

By: Menéndez

S.B. No. 1366

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, 2017:

(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, 2018; 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, 2018.

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. Section 812.101(c), Government Code, is amended  
17 to read as follows:

18 (c) For a law enforcement, juvenile justice, ~~[or]~~  
19 custodial, or peace officer, the withdrawal of accumulated  
20 contributions under Subsection (a) includes all of the officer's  
21 contributions made under Section 815.402(h).

22 SECTION 6. Subchapter F, Chapter 813, Government Code, is  
23 amended by adding Section 813.507 to read as follows:

24 Sec. 813.507. JUVENILE JUSTICE OFFICER SERVICE. (a) The  
25 Texas Juvenile Justice Board by rule shall adopt standards for  
26 determining eligibility for service credit as a juvenile justice  
27 officer, based on the need to encourage early retirement of persons

1 whose duties are hazardous and require them to have routine contact  
2 with youth in the custody of the Texas Juvenile Justice Department  
3 on a regular basis.

4 (b) The Texas Juvenile Justice Department shall determine a  
5 person's eligibility to receive credit as a juvenile justice  
6 officer. A determination by the department may not be appealed by  
7 an employee but is subject to change by the retirement system.

8 SECTION 7. Section 813.513(a), Government Code, is amended  
9 to read as follows:

10 (a) An eligible member may establish not more than 36 months  
11 of equivalent membership service credit, including law  
12 enforcement, juvenile justice, [~~or~~] custodial, or peace officer  
13 service, in either the elected class or the employee class.

14 SECTION 8. Section 814.107, Government Code, is amended to  
15 read as follows:

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

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

25 (b) The standard service retirement annuity payable for at  
26 least 20 years of service credit as a law enforcement, juvenile  
27 justice, [~~or~~] custodial, or peace officer is an amount computed on

1 the basis of the member's average monthly compensation for the 60  
2 highest months of compensation in the employee class, times the sum  
3 of the percentage factor used in the computation of a standard  
4 service retirement annuity under Section 814.105 plus .5 percent.

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

17 (c-1) A law enforcement, juvenile justice, [~~or~~] custodial,  
18 or peace officer who retires before attaining the age of 50 is  
19 entitled only to an annuity that is actuarially reduced from the  
20 annuity available at the age of 50 to the law enforcement, juvenile  
21 justice, [~~or~~] custodial, or peace officer whose service credit  
22 annuity amount is based on the sum of the member's age and amount of  
23 law enforcement, juvenile justice, [~~or~~] custodial, or peace officer  
24 service credit and employee class service credit, and is not  
25 entitled to have the annuity recalculated at normal retirement age.  
26 The standard or reduced annuity under this section is payable from  
27 the trust fund established by Section 815.310 and the law

1 enforcement, ~~and~~ custodial, and peace officer supplemental  
2 retirement fund in a ratio determined by the retirement system.

3 (d) A member who retires under this section retires  
4 simultaneously from the employee class of membership. Optional  
5 retirement annuities provided by Section 814.108 are available to a  
6 member eligible to receive a service retirement annuity under this  
7 section, but the same optional plan and beneficiary must be  
8 selected for the portion of the annuity payable from the law  
9 enforcement, ~~and~~ custodial, and peace officer supplemental  
10 retirement fund and the portion payable from the trust fund  
11 established by Section 815.310.

12 (e) The amount payable from the law enforcement, ~~and~~  
13 custodial, and peace officer supplemental retirement fund is  
14 reducible by the amount paid from the trust fund established by  
15 Section 815.310 for service as a law enforcement, juvenile justice,  
16 ~~or~~ custodial, or peace officer. The total combined amount of an  
17 annuity under this section may not be less than the authorized  
18 benefit under Subsection (b) subtracted by any amount necessary  
19 because of selection of an optional annuity, because of retirement  
20 before the normal retirement age, or as provided by Subsection (f).

21 (f) The standard combined service retirement annuity  
22 payable for at least 20 years of service credit as a law  
23 enforcement, juvenile justice, ~~or~~ custodial, or peace officer may  
24 not exceed 100 percent of the average compensation computed under  
25 Subsection (b).

