

By: Menéndez

S.B. No. 2005

A BILL TO BE ENTITLED

AN ACT

relating to eligibility for membership and funding of benefits for certain law enforcement, custodial, and other peace officers.

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

SECTION 1. Section 802.305(i)(2), Government Code, is amended to read as follows:

(2) "State-financed public retirement system" means the Employees Retirement System of Texas, including the law enforcement, ~~and~~ custodial, and peace officer supplemental retirement fund, or the Teacher Retirement System of Texas.

SECTION 2. Subchapter C, Chapter 803, Government Code, is amended by adding Section 803.2015 to read as follows:

Sec. 803.2015. COMBINED SERVICE CREDIT FOR CERTAIN PEACE OFFICERS. (a) This section applies to a person who, on December 31, 2015:

(1) is a member of the Teacher Retirement System of Texas, who:

(A) is identified under Section 825.515 as being employed in a position as a peace officer; and

(B) elects to begin membership as a peace officer participating in the Employees Retirement System law enforcement, custodial, and peace officer supplemental retirement fund beginning January 1, 2016; or

(2) is a member of the Employees Retirement System of

1 Texas who:

2 (A) is employed in a position as a law
3 enforcement, custodial, juvenile justice, or peace officer as those
4 terms are defined by Section 811.001; and

5 (B) elects to begin participation in the
6 Employees Retirement System law enforcement, custodial, and peace
7 officer supplemental retirement fund beginning January 1, 2016.

8 (b) For the purposes of this chapter, service credit earned
9 by a person described by Subsection (a) is considered service
10 credit earned in two retirement systems and is subject to Section
11 803.201. The membership on which combined service credit is based
12 is service credit accrued:

13 (1) before beginning participation in the Employees
14 Retirement System law enforcement, custodial, and peace officer
15 supplemental retirement fund; and

16 (2) after beginning participation in the Employees
17 Retirement System law enforcement, custodial, and peace officer
18 supplemental retirement fund.

19 SECTION 3. Section 811.001, Government Code, is amended by
20 amending Subdivisions (6) and (9) and adding Subdivisions (8-b) and
21 (12-b) to read as follows:

22 (6) "Combined retirement annuity" means the amount
23 payable on retirement for service credited as a member of the
24 employee class of membership plus any supplemental amount payable
25 from the law enforcement, ~~and~~ custodial, and peace officer
26 supplemental retirement fund.

27 (8-b) "Juvenile justice officer" means a member of the

1 retirement system who is employed by the Texas Juvenile Justice
2 Department and certified by that department as holding a position
3 as a juvenile correctional officer or other position the primary
4 duties of which include the custodial supervision of or other
5 close, regularly planned contact with youth in the custody of that
6 department.

7 (9) "Law enforcement officer" means a member of the
8 retirement system who:

9 (A) has been commissioned as a law enforcement
10 officer by the Department of Public Safety, the Texas Alcoholic
11 Beverage Commission, the Parks and Wildlife Department, the office
12 of the attorney general, or the office of inspector general at the
13 Texas Juvenile Justice Department; and

14 (B) is recognized as a commissioned law
15 enforcement officer by the Texas Commission on Law Enforcement.

16 (12-b) "Peace officer" means:

17 (A) a person certified as being employed as a
18 peace officer under Section 815.505; or

19 (B) any other person employed as a peace officer
20 who is:

21 (i) not a custodial officer, juvenile
22 justice officer, or law enforcement officer for purposes of this
23 subtitle; and

24 (ii) a peace officer under Article 2.12,
25 Code of Criminal Procedure, employed or appointed by a department,
26 commission, board, agency, or institution of the state.

27 SECTION 4. Section 812.003, Government Code, is amended by

1 amending Subsection (b) and adding Subsection (b-1) to read as
2 follows:

3 (b) An office or employment that is included in the coverage
4 of the Teacher Retirement System of Texas, other than in a position
5 identified as a peace officer position under Section 825.515, the
6 Judicial Retirement System of Texas Plan One, or the Judicial
7 Retirement System of Texas Plan Two or, except as provided by
8 Section 9.01, Chapter 238 (S.B. 378), Acts of the 73rd Legislature,
9 Regular Session, 1993, is with a university system or institution
10 of higher education, as defined by Section 61.003, Education Code,
11 is not a position with a department, commission, board, agency, or
12 institution of the state for purposes of this subtitle.

