

1-1 By: Duncan S.B. No. 1459  
1-2 (In the Senate - Filed March 7, 2013; March 18, 2013, read  
1-3 first time and referred to Committee on State Affairs;  
1-4 April 24, 2013, reported adversely, with favorable Committee  
1-5 Substitute by the following vote: Yeas 6, Nays 3; April 24, 2013,  
1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	Duncan	X		
1-10	Deuell	X		
1-11	Ellis		X	
1-12	Fraser	X		
1-13	Huffman	X		
1-14	Lucio		X	
1-15	Nichols	X		
1-16	Van de Putte		X	
1-17	Williams	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1459 By: Duncan

1-19 A BILL TO BE ENTITLED  
1-20 AN ACT

1-21 relating to the powers and duties of and contributions to and  
1-22 benefits from the systems and programs administered by the  
1-23 Employees Retirement System of Texas.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Subsection (a), Section 411.1402, Government  
1-26 Code, is amended to read as follows:

1-27 (a) The Employees Retirement System of Texas is entitled to  
1-28 obtain from the department, the Federal Bureau of Investigation  
1-29 Criminal Justice Information Services Division, or another law  
1-30 enforcement agency criminal history record information maintained  
1-31 by the department, division, or agency that relates to a person who  
1-32 is:

1-33 (1) an applicant for employment with, or who is or has  
1-34 been employed by, the retirement system;

1-35 (2) a consultant, contract employee, independent  
1-36 contractor, intern, or volunteer for the retirement system or an  
1-37 applicant to serve in one of those positions; or

1-38 (3) a candidate for appointment or election to the  
1-39 board of trustees of the retirement system or an advisory committee  
1-40 to that board.

1-41 SECTION 2. Subsection (a), Section 661.091, Government  
1-42 Code, is amended to read as follows:

1-43 (a) A contributing member of the Employees Retirement  
1-44 System of Texas who retires is entitled to a lump-sum payment ~~be~~  
1-45 ~~paid in a lump sum~~, from funds of the agency or department from  
1-46 which the member retires, for the member's accrued vacation time as  
1-47 of the date of retirement, unless the member opts to receive for  
1-48 that accrued vacation time service credit under Section 813.511(a).

1-49 SECTION 3. Section 811.007, Government Code, is amended to  
1-50 read as follows:

1-51 Sec. 811.007. IMMUNITY FROM LIABILITY. The board of  
1-52 trustees, executive director, members of an advisory committee  
1-53 appointed by the board of trustees, and employees of the retirement  
1-54 system are not liable for any action taken or omission made or  
1-55 suffered by them in good faith in the performance of any duty in  
1-56 connection with any program or system administered by the  
1-57 retirement system.

1-58 SECTION 4. Subsection (b), Section 812.003, Government  
1-59 Code, is amended to read as follows:

1-60 (b) An office or employment that is included in the coverage

of the Teacher Retirement System of Texas, the Judicial Retirement System of Texas Plan One, or the Judicial Retirement System of Texas Plan Two or, except as provided by Section 9.01, Chapter 238 (S.B. 378), Acts of the 73rd Legislature, Regular Session, 1993, is with a university system or institution of higher education, as defined by Section 61.003, Education Code, is not a position with a department, commission, board, agency, or institution of the state for purposes of this subtitle.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) The standard service retirement annuity computed under this section [Subsection (c)] is reduced by five percent for each year the member retires before the member reaches age 62 ~~[60, with a maximum possible reduction of 25 percent].~~

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

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

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

(c-1) A law enforcement or custodial officer who retires before attaining the [normal retirement] age of 50 is entitled only to an annuity that is actuarially reduced from the annuity available at the [normal retirement] age of 50 to the law enforcement or custodial officer whose service credit annuity amount is based on the sum of the member's age and amount of law enforcement or custodial officer service credit and employee class service credit, and is not entitled to have the annuity recalculated at normal retirement age. The standard or reduced annuity under this section is payable from the trust fund established by Section 815.310 and the law enforcement and custodial officer supplemental retirement fund in a ratio determined by the retirement system.

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

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

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

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

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

(B) is not currently the retiree's spouse or dependent child and ~~[(2)]~~ has executed since the designation a 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) an amount equal to three percent of the monthly benefit subject to the increase; or

(2) \$100 a month.