26 (g) For purposes of this section, service as a law  
27 enforcement, juvenile justice, ~~or~~ custodial, or peace officer is

1 creditable as provided by rule of the board of trustees or on a  
2 month-to-month basis, whichever is greater.

3 SECTION 9. The heading to Section 814.207, Government Code,  
4 is amended to read as follows:

5 Sec. 814.207. DISABILITY RETIREMENT BENEFITS FOR CERTAIN  
6 [~~PEACE~~] OFFICERS.

7 SECTION 10. Section 814.207, Government Code, is amended by  
8 amending Subsections (a) and (d) and adding Subsection (a-1) to  
9 read as follows:

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

13 (a-1) An annuity payable for an occupational disability  
14 resulting from a risk to which law enforcement, juvenile justice,  
15 [~~or~~] custodial, or peace officers are exposed because of the nature  
16 of their [~~law enforcement or custodial~~] duties is payable under the  
17 same terms and conditions that apply to other occupational  
18 disability retirement annuities under this subtitle, except that  
19 the source and amount of the annuity are as provided by this  
20 section.

21 (d) The portions of the annuity under this section payable  
22 from the law enforcement, [~~and~~] custodial, and peace officer  
23 supplemental retirement fund are the amount remaining after  
24 deduction of any amount payable under Section 814.206, except the  
25 portion of an amount that exceeds the minimum payments provided by  
26 Section 814.206(b) and that is made for service other than as a law  
27 enforcement, juvenile justice, [~~or~~] custodial, or peace officer and



1 any amount by which an annuity is increased under Subsection (e).

2 SECTION 11. Section 814.305, Government Code, is amended to  
3 read as follows:

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

9 (b) If a member who has at least 20 years of service credit  
10 as a law enforcement, juvenile justice, [~~or~~] custodial, or peace  
11 officer dies, the amount of the death benefit annuity payable for  
12 the member's service as a law enforcement, juvenile justice, [~~or~~]  
13 custodial, or peace officer is an amount computed and funded as  
14 provided by Section 814.107, including any applicable reduction  
15 factors.

16 SECTION 12. Section 815.103(c), Government Code, is amended  
17 to read as follows:

18 (c) The board of trustees may authorize the executive  
19 director to acquire, hold, manage, purchase, sell, assign, trade,  
20 transfer, and dispose of any security, evidence of debt, or other  
21 investment in which assets of the law enforcement, [~~and~~] custodial,  
22 and peace officer supplemental retirement fund may be invested.

23 SECTION 13. Section 815.208(c), Government Code, is amended  
24 to read as follows:

25 (c) The board of trustees shall make payments from the law  
26 enforcement, [~~and~~] custodial, and peace officer supplemental  
27 retirement fund for services rendered by the actuary for that fund

1 and approved by the board.

2 SECTION 14. Sections 815.301(a) and (b), Government Code,  
3 are amended to read as follows:

4 (a) The board of trustees shall:

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

7 (2) hold securities purchased with the assets  
8 described by Subsection (a)(1) collectively for the proportionate  
9 benefit of:

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

12 (B) the law enforcement, ~~and~~ custodial, and  
13 peace officer supplemental retirement fund.

14 (b) The board of trustees may delegate its authority under  
15 Subsection (a) to the executive director. The board of trustees or  
16 the executive director may, under the standard of care provided by  
17 Section 815.307, invest and reinvest any of the retirement system's  
18 assets and may commingle assets of the trust fund and the law  
19 enforcement, ~~and~~ custodial, and peace officer supplemental  
20 retirement fund with the assets of the Judicial Retirement System  
21 of Texas Plan Two for investment purposes, as long as proportionate  
22 ownership records are maintained and credited. Investments may  
23 include home office facilities, including land, equipment, and  
24 office building, used in administering the retirement system.

25 SECTION 15. Section 815.308(b), Government Code, is amended  
26 to read as follows:

27 (b) The amount of cash on hand may not exceed 10 percent of

1 the total amount in the funds of the retirement system on deposit  
2 with the comptroller, excluding the assets of the law enforcement,  
3 ~~and~~ custodial, and peace officer supplemental retirement fund.