13 (b-1) Membership in the employee class includes any person
14 who is certified as being employed in a position as a peace officer
15 under Section 815.505.

16 SECTION 5. Subchapter F, Chapter 813, Government Code, is
17 amended by adding Section 813.507 to read as follows:

18 Sec. 813.507. JUVENILE JUSTICE OFFICER SERVICE. (a) The
19 Texas Juvenile Justice Board by rule shall adopt standards for
20 determining eligibility for service credit as a juvenile justice
21 officer, based on the need to encourage early retirement of persons
22 whose duties are hazardous and require them to have routine contact
23 with youth in the custody of the Texas Juvenile Justice Department
24 on a regular basis.

25 (b) The Texas Juvenile Justice Department shall determine a
26 person's eligibility to receive credit as a juvenile justice
27 officer. A determination by the department may not be appealed by

1 an employee but is subject to change by the retirement system.

2 SECTION 6. Section 814.107, Government Code, is amended to
3 read as follows:

4 Sec. 814.107. SERVICE RETIREMENT BENEFITS FOR CERTAIN
5 ~~[PEACE]~~ OFFICERS. (a) This section applies only to a member who
6 participates in the law enforcement, custodial, and peace officer
7 supplemental retirement fund.

8 (a-1) A member who has at least 20 years of service credit as
9 a law enforcement, juvenile justice, ~~[or]~~ custodial, or peace
10 officer is eligible to retire regardless of age and receive a
11 standard service retirement annuity in an amount and to be funded as
12 provided by this section.

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

20 (c) The standard combined service retirement annuity that
21 is payable under this section is based on retirement on or after the
22 attainment of the normal retirement age, which for purposes of this
23 section is the earlier of either the age of 57 or the age at which
24 the sum of the member's age and amount of service credit in the
25 employee class equals the number 80. The annuity of a law
26 enforcement, juvenile justice, ~~[or]~~ custodial, or peace officer who
27 retires before reaching the age of 57 under any eligibility

1 criteria is actuarially reduced by five percent for each year of
2 difference between the member's age at retirement and 57. The
3 actuarial reduction described by this section is in addition to any
4 other actuarial reduction required by law.

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

18 (d) A member who retires under this section retires
19 simultaneously from the employee class of membership. Optional
20 retirement annuities provided by Section 814.108 are available to a
21 member eligible to receive a service retirement annuity under this
22 section, but the same optional plan and beneficiary must be
23 selected for the portion of the annuity payable from the law
24 enforcement, [~~and~~] custodial, and peace officer supplemental
25 retirement fund and the portion payable from the trust fund
26 established by Section 815.310.

27 (e) The amount payable from the law enforcement, [~~and~~]

1 custodial, and peace officer supplemental retirement fund is
2 reducible by the amount paid from the trust fund established by
3 Section 815.310 for service as a law enforcement, juvenile justice,
4 [~~or~~] custodial, or peace officer. The total combined amount of an
5 annuity under this section may not be less than the authorized
6 benefit under Subsection (b) subtracted by any amount necessary
7 because of selection of an optional annuity, because of retirement
8 before the normal retirement age, or as provided by Subsection (f).

9 (f) The standard combined service retirement annuity
10 payable for at least 20 years of service credit as a law
11 enforcement, juvenile justice, [~~or~~] custodial, or peace officer may
12 not exceed 100 percent of the average compensation computed under
13 Subsection (b).

14 (g) For purposes of this section, service as a law
15 enforcement, juvenile justice, [~~or~~] custodial, or peace officer is
16 creditable as provided by rule of the board of trustees or on a
17 month-to-month basis, whichever is greater.

18 SECTION 7. The heading to Section 814.207, Government Code,
19 is amended to read as follows:

20 Sec. 814.207. DISABILITY RETIREMENT BENEFITS FOR CERTAIN
21 [~~PEACE~~] OFFICERS.

22 SECTION 8. Section 814.207, Government Code, is amended by
23 amending Subsections (a) and (d) and adding Subsection (a-1) to
24 read as follows:

25 (a) This section applies only to a member who participates
26 in the law enforcement, custodial, and peace officer supplemental
27 retirement fund.

1 (a-1) An annuity payable for an occupational disability
2 resulting from a risk to which law enforcement, juvenile justice,
3 ~~[or]~~ custodial, or peace officers are exposed because of the nature
4 of their ~~[law enforcement or custodial]~~ duties is payable under the
5 same terms and conditions that apply to other occupational
6 disability retirement annuities under this subtitle, except that
7 the source and amount of the annuity are as provided by this
8 section.

