-time cost-of-living adjustment
as provided by Subsections (b) and (c) on a finding by the board of
trustees that, as determined by an actuarial valuation:

(1) the amortization period for the unfunded actuarial
liabilities of the retirement system does not exceed 30 years by one
or more years; and

(2) as a result of paying the adjustment, the time
required to amortize the unfunded actuarial liabilities of the
retirement system would not be increased to a period that exceeds 30
years by one or more years.

(b) The retirement system shall pay the cost-of-living
adjustment under this section to a retiree who has been retired for
20 years or more on the date the board of trustees makes the finding
in Subsection (a), or to a beneficiary of the retiree, as an
increase to a monthly service retirement benefit, disability
retirement benefit, or death benefit, as applicable, paid under
this chapter for service credited in the employee class.

(c) A cost-of-living adjustment under this section is
limited to the lesser of:

1 (1) an amount equal to three percent of the monthly
2 benefit subject to the increase; or

3 (2) \$100 a month.

4 SECTION 13. Subsection (b), Section 815.311, Government
5 Code, is amended to read as follows:

6 (b) Interest on money in an individual account in the
7 employees saving account is earned monthly and is computed at the
8 rate of two [~~five~~] percent a year on the mean balance of the
9 member's account for the fiscal year.

10 SECTION 14. Section 815.317, Government Code, is amended by
11 adding Subsection (d) to read as follows:

12 (d) Member contributions to the fund deducted under Section
13 815.402(h):

14 (1) earn interest at the same rate as money in an
15 individual account in the employees saving account under Section
16 815.311; and

17 (2) are subject to the same computations and
18 limitations that apply to member contributions under Section
19 815.311.

20 SECTION 15. Subsection (a), Section 815.402, Government
21 Code, is amended to read as follows:

22 (a) Except as provided by Section 813.201, each payroll
23 period, each department or agency of the state shall cause to be
24 deducted from each member's compensation a contribution of:

25 (1) 6.6 [~~6.5~~] percent of the compensation if the
26 member is not a member of the legislature, for service rendered
27 after August 31, 2013, and before September 1, 2014;

1 (2) 6.9 percent of the compensation if the member is
2 not a member of the legislature, for service rendered after August
3 31, 2014, and before September 1, 2015;

4 (3) 7.2 percent of the compensation if the member is
5 not a member of the legislature, for service rendered after August
6 31, 2015, and before September 1, 2016;

7 (4) 7.5 percent of the compensation if the member is
8 not a member of the legislature, for service rendered after August
9 31, 2016;

10 (5) for service rendered on or after September 1,
11 2017, the lesser of:

12 (A) 7.5 percent of the member's annual
13 compensation; or

14 (B) a percentage of the member's annual
15 compensation equal to 7.5 percent reduced by one-tenth of one
16 percent for each one-tenth of one percent that the state
17 contribution rate for the fiscal year to which the service relates
18 is less than the state contribution rate established for the 2015
19 fiscal year ~~[provided that if the state contribution to the~~
20 ~~retirement system is computed using a percentage less than 6.5~~
21 ~~percent, the member's contribution is computed using a percentage~~
22 ~~equal to the percentage used to compute the state contribution,~~
23 ~~which may not be less than six percent]~~; or

24 (6) [(2)] eight percent of the compensation if the
25 member is a member of the legislature.

26 SECTION 16. Subchapter E, Chapter 815, Government Code, is
27 amended by adding Section 815.4035 to read as follows:

1 Sec. 815.4035. COLLECTION OF STATE RETIREMENT
2 CONTRIBUTION. (a) Except as provided by Section 813.201, the
3 board of trustees shall assess each employer whose employees are
4 members of the retirement system a state retirement contribution in
5 an amount equal to 0.5 percent of the employer's total payroll, as
6 determined by the General Appropriations Act.

7 (b) The board of trustees shall deposit the state retirement
8 contribution to the credit of the trust fund established by Section
9 815.310 to be used for the purposes specified by Section 815.103.

10 SECTION 17. Section 837.002, Government Code, is amended to
11 read as follows:

12 Sec. 837.002. TERMINATION OF MEMBERSHIP. A person's
13 membership in the retirement system is terminated by:

14 (1) death of the person;
15 (2) retirement based on service credited in the
16 retirement system; or

17 (3) withdrawal of all of the person's accumulated
18 contributions[~~, or~~

19 ~~[(4) transfer of the person's accumulated contributions~~
20 ~~under Section 840.401(f)].~~

21 SECTION 18. Subsection (b), Section 838.103, Government
22 Code, is amended to read as follows:

23 (b) A member eligible to establish military service credit
24 is one who:

25 (1) has at least eight years of service credit in the
26 retirement system;

27 (2) does not receive and is not eligible to receive

1 federal retirement payments based on 20 years or more of active
2 federal military duty [~~or its equivalent~~]; and

3 (3) has been released from military duty under
4 conditions not dishonorable.