4 SECTION 16. Section 815.309, Government Code, is amended to  
5 read as follows:

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

10 SECTION 17. The heading to Section 815.317, Government  
11 Code, is amended to read as follows:

12 Sec. 815.317. LAW ENFORCEMENT, ~~AND~~ CUSTODIAL, AND PEACE  
13 OFFICER SUPPLEMENTAL RETIREMENT FUND.

14 SECTION 18. Sections 815.317(a), (a-1), and (b), Government  
15 Code, are amended to read as follows:

16 (a) The retirement system shall deposit in the law  
17 enforcement, ~~and~~ custodial, and peace officer supplemental  
18 retirement fund state contributions and other appropriations made  
19 by the legislature to the fund and proceeds from investment of the  
20 fund.

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

25 (b) The retirement system may use money from the fund only  
26 to pay supplemental retirement and death benefits to law  
27 enforcement, juvenile justice, ~~and~~ custodial, or peace officers

1 as provided by this subtitle and to pay for the administration of  
2 the fund.

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

5 (h) In addition to the contribution under Subsection  
6 (a)(1), each department or agency of the state that employs a law  
7 enforcement, juvenile justice, ~~[or]~~ custodial, or peace officer  
8 shall deduct an additional 0.5 percent contribution from that  
9 member's compensation, to be deposited in the law enforcement,  
10 ~~[and]~~ custodial, and peace officer supplemental retirement fund,  
11 provided that, if the state contribution to the law enforcement,  
12 ~~[and]~~ custodial, and peace officer supplemental retirement fund is  
13 computed using a percentage less than 0.5 percent, the member's  
14 contribution is computed using a percentage equal to the percentage  
15 used to compute the state contribution.

16 SECTION 20. Section 815.403(a), Government Code, is amended  
17 to read as follows:

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

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

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

24 (3) an amount for the law enforcement, ~~[and]~~  
25 custodial, and peace officer supplemental retirement fund equal to  
26 2.13 percent of the aggregate state compensation of all law  
27 enforcement, juvenile justice, custodial, and peace ~~[law~~

1 ~~enforcement~~] officers for that year;

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

5 (5) money for service credit not previously  
6 established, as provided by Section [813.202](#)(c) or [813.302](#)(d).

7 SECTION 21. Section [815.505](#), Government Code, is amended to  
8 read as follows:

9 Sec. 815.505. CERTIFICATION OF NAMES OF LAW ENFORCEMENT,  
10 JUVENILE JUSTICE, [AND] CUSTODIAL, AND PEACE OFFICERS. (a) Not  
11 later than the 12th day of the month following the month in which a  
12 person begins or ceases employment as a law enforcement, juvenile  
13 justice, [officer or] custodial, or peace officer, the Public  
14 Safety Commission, the Texas Alcoholic Beverage Commission, the  
15 Parks and Wildlife Commission, the office of the attorney general,  
16 the ~~[office of inspector general at the]~~ Texas Juvenile Justice  
17 Department, the Board of Pardons and Paroles, or the Texas Board of  
18 Criminal Justice, and any other state employer, as applicable,  
19 shall certify to the retirement system, in the manner prescribed by  
20 the system, the name of the employee and such other information as  
21 the system determines is necessary for the crediting of service and  
22 financing of benefits under this subtitle.

23 (b) Not later than the 12th day of the month following the  
24 month in which a person begins or ceases employment as a peace  
25 officer, an employer required to provide information about a person  
26 identified as being employed in a position as a peace officer under  
27 Section [825.515](#) shall certify to the retirement system, in the

1 manner prescribed by the system, the name of the employee and such  
2 other information as the system determines is necessary for the  
3 crediting of service and financing of benefits under this subtitle.

4 SECTION 22. Section 822.002, Government Code, is amended to  
5 read as follows:

6 Sec. 822.002. EXCEPTIONS TO MEMBERSHIP REQUIREMENT. An  
7 employee of the public school system is not permitted to be a member  
8 of the retirement system if the employee:

9 (1) is eligible and elects to participate in the  
10 optional retirement program under Chapter 830;

11 (2) is eligible and elects to participate in the law  
12 enforcement, custodial, and peace officer supplemental retirement  
13 fund under Section 803.2015;

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

17 (4) [~~(2)~~] is solely employed by a public institution  
18 of higher education that as a condition of employment requires the  
19 employee to be enrolled as a student in the institution; or

20 (5) [~~(3)~~] has retired under the retirement system and  
21 has not been reinstated to membership pursuant to Section 824.005  
22 or 824.307.