9 (d) The portions of the annuity under this section payable
10 from the law enforcement, ~~[and]~~ custodial, and peace officer
11 supplemental retirement fund are the amount remaining after
12 deduction of any amount payable under Section 814.206, except the
13 portion of an amount that exceeds the minimum payments provided by
14 Section 814.206(b) and that is made for service other than as a law
15 enforcement, juvenile justice, ~~[or]~~ custodial, or peace officer and
16 any amount by which an annuity is increased under Subsection (e).

17 SECTION 9. Section 814.305, Government Code, is amended to
18 read as follows:

19 Sec. 814.305. ANNUITY FOR SURVIVOR OF LAW ENFORCEMENT,
20 JUVENILE JUSTICE, ~~[OR]~~ CUSTODIAL, OR PEACE OFFICER. (a) This
21 section applies only to a member who participates in the law
22 enforcement, custodial, and peace officer supplemental retirement
23 fund.

24 (b) If a member who has at least 20 years of service credit
25 as a law enforcement, juvenile justice, ~~[or]~~ custodial, or peace
26 officer dies, the amount of the death benefit annuity payable for
27 the member's service as a law enforcement, juvenile justice, ~~[or]~~

1 custodial, or peace officer is an amount computed and funded as
2 provided by Section 814.107, including any applicable reduction
3 factors.

4 SECTION 10. Section 815.103(c), Government Code, is amended
5 to read as follows:

6 (c) The board of trustees may authorize the executive
7 director to acquire, hold, manage, purchase, sell, assign, trade,
8 transfer, and dispose of any security, evidence of debt, or other
9 investment in which assets of the law enforcement, ~~and~~ custodial,
10 and peace officer supplemental retirement fund may be invested.

11 SECTION 11. Section 815.208(c), Government Code, is amended
12 to read as follows:

13 (c) The board of trustees shall make payments from the law
14 enforcement, ~~and~~ custodial, and peace officer supplemental
15 retirement fund for services rendered by the actuary for that fund
16 and approved by the board.

17 SECTION 12. Sections 815.301(a) and (b), Government Code,
18 are amended to read as follows:

19 (a) The board of trustees shall:

20 (1) invest the assets of the retirement system as a
21 single fund without distinction as to their source; and

22 (2) hold securities purchased with the assets
23 described by Subsection (a)(1) collectively for the proportionate
24 benefit of:

25 (A) all accounts in the trust fund that are
26 listed in Section 815.310(b); and

27 (B) the law enforcement, ~~and~~ custodial, and

1 peace officer supplemental retirement fund.

2 (b) The board of trustees may delegate its authority under
3 Subsection (a) to the executive director. The board of trustees or
4 the executive director may, under the standard of care provided by
5 Section 815.307, invest and reinvest any of the retirement system's
6 assets and may commingle assets of the trust fund and the law
7 enforcement, ~~and~~ custodial, and peace officer supplemental
8 retirement fund with the assets of the Judicial Retirement System
9 of Texas Plan Two for investment purposes, as long as proportionate
10 ownership records are maintained and credited. Investments may
11 include home office facilities, including land, equipment, and
12 office building, used in administering the retirement system.

13 SECTION 13. Section 815.308(b), Government Code, is amended
14 to read as follows:

15 (b) The amount of cash on hand may not exceed 10 percent of
16 the total amount in the funds of the retirement system on deposit
17 with the comptroller, excluding the assets of the law enforcement,
18 ~~and~~ custodial, and peace officer supplemental retirement fund.

19 SECTION 14. Section 815.309, Government Code, is amended to
20 read as follows:

21 Sec. 815.309. CREDITING SYSTEM ASSETS. All assets of the
22 retirement system, except assets of the law enforcement, ~~and~~
23 custodial, and peace officer supplemental retirement fund, shall be
24 credited to the trust fund established by Section 815.310.

25 SECTION 15. The heading to Section 815.317, Government
26 Code, is amended to read as follows:

27 Sec. 815.317. LAW ENFORCEMENT, ~~AND~~ CUSTODIAL, AND PEACE

1 OFFICER SUPPLEMENTAL RETIREMENT FUND.

2 SECTION 16. Sections 815.317(a), (a-1), and (b), Government
3 Code, are amended to read as follows:

4 (a) The retirement system shall deposit in the law
5 enforcement, ~~and~~ custodial, and peace officer supplemental
6 retirement fund state contributions and other appropriations made
7 by the legislature to the fund and proceeds from investment of the
8 fund.