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

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

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

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

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

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

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

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

(1) 6.5 percent of the compensation if the member is not a member of the legislature, provided that:

(A) if the state contribution to the retirement system is computed using a percentage less than 6.5 percent, the member's contribution is computed using a percentage equal to the percentage used to compute the state contribution, which may not be less than six percent; or

(B) if the state contribution to the retirement system is computed using a percentage greater than 6.5 percent, the member's contribution is computed using a percentage equal to the percentage used to compute the state contribution, except that the member contribution may not exceed seven percent; or

(2) eight percent of the compensation if the member is a member of the legislature.

SECTION 16. Section 837.002, Government Code, is amended to read as follows:

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

(1) death of the person;

(2) retirement based on service credited in the retirement system; or

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

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

SECTION 17. Subsection (b), Section 838.103, Government Code, is amended to read as follows:

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

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

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

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

SECTION 18. Subsections (a) and (c), Section 838.106, Government Code, are amended to read as follows:

(a) A member may establish service credit in the retirement system for any calendar year during which the member ~~+~~ ~~[(1)]~~ held an office included in the membership of the retirement system ~~+~~ ~~or~~

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

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

SECTION 19. Subdivisions (9) and (11), Section 1551.003, Insurance Code, are amended to read as follows:

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

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

SECTION 20. Subsection (b), Section 1551.004, Insurance 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 21. 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 22. 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 23. 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 is based on eligibility under Section 814.002, 814.102, 834.101, or 839.101, Government Code; or

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

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

(B) Section 1551.102(f).

SECTION 24. (a) The following provisions of the Government Code are repealed:

(1) effective September 1, 2013:

(A) Subsection (i), Section 76.006;

(B) Subsection (f), Section 606.030; and

(C) Section 840.401; and

(2) effective September 1, 2014:

(A) Subsections (d) and (e), Section 813.509;

(B) Subsections (d) and (e), Section 813.511;

(C) Subsection (c), Section 814.105; and

(D) Section 814.1075.

(b) Effective September 1, 2013, Section 1551.321, Insurance Code, is repealed.

SECTION 25. (a) The changes in law made by this Act to Sections 813.509, 813.511, and 814.105, Government Code, do not apply to, and the former law is continued in effect for, a person who retires as a member of the Employees Retirement System of Texas on or after September 1, 2014, and who meets one or more of the following requirements on or before August 31, 2014:

(1) the person has attained 50 years of age;

(2) the sum of the person's age and amount of service credit in the retirement system equals 70 or greater; or

(3) the person has at least 20 years of service credit in the retirement system.

(b) The changes in law made by this Act to Section 814.107, Government Code, do not apply to, and the former law is continued in effect for, a person who retires as a member of the Employees Retirement System of Texas on or after September 1, 2014, and who meets one or more of the following requirements on or before August 31, 2014:

(1) the person has attained 45 years of age; or

(2) the person has at least 15 years of service credit in the retirement system.

(c) Only service actually credited in the Employees Retirement System of Texas, the Teacher Retirement System of Texas, or a retirement system participating in the proportionate retirement program under Chapter 803, Government Code, or service performed as a participant in the optional retirement program under Chapter 830, Government Code, on or before August 31, 2014, may be used to determine eligibility under this section.

SECTION 26. Section 815.311, Government Code, as amended by this Act, applies only to interest accrued on or after January 1, 2014. Interest accrued before that date is governed by the law in effect on the date the interest was accrued, and that law is continued in effect for that purpose.

SECTION 27. Section 1551.3196, Insurance Code, as added by this Act, applies only to an individual who does not have 10 years of eligible service credit on September 1, 2014. An individual who has at least 10 years of eligible service credit, or is participating in the group benefits program as a retiree, on that date is governed by the law in effect on August 31, 2014, and the former law is continued in effect for that purpose.

SECTION 28. (a) Except as provided by Subsections (b), (c), and (d) of this section, this Act takes effect September 1, 2013.

7-1 (b) Section 815.311, Government Code, as amended by this  
7-2 Act, takes effect January 1, 2014.

7-3 (c) Section 1551.3196, Insurance Code, as added by this Act,  
7-4 takes effect September 1, 2014.

7-5 (d) The changes in law made by this Act to the following  
7-6 sections take effect September 1, 2014:

7-7 (1) Section 661.091, Government Code;

7-8 (2) Section 813.509, Government Code;

7-9 (3) Section 813.511, Government Code;

7-10 (4) Section 814.105, Government Code;

7-11 (5) Section 814.107, Government Code; and

7-12 (6) Section 1551.1055, Insurance Code.

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