23 SECTION 23. Section 840.301(a), Government Code, is amended  
24 to read as follows:

25 (a) The board of trustees may, under the standard of care  
26 provided by Section 840.303, invest and reinvest the retirement  
27 system's assets and may commingle assets of the trust fund with the

1 assets of the Employees Retirement System of Texas, including its  
2 trust fund and the law enforcement, ~~and~~ custodial, and peace  
3 officer supplemental retirement fund, for investment purposes, as  
4 long as proportionate ownership records are maintained and  
5 credited.

6 SECTION 24. Section 133.102(e), Local Government Code, is  
7 amended to read as follows:

8 (e) The comptroller shall allocate the court costs received  
9 under this section to the following accounts and funds so that each  
10 receives to the extent practicable, utilizing historical data as  
11 applicable, the same amount of money the account or fund would have  
12 received if the court costs for the accounts and funds had been  
13 collected and reported separately, except that the account or fund  
14 may not receive less than the following percentages:

15 (1) abused children's counseling

16 0.0088 percent;

17 (2) crime stoppers assistance

18 0.2581 percent;

19 (3) breath alcohol testing

20 0.5507 percent;

21 (4) Bill Blackwood Law Enforcement Management

22 Institute

23 2.1683 percent;

24 (5) law enforcement officers standards and education

25 5.0034 percent;

26 (6) comprehensive rehabilitation

27 9.8218 percent;

- 1           (7) law enforcement, ~~and~~ custodial, and peace  
2 officer supplemental retirement fund  
3           11.1426 percent;
- 4           (8) criminal justice planning  
5           12.5537 percent;
- 6           (9) an account in the state treasury to be used only  
7 for the establishment and operation of the Center for the Study and  
8 Prevention of Juvenile Crime and Delinquency at Prairie View A&M  
9 University  
10          1.2090 percent;
- 11          (10) compensation to victims of crime fund  
12          37.6338 percent;
- 13          (11) emergency radio infrastructure account  
14          5.5904 percent;
- 15          (12) judicial and court personnel training fund  
16          4.8362 percent;
- 17          (13) an account in the state treasury to be used for  
18 the establishment and operation of the Correctional Management  
19 Institute of Texas and Criminal Justice Center Account  
20          1.2090 percent; and
- 21          (14) fair defense account  
22          8.0143 percent.

23          SECTION 25. (a) Not later than December 31, 2017, a person  
24 who is a member of the Teacher Retirement System of Texas and is  
25 identified under Section [825.515](#), Government Code, as being  
26 employed as a peace officer shall decide whether to:

- 27           (1) remain a member in the Teacher Retirement System



1 of Texas; or

2 (2) become a member of the employee class as a peace  
3 officer participating in the Employees Retirement System law  
4 enforcement, custodial, and peace officer supplemental retirement  
5 fund effective January 1, 2018.

6 (b) Not later than December 31, 2017, a person who is a  
7 member of the Employees Retirement System of Texas, holds a  
8 position as a law enforcement, juvenile justice, custodial, or  
9 peace officer, and was not eligible before the effective date of  
10 this Act to participate in the law enforcement and custodial  
11 officer supplemental retirement fund shall decide whether to:

12 (1) remain a member of the Employees Retirement System  
13 of Texas without participating in the law enforcement, custodial,  
14 and peace officer supplemental retirement fund; or

15 (2) begin participation in the Employees Retirement  
16 System law enforcement, custodial, and peace officer supplemental  
17 retirement fund effective January 1, 2018.

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

24 (1) service credit earned before January 1, 2018; and

25 (2) service credit earned on or after January 1, 2018.

26 (d) A person who earns service credit described by  
27 Subsections (c)(1) and (2) of this section is eligible to have that

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1 credit treated as combined service credit under Chapter 803,  
2 Government Code, as amended by this Act.

3 SECTION 26. This Act takes effect September 1, 2017.