9 (a-1) The comptroller shall deposit fees collected under
10 Section 133.102(e)(7), Local Government Code, to the credit of the
11 law enforcement, ~~and~~ custodial, and peace officer supplemental
12 retirement fund.

13 (b) The retirement system may use money from the fund only
14 to pay supplemental retirement and death benefits to law
15 enforcement, juvenile justice, and ~~and~~ custodial, or peace officers
16 as provided by this subtitle and to pay for the administration of
17 the fund.

18 SECTION 17. Section 815.402(h), Government Code, is amended
19 to read as follows:

20 (h) In addition to the contribution under Subsection
21 (a)(1), each department or agency of the state that employs a law
22 enforcement, juvenile justice, or ~~or~~ custodial, or peace officer
23 shall deduct an additional 0.5 percent contribution from that
24 member's compensation, to be deposited in the law enforcement,
25 ~~and~~ custodial, and peace officer supplemental retirement fund,
26 provided that, if the state contribution to the law enforcement,
27 ~~and~~ custodial, and peace officer supplemental retirement fund is

1 computed using a percentage less than 0.5 percent, the member's
2 contribution is computed using a percentage equal to the percentage
3 used to compute the state contribution.

4 SECTION 18. Section 815.403(a), Government Code, is amended
5 to read as follows:

6 (a) During each fiscal year, the state shall contribute to
7 the retirement system:

8 (1) an amount equal to 7.4 percent of the total
9 compensation of all members of the retirement system for that year;

10 (2) money to pay lump-sum death benefits for retirees
11 under Section 814.501;

12 (3) an amount for the law enforcement, ~~and~~
13 custodial, and peace officer supplemental retirement fund equal to
14 2.13 percent of the aggregate state compensation of all law
15 enforcement, juvenile justice, custodial, and peace ~~[law~~
16 ~~enforcement]~~ officers for that year;

17 (4) money necessary for the administration of the law
18 enforcement, ~~and~~ custodial, and peace officer supplemental
19 retirement fund; and

20 (5) money for service credit not previously
21 established, as provided by Section 813.202(c) or 813.302(d).

22 SECTION 19. Section 815.505, Government Code, is amended to
23 read as follows:

24 Sec. 815.505. CERTIFICATION OF NAMES OF LAW ENFORCEMENT,
25 JUVENILE JUSTICE, [AND] CUSTODIAL, AND PEACE OFFICERS. (a) Not
26 later than the 12th day of the month following the month in which a
27 person begins or ceases employment as a law enforcement, juvenile

1 justice, [~~officer or~~] custodial, or peace officer, the Public

2 Safety Commission, the Texas Alcoholic Beverage Commission, the

3 Parks and Wildlife Commission, the office of the attorney general,

4 the [~~office of inspector general at the~~] Texas Juvenile Justice

5 Department [~~Youth Commission~~], the Board of Pardons and Paroles, or

6 the Texas Board of Criminal Justice, and any other state employer,

7 as applicable, shall certify to the retirement system, in the

8 manner prescribed by the system, the name of the employee and such

9 other information as the system determines is necessary for the

10 crediting of service and financing of benefits under this subtitle.

11 (b) Not later than the 12th day of the month following the

12 month in which a person begins or ceases employment as a peace

13 officer, an employer required to provide information about a person

14 identified as being employed in a position as a peace officer under

15 Section 825.515 shall certify to the retirement system, in the

16 manner prescribed by the system, the name of the employee and such

17 other information as the system determines is necessary for the

18 crediting of service and financing of benefits under this subtitle.

19 SECTION 20. Section 822.002, Government Code, is amended to

20 read as follows:

21 Sec. 822.002. EXCEPTIONS TO MEMBERSHIP REQUIREMENT. An

22 employee of the public school system is not permitted to be a member

23 of the retirement system if the employee:

24 (1) is eligible and elects to participate in the

25 optional retirement program under Chapter 830;

26 (2) is eligible and elects to participate in the law

27 enforcement, custodial, and peace officer supplemental retirement

1 fund under Section 803.2015;

2 (3) is required to participate in the law enforcement,
3 custodial, and peace officer supplemental retirement fund as a
4 member of the employee class under Section 812.003(b-1);

5 (4) [~~2~~] is solely employed by a public institution
6 of higher education that as a condition of employment requires the
7 employee to be enrolled as a student in the institution; or

8 (5) [~~3~~] has retired under the retirement system and
9 has not been reinstated to membership pursuant to Section 824.005
10 or 824.307.

