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By:  Gutierrez H.B. No. 2472

A BILL TO BE ENTITLED

AN ACT

relating to retirement benefits for certain peace officers who are members of the Teacher Retirement System of Texas, including the creation of a peace officer supplemental retirement fund.

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

SECTION 1.  Section 821.001, Government Code, is amended by adding Subdivision (11-a) to read as follows:

(11-a)  "Peace officer" means a member of the retirement system who is elected, employed, or appointed as a peace officer under Article 2.12, Code of Criminal Procedure, Section 37.081 or 51.203, Education Code, or other law.

SECTION 2.  Section 822.005, Government Code, is amended by adding Subsection (e) to read as follows:

(e)  For a peace officer, the withdrawal of accumulated contributions under Subsection (a) includes all of the officer's contributions made under Section 825.403.

SECTION 3.  Section 824.202, Government Code, is amended by adding Subsection (g) to read as follows:

(g)  Notwithstanding any other law, a member who is at least 55 years old and who has at least 10 years of service credit as a peace officer engaged in law enforcement activities by a school district or institution of higher education is eligible to retire and receive a service retirement annuity.

SECTION 4.  Subchapter C, Chapter 824, Government Code, is amended by adding Section 824.2035 to read as follows:

Sec. 824.2035.  SERVICE RETIREMENT BENEFITS FOR CERTAIN PEACE OFFICERS. (a) A member who has at least 20 years of service credit as a peace officer is eligible to retire regardless of age and receive a standard service retirement annuity in an amount and to be funded as provided by this section.

(b)  The standard service retirement annuity payable for at least 20 years of service credit as a peace officer is an amount computed on the basis of the member's average annual compensation for the five years of service, whether or not consecutive, in which the member received the highest annual compensation, times the sum of the percentage factor used in the computation of a standard service retirement annuity under Section 824.203 plus 0.5 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 or the age at which the sum of the member's age and amount of service credit equals the number 80. The annuity of a peace 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.

(d)  A peace officer who retires before attaining the age of 50 is entitled only to an annuity that is actuarially reduced from the annuity available at the age of 50 to the peace officer whose service credit annuity amount is based on the sum of the member's age and amount of peace officer service credit and other 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 appropriate accounts described by Section 825.306 and the peace officer supplemental retirement fund in a ratio determined by the retirement system.

(e)  Optional retirement annuities provided by Section 824.204 are available to a member eligible to receive a service retirement annuity under this section, but the same optional plan and beneficiary must be selected for the portion of the annuity payable from the peace officer supplemental retirement fund and the portion payable from appropriate accounts described by Section 825.306.

(f)  The amount payable from the peace officer supplemental retirement fund is reducible by the amount paid from appropriate accounts described by Section 825.306 for service as a peace officer. The total combined amount of an annuity under this section may not be less than the authorized benefit under Subsection (b) subtracted by any amount necessary because of selection of an optional annuity, because of retirement before the normal retirement age, or as provided by Subsection (g).

(g)  The standard combined service retirement annuity payable for at least 20 years of service credit as a peace officer may not exceed 100 percent of the average compensation computed under Subsection (b).

(h)  For purposes of this section, service as a peace officer is creditable as provided by rule of the board of trustees or on a month-to-month basis, whichever is greater.

SECTION 5.  Subchapter D, Chapter 824, Government Code, is amended by adding Section 824.3045 to read as follows:

Sec. 824.3045.  DISABILITY RETIREMENT BENEFITS FOR CERTAIN PEACE OFFICERS. (a) An annuity payable for a disability resulting from a risk to which peace officers are exposed because of the nature of the officers' duties is payable under the same terms and conditions that apply to other disability retirement annuities under this subtitle, except that the source and amount of the annuity are as provided by this section.

(b)  Except as provided by Subsection (c), a disability retirement annuity under this section is an amount, but not more than 100 percent, computed on the basis of the officer's average annual compensation, times a percentage derived by application of Section 824.2035(b).

(c)  A disability retirement annuity under this section is not reducible because of age and may not be less than 50 percent of the officer's average annual compensation regardless of the amount of service credited to the officer.

(d)  The portions of the annuity under this section payable from the peace officer supplemental retirement fund are the amount remaining after deduction of any amount payable under Section 824.304, except the portion of an amount that exceeds the minimum payments provided by Section 824.304 and that is made for service other than as a peace officer and any amount by which an annuity is increased under Subsection (e).