5 SECTION 19. Subsections (a) and (c), Section 838.106,
6 Government Code, are amended to read as follows:

7 (a) A member may establish service credit in the retirement
8 system for any calendar year during which the member[~~+~~

9 [~~(1)~~] held an office included in the membership of the
10 retirement system[~~+~~~~or~~

11 [~~(2) was eligible to take the oath for an office~~
12 ~~included in the membership of the retirement system~~].

13 (c) For the purpose of Subsection (a) [~~(a)(1)~~], the term of
14 a member leaving judicial office ends not later than December 31
15 regardless of the date on which the member's successor takes the
16 oath of office.

17 SECTION 20. Subsection (a), Section 840.102, Government
18 Code, is amended to read as follows:

19 (a) Except as provided by Subsections (g) and (h), each
20 payroll period, a judicial officer who is a member of the retirement
21 system is required to contribute:

22 (1) 6.6 [~~six~~] percent of the officer's state
23 compensation for service rendered after August 31, 2013, and before
24 September 1, 2014;

25 (2) 6.9 percent of the officer's state compensation
26 for service rendered after August 31, 2014, and before September 1,
27 2015;

1 (3) 7.2 percent of the officer's state compensation
2 for service rendered after August 31, 2015, and before September 1,
3 2016;

4 (4) 7.5 percent of the officer's state compensation
5 for service rendered after August 31, 2016; or

6 (5) for service rendered on or after September 1,
7 2017, the lesser of:

8 (A) 7.5 percent of the officer's state
9 compensation; or

10 (B) a percentage of the officer's state
11 compensation equal to 7.5 percent reduced by one-tenth of one
12 percent for each one-tenth of one percent that the state
13 contribution rate for the fiscal year to which the service relates
14 is less than the state contribution rate established for the 2015
15 fiscal year [the period to the retirement system].

16 SECTION 21. Subdivisions (9) and (11), Section 1551.003,
17 Insurance Code, are amended to read as follows:

18 (9) "Full-time employee" means an employee designated
19 as a full-time employee under Section 1551.319(c) or (d) or an
20 employee designated by the employer as working 30 [40] or more hours
21 a week.

22 (11) "Part-time employee" means an employee
23 designated by the employer as working less than 30 [40] hours a
24 week. For purposes of this chapter, an individual described by
25 Section 1551.101(e)(2) is considered a part-time employee.

26 SECTION 22. Subsection (b), Section 1551.004, Insurance
27 Code, is amended to read as follows:

(b) In this section, "child" includes:

(1) a natural child, adopted child, stepchild, ~~[or]~~ foster child, or child in the possession of a participant who is designated as managing conservator of the child under an irrevocable or unrevoked affidavit of relinquishment under Chapter 161, Family Code; or

(2) a child who is related by blood or marriage and was claimed as a dependent on the federal income tax return of an individual who is eligible to participate in the group benefits program under Section 1551.101 or 1551.102 for the calendar year preceding the plan year in which the child is first enrolled as a dependent under Subchapter D, and for each subsequent year in which the child is enrolled as a dependent.

SECTION 23. Subsections (a) and (b), Section 1551.1055, Insurance Code, are amended to read as follows:

(a) Except as provided by Subsection (c) or (d), eligibility under Section 1551.101 begins not later than ~~[on the first day of the calendar month that begins after]~~ the 90th day after the date the employee performs services for a state agency or is qualified for and begins to hold elected or appointed office.

(b) Except as provided by Subsection (c), eligibility under Section 1551.102, for an individual who does not retire at the end of the last month for which the individual is on the payroll of a state agency before retirement, begins not later than ~~[on the first day of the calendar month that begins after]~~ the 90th day after the date the individual retires.

SECTION 24. Subsection (a), Section 1551.158, Insurance

Code, is amended to read as follows:

(a) A dependent child who is unmarried and whose coverage under this chapter ends when the child becomes 26 [~~25~~] years of age may, on expiration of continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. No. 99-272), reinstate health benefit plan coverage under this chapter if the child, or the child's participating parent, pays the full cost of the health benefit plan coverage.