11 SECTION 21. Section 840.301(a), Government Code, is amended
12 to read as follows:

13 (a) The board of trustees may, under the standard of care
14 provided by Section 840.303, invest and reinvest the retirement
15 system's assets and may commingle assets of the trust fund with the
16 assets of the Employees Retirement System of Texas, including its
17 trust fund and the law enforcement, ~~and~~ custodial, and peace
18 officer supplemental retirement fund, for investment purposes, as
19 long as proportionate ownership records are maintained and
20 credited.

21 SECTION 22. Section 133.102(e), Local Government Code, is
22 amended to read as follows:

23 (e) The comptroller shall allocate the court costs received
24 under this section to the following accounts and funds so that each
25 receives to the extent practicable, utilizing historical data as
26 applicable, the same amount of money the account or fund would have
27 received if the court costs for the accounts and funds had been

1 collected and reported separately, except that the account or fund
2 may not receive less than the following percentages:

3 (1) abused children's counseling

4 0.0088 percent;

5 (2) crime stoppers assistance

6 0.2581 percent;

7 (3) breath alcohol testing

8 0.5507 percent;

9 (4) Bill Blackwood Law Enforcement Management
10 Institute

11 2.1683 percent;

12 (5) law enforcement officers standards and education

13 5.0034 percent;

14 (6) comprehensive rehabilitation

15 9.8218 percent;

16 (7) law enforcement, ~~and~~ custodial, and peace
17 officer supplemental retirement fund

18 11.1426 percent;

19 (8) criminal justice planning

20 12.5537 percent;

21 (9) an account in the state treasury to be used only
22 for the establishment and operation of the Center for the Study and
23 Prevention of Juvenile Crime and Delinquency at Prairie View A&M
24 University

25 1.2090 percent;

26 (10) compensation to victims of crime fund

27 37.6338 percent;

1 (11) emergency radio infrastructure account

2 5.5904 percent;

3 (12) judicial and court personnel training fund

4 4.8362 percent;

5 (13) an account in the state treasury to be used for
6 the establishment and operation of the Correctional Management
7 Institute of Texas and Criminal Justice Center Account

8 1.2090 percent; and

9 (14) fair defense account

10 8.0143 percent.

11 SECTION 23. (a) Not later than December 31, 2015, a person
12 who is a member of the Teacher Retirement System of Texas and is
13 identified under Section [825.515](#), Government Code, as being
14 employed as a peace officer shall decide whether to:

15 (1) remain a member in the Teacher Retirement System
16 of Texas; or

17 (2) become a member of the employee class as a peace
18 officer participating in the Employees Retirement System law
19 enforcement, custodial, and peace officer supplemental retirement
20 fund effective January 1, 2016.

21 (b) Not later than December 31, 2015, a person who is a
22 member of the Employees Retirement System of Texas, holds a
23 position as a law enforcement, juvenile justice, custodial, or
24 peace officer, and was not eligible before the effective date of
25 this Act to participate in the law enforcement and custodial
26 officer supplemental retirement fund shall decide whether to:

27 (1) remain a member of the Employees Retirement System

1 of Texas without participating in the law enforcement, custodial,
2 and peace officer supplemental retirement fund; or

3 (2) begin participation in the Employees Retirement
4 System law enforcement, custodial, and peace officer supplemental
5 retirement fund effective January 1, 2016.

6 (c) The retirement benefits of a person who opts to begin
7 participation in the Employees Retirement System law enforcement,
8 custodial, and peace officer supplemental retirement fund under
9 Subsection (a) or (b) of this section shall be divided as if the
10 benefits were based on service credit earned in two separate
11 retirement systems as follows:

12 (1) service credit earned before September 1, 2016;
13 and

14 (2) service credit earned on or after September 1,
15 2016.

16 (d) A person who earns service credit described by
17 Subsections (c)(1) and (2) of this section is eligible to have that
18 credit treated as combined service credit under Chapter 803,
19 Government Code, as amended by this Act.

20 SECTION 24. This Act takes effect September 1, 2015.