(e)  If a retiring member or retiree under this section presents evidence satisfactory to the retirement system that the person's disability makes the person incapable of substantial gainful activity solely because of the disability and is considered a total disability under federal social security law, the retirement system shall increase the person's disability retirement annuity to 100 percent of the officer's average annual compensation.

(f)  An annuity increase under Subsection (e) is not payable before the first month following the month in which the satisfactory evidence is received by the retirement system under Subsection (e).

SECTION 6.  Subchapter E, Chapter 824, Government Code, is amended by adding Section 824.4025 to read as follows:

Sec. 824.4025.  ANNUITY FOR SURVIVOR OF PEACE OFFICER. If a member who has at least 20 years of service credit as a peace officer dies, the amount of the death benefit annuity payable for the member's service as a peace officer is an amount computed and funded as provided by Section 824.2035, including any applicable reduction factors.

SECTION 7.  Section 825.102, Government Code, is amended to read as follows:

Sec. 825.102.  RULEMAKING. Subject to the limitations of this subtitle, the board of trustees may adopt rules for:

(1)  eligibility for membership;

(2)  the administration of the funds of the retirement system; [~~and~~]

(3)  the transaction of business of the board; and

(4)  the program of supplemental benefits for peace officers.

SECTION 8.  Section 825.103, Government Code, is amended by adding Subsection (b-1) to read as follows:

(b-1)  The board of trustees may authorize the executive director to acquire, hold, manage, purchase, sell, assign, trade, transfer, and dispose of any security, evidence of debt, or other investment in which assets of the peace officer supplemental retirement fund may be invested.

SECTION 9.  Section 825.208, Government Code, is amended by adding Subsection (d) to read as follows:

(d)  The board of trustees shall make payments from the peace officer supplemental retirement fund for services rendered by the actuary for that fund and approved by the board.

SECTION 10.  Section 825.301(a), Government Code, is amended to read as follows:

(a)  The board of trustees shall invest and reinvest assets of the retirement system without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution, and hold securities purchased with the assets described by this subsection collectively for the proportionate benefit of all accounts listed under Section 825.306 and the peace officer supplemental retirement fund.  For purposes of the investment authority of the board of trustees under Section 67, Article XVI, Texas Constitution, "securities" includes any investment instrument within the meaning of the term as defined by Section 4, The Securities Act (Article 581-4, Vernon's Texas Civil Statutes), 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10), any derivative instrument, and any other instrument commonly used by institutional investors to manage institutional investment portfolios. An interest in a limited partnership or investment contract is considered a security without regard to the number of investors or the control, access to information, or rights granted to or retained by the retirement system. Any instrument or contract intended to manage transaction or currency exchange risk in purchasing, selling, or holding securities is considered to be a security. Investment decisions are subject to the standard provided in the Texas Trust Code by Section 117.004(b), Property Code.

SECTION 11.  Section 825.305, Government Code, is amended to read as follows:

Sec. 825.305.  AVAILABLE CASH. The board of trustees may keep on deposit with the comptroller available cash not exceeding 10 percent of the total assets of the retirement system, to pay annuity and other disbursements, excluding the assets of the peace officer supplemental retirement fund.

SECTION 12.  Section 825.306(a), Government Code, is amended to read as follows:

(a)  The assets of the retirement system, except assets of the peace officer supplemental retirement fund, shall be maintained and reported in a manner that reflects the source of the assets or the purpose for which the assets are held, using appropriate ledgers and subledgers, in accordance with generally accepted accounting principles prescribed by the Governmental Accounting Standards Board or its successor.  In addition, the maintenance and reporting of the assets must be in compliance with applicable tax law and consistent with any fiduciary duty owed with respect to the trust.  In the alternative, the assets may be credited, according to the purpose for which they are held, to one of the following accounts:

(1)  member savings account;

(2)  state contribution account;

(3)  retired reserve account;

(4)  interest account;

(5)  expense account; or

(6)  deferred retirement option account.

SECTION 13.  Subchapter D, Chapter 825, Government Code, is amended by adding Section 825.316 to read as follows:

Sec. 825.316.  PEACE OFFICER SUPPLEMENTAL RETIREMENT FUND. (a) The retirement system shall deposit in the peace officer supplemental retirement fund state contributions and other appropriations made by the legislature to the fund and proceeds from investment of the fund.

(b)  The retirement system may use money from the fund only to pay supplemental retirement, disability, and death benefits to peace officers as provided by this subtitle and to pay for the administration of the fund.

(c)  Money appropriated to pay benefits from the fund as provided by this subtitle may not be diverted or used to pay any other benefits.