SECTION 25. Subchapter G, Chapter 1551, Insurance Code, is amended by adding Section 1551.3196 to read as follows:

Sec. 1551.3196. AMOUNT OF CONTRIBUTION FOR CERTAIN ANNUITANTS. (a) An annuitant receives the benefits of a state contribution for coverage under this chapter based on the annuitant's eligible service credit, as follows:

(1) for an annuitant with 20 years or more of eligible service credit, a full state contribution;

(2) for an annuitant with at least 15 years but less than 20 years of eligible service credit, 75 percent of a full state contribution; and

(3) for an annuitant with less than 15 years of eligible service credit, 50 percent of a full state contribution.

(b) An annuitant receiving a reduced state contribution under Subsection (a) shall have any state contribution for dependent coverage reduced in an amount proportional to the reduction under Subsection (a).

(c) This section does not apply to an individual who:

(1) receives or is eligible to receive an annuity that

1 is based on eligibility under Section 814.002, 814.102, 834.101, or
2 839.101, Government Code; or

3 (2) is eligible to participate in the group benefits
4 program under:

5 (A) Section 1551.102(d) because of a disability;
6 or

7 (B) Section 1551.102(f).

8 SECTION 26. (a) The following provisions of the Government
9 Code are repealed:

- 10 (1) Subsection (i), Section 76.006;
11 (2) Subsection (f), Section 606.030;
12 (3) Subsections (d) and (e), Section 813.509;
13 (4) Subsections (d) and (e), Section 813.511;
14 (5) Subsection (c), Section 814.105;
15 (6) Section 814.1075; and
16 (7) Section 840.401.

17 (b) Section 1551.321, Insurance Code, is repealed.

18 SECTION 27. The changes in law made by this Act to Sections
19 661.091, 813.509, 813.511, 814.105, and 814.107, Government Code,
20 apply only to a person who is hired on or after September 1, 2013, to
21 work in a position that requires membership in the Employees
22 Retirement System of Texas. A person hired before September 1,
23 2013, to work in a position that requires membership in the
24 Employees Retirement System of Texas is subject to those laws as
25 they existed immediately before that date, and the former law is
26 continued in effect for that purpose.

27 SECTION 28. Section 815.311, Government Code, as amended by

1 this Act, applies only to interest accrued on or after January 1,
2 2014. Interest accrued before that date is governed by the law in
3 effect on the date the interest was accrued, and that law is
4 continued in effect for that purpose.

5 SECTION 29. Section 1551.3196, Insurance Code, as added by
6 this Act, applies only to an individual who does not have five years
7 of eligible service credit on September 1, 2014. An individual who
8 has at least five years of eligible service credit, or is
9 participating in the group benefits program as a retiree, on that
10 date is governed by the law in effect on August 31, 2014, and the
11 former law is continued in effect for that purpose.

12 SECTION 30. (a) Notwithstanding any other law, for the
13 2014-2015 state fiscal biennium, it is the intent of the
14 legislature that all state retirement assets and liabilities
15 attributable to members and retirees of the law enforcement and
16 custodial officer supplemental retirement fund be measured and
17 accounted for in aggregate and separately from the retirement
18 assets and liabilities attributable to members and retirees in any
19 other retirement plan for purposes of determining an actuarially
20 required contribution or making any other actuarial calculation.

21 (b) For purposes of Section 811.006, Government Code, the
22 law enforcement and custodial officer supplemental retirement fund
23 shall be considered a part of the retirement system, as that term is
24 defined by Subdivision (15), Section 811.001, Government Code, and
25 shall be subject to all other provisions of Subtitle B, Title 8,
26 Government Code, that do not directly conflict with Subsection (a)
27 of this section.

1 (c) The board of trustees of the Employees Retirement System
2 of Texas may adopt rules necessary to implement or administer this
3 section.

4 SECTION 31. The Employees Retirement System of Texas shall
5 conduct an interim study on the feasibility of adding custodial
6 officers employed by the Texas Juvenile Justice Department to the
7 class of employees eligible to participate in the law enforcement
8 and custodial officer supplemental retirement fund as custodial
9 officers. Not later than September 1, 2014, the retirement system
10 shall report the findings of the study to the governor, the
11 lieutenant governor, the speaker of the house of representatives,
12 and each senate and house committee that has jurisdiction over the
13 retirement system.

14 SECTION 32. Subsection (a), Section 840.102, Government
15 Code, as amended by this Act, takes effect September 1, 2013.

16 SECTION 33. (a) Except as provided by Subsections (b),
17 (c), and (d) of this section, this Act takes effect September 1,
18 2013.

19 (b) Section 815.311, Government Code, as amended by this
20 Act, takes effect January 1, 2014.

21 (c) The changes in law made by this Act to Section
22 1551.1055, Insurance Code, take effect September 1, 2014.

23 (d) Section 1551.3196, Insurance Code, as added by this Act,
24 takes effect September 1, 2014.