(d)  Member contributions to the fund deducted under Section 825.403(a-1):

(1)  earn interest at the same rate as money in an individual account in the member savings account under Section 825.307; and

(2)  are subject to the same computations and limitations that apply to member contributions under Section 825.307.

SECTION 14.  Section 825.403, Government Code, is amended by adding Subsection (a-1) to read as follows:

(a-1)  In addition to the contribution under Subsection (a), each employer of a peace officer shall deduct an additional 0.5 percent contribution from that member's compensation, to be deposited in the peace officer supplemental retirement fund, provided that, if the state contribution to the peace officer supplemental retirement fund is computed using a percentage less than 0.5 percent, the member's contribution is computed using a percentage equal to the percentage used to compute the state contribution.

SECTION 15.  Sections 825.404(a), (a-1), (b), and (b-1), Government Code, are amended to read as follows:

(a)  Except as provided by Subsection (a-1), during each fiscal year, the state shall contribute to the retirement system:

(1)  an amount equal to at least six and not more than 10 percent of the aggregate annual compensation of all members of the retirement system during that fiscal year;

(2)  an amount for the peace officer supplemental retirement fund equal to 2.13 percent of the aggregate state compensation of all peace officers for that fiscal year; and

(3)  money necessary for the administration of the peace officer supplemental retirement fund.

(a-1)  In computing the amount owed by the state under Subsection (a)(1) [~~(a)~~], the compensation of members who are employed by public junior colleges or public junior college districts shall be included in the aggregate annual compensation as follows:

(1)  50 percent of the eligible creditable compensation of employees who:

(A)  otherwise are eligible for membership in the retirement system; and

(B)  are instructional or administrative employees whose salaries may be fully paid from funds appropriated under the General Appropriations Act, regardless of whether such salaries are actually paid from appropriated funds; and

(2)  none of the eligible creditable compensation of all other employees who:

(A)  do not meet the requirements of Subdivision (1)(B) but are otherwise eligible for membership in the retirement system; or

(B)  cannot be included as a qualifying employee under Subdivision (1) by application of Subsection (b-1).

(b)  Before November 2 of each even-numbered year, the board of trustees, in coordination with the Legislative Budget Board, shall certify to the comptroller of public accounts for review and adoption an estimate of the amount necessary to pay the state's contributions to the retirement system for the following biennium and, as a separate item, an estimate of the amount required to administer the peace officer supplemental retirement fund for the following biennium. For qualifying employees under Subsection (a-1)(1), the board of trustees shall include only the amount payable by the state under Subsection (a-1)(1) in determining the amount to be certified.

(b-1)  In determining the amount necessary to pay the state's contribution under [~~described by~~] Subsection (b), excluding the amount required to administer the peace officer supplemental retirement fund, the number of qualifying employees under Subsection (a-1)(1) whose compensation may be included for each public junior college or public junior college district in each biennium may not be adjusted in a proportion greater than the change in student enrollment at each college during the reporting period except that a college that experiences a decline in student enrollment may petition the Legislative Budget Board to maintain the number of eligible employees up to 98 percent of the level of the prior biennium.

SECTION 16.  Subchapter F, Chapter 825, Government Code, is amended by adding Section 825.5155 to read as follows:

Sec. 825.5155.  CERTIFICATION OF NAMES OF PEACE OFFICERS. Not later than the 12th day of the month following the month in which a person begins or ceases employment as a peace officer, the employer shall certify to the retirement system, in the manner prescribed by the system, the name of the employee and such other information as the system determines is necessary for the crediting of service and financing of benefits under this subtitle.

SECTION 17.  (a) Except as provided by Subsection (b) of this section, employers participating in the Teacher Retirement System of Texas shall begin making deductions and collecting the contributions for the peace officer supplemental retirement fund as provided by Section 825.403(a-1), Government Code, as added by this Act, based on service that is performed on or after December 31, 2019.

(b)  The board of trustees of the Teacher Retirement System of Texas shall adopt rules as soon as possible after the effective date of this Act to implement the changes in law made by this Act, including rules governing the treatment of a member of the Teacher Retirement System of Texas whose employment as a peace officer began before December 31, 2019. Rules adopted under this section relating to a member whose employment as a peace officer began before December 31, 2019, must include rules that:

(1)  notwithstanding any provision of this Act, allow the member to opt out of participating in the peace officer supplemental retirement fund provided by Section 825.403(a-1), Government Code, as added by this Act; and

(2)  ensure that any benefit paid to the member from the peace officer supplemental retirement fund is reasonably related to the member's contribution to the fund.

SECTION 18.  This Act takes effect September 1, 2019.