86R2527 TSR-F

By:  Cole H.B. No. 2619

A BILL TO BE ENTITLED

AN ACT

relating to eligibility for membership and funding of benefits for certain 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.  Section 811.001, Government Code, is amended by amending Subdivisions (6) and (14) and adding Subdivision (12-b) to read as follows:

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

(12-b)  "Peace officer" means a person:

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

(B)  certified as being a peace officer under Section 815.505.

(14)  "Retiree" means a person who, except as provided by Section 812.203 or 812.2035, receives an annuity based on service that was credited to the person in a class of membership.

SECTION 3.  Section 812.003, Government Code, is amended by amending Subsections (b) and (c) and adding Subsection (b-1) to read as follows:

(b)  An office or employment that is included in the coverage of the Teacher Retirement System of Texas, other than in a position identified as a peace officer position under Section 825.515 in which an election is made under Section 812.0035 or 812.0036, 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.

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

(c)  Membership in the employee class is mandatory for eligible persons, other than eligible persons who do not make an election under Section 812.0035.

SECTION 4.  Subchapter A, Chapter 812, Government Code, is amended by adding Sections 812.0035 and 812.0036 to read as follows:

Sec. 812.0035.  OPTIONAL MEMBERSHIP FOR CERTAIN LAW ENFORCEMENT OFFICERS. (a) In lieu of participating in the Teacher Retirement System of Texas, a person who is employed in a position identified as a peace officer position for a public school other than an institution of higher education under Section 825.515 may elect, not later than the 60th day after the first date of employment, to participate, or return to participation, in the retirement system.

(b)  An election by a person described by Subsection (a) to participate in the retirement system must be on a form prescribed by the retirement system for that purpose.

(c)  Sections 812.205 and 812.206 do not apply to a person who makes an election under this section.

Sec. 812.0036.  CERTAIN PEACE OFFICERS EMPLOYED ON AUGUST 31, 2019. (a) This section applies to a person who, on August 31, 2019:

(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 for a public school that is not an institution of higher education; and

(B)  elects, not later than November 1, 2019, to begin membership as a peace officer participating in the Employees Retirement System of Texas law enforcement, custodial, and peace officer supplemental retirement fund beginning January 1, 2020; or

(2)  is a member of the Teacher Retirement System of Texas and is a retiree of the Employees Retirement System of Texas or a member of that system who is absent from service and who:

(A)  was employed as a law enforcement or custodial officer;

(B)  is identified under Section 825.515 as being employed in a position as a peace officer for a public school that is not an institution of higher education; and

(C)  elects, not later than November 1, 2019, to return to membership as a peace officer participating in the Employees Retirement System of Texas law enforcement, custodial, and peace officer supplemental retirement fund beginning January 1, 2020.

(b)  For the purposes of this chapter, service credit earned by a person described by Subsection (a)(1) is considered service credit earned in two retirement systems and is subject to Section 803.201. The membership on which combined service credit is based is service credit accrued:

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

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

(c)  For purposes of this chapter, service credit earned by a person who makes an election under Subsection (a)(2) is governed by Sections 812.201(d) and 812.2035. Service credit earned by that person in the Teacher Retirement System of Texas before the effective date of the election is transferred to the Employees Retirement System of Texas as provided by Chapter 805 without regard to the amount of service credit held in either system.

SECTION 5.  Section 812.101(c), Government Code, is amended to read as follows:

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

SECTION 6.  Section 812.201, Government Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a)  Except as provided by Subsection (c) or (d), a retiree may not rejoin the retirement system as a member of the class from which the person retired.

(d)  A person who is retired from the employee class of membership and who is employed in a position identified as a peace officer position for a public school other than an institution of higher education under Section 825.515 may elect to become a member again under Section 812.0035 by filing notice with the retirement system. Except as provided by Section 812.2035(c), when benefit payments are resumed, the retirement system shall recompute the annuity selected at the time of the officer's original retirement to include the additional service established during membership under this subsection.

SECTION 7.  Section 812.202(b), Government Code, is amended to read as follows:

(b)  Except as provided by Section 812.2035, the [~~The~~] payment of benefits to a retiree for service credited in the employee class of membership is not affected by the retiree's taking a position included in the employee class.

SECTION 8.  The heading to Section 812.203, Government Code, is amended to read as follows:

Sec. 812.203.  ELECTED CLASS BENEFITS AFFECTED.

SECTION 9.  Subchapter C, Chapter 812, Government Code, is amended by adding Section 812.2035 to read as follows:

Sec. 812.2035.  CERTAIN EMPLOYEE CLASS BENEFITS AFFECTED. (a) If a retiree takes a position as a peace officer and elects to participate again in the system under Section 812.0035, the retirement system shall suspend annuity payments to the person for service that was credited in that class until the person no longer holds that position.

(b)  Time during which annuity payments are suspended as provided by this section does not reduce the number of months payments are to be made under an optional benefit selection providing for a specific amount of benefits for a guaranteed number of months after retirement.

(c)  If a member who originally retired with service that was, at the time of that retirement, credited only in the employee class of membership again retires, the person at the time of subsequent retirement may select an annuity based on service in the employee class as if the person were retiring for the first time. If the person selects an annuity under Section 814.108(c)(3) or (c)(4), the retirement system shall reduce the number of months of guaranteed payment by the number of months for which an annuity was paid under the person's original retirement.

SECTION 10.  Section 813.513(a), Government Code, is amended to read as follows:

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

SECTION 11.  Section 814.107, Government Code, is amended to read as follows:

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

(a-1)  A member who has at least 20 years of service credit as a law enforcement, [~~or~~] custodial, or 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 law enforcement, [~~or~~] custodial, or peace officer is an amount computed on the basis of the member's average monthly compensation for the 60 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 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, or 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.

(c-1)  A law enforcement, [~~or~~] custodial, or 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 law enforcement, [~~or~~] custodial, or peace officer whose service credit annuity amount is based on the sum of the member's age and amount of law enforcement, [~~or~~] custodial, or peace 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, and peace officer supplemental retirement fund in a ratio determined by the retirement system.

(d)  A member who retires under this section retires simultaneously from the employee class of membership. Optional retirement annuities provided by Section 814.108 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 law enforcement, [~~and~~] custodial, and peace officer supplemental retirement fund and the portion payable from the trust fund established by Section 815.310.

(e)  The amount payable from the law enforcement, [~~and~~] custodial, and peace officer supplemental retirement fund is reducible by the amount paid from the trust fund established by Section 815.310 for service as a law enforcement, [~~or~~] custodial, or 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 (f).

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

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

SECTION 12.  The heading to Section 814.207, Government Code, is amended to read as follows:

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

SECTION 13.  Section 814.207, Government Code, is amended by amending Subsections (a) and (d) and adding Subsection (a-1) to read as follows:

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

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

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

SECTION 14.  Section 814.305, Government Code, is amended to read as follows:

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

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

SECTION 15.  Section 815.103(c), Government Code, is amended to read as follows:

(c)  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 law enforcement, [~~and~~] custodial, and peace officer supplemental retirement fund may be invested.

SECTION 16.  Section 815.208(c), Government Code, is amended to read as follows:

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

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

(a)  The board of trustees shall:

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

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

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

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

(b)  Except as provided by Section 815.3016, the board of trustees may delegate its authority under Subsection (a) to the executive director.  Subject to Section 815.3016, the board of trustees or the executive director may, under the standard of care provided by Section 815.307, invest and reinvest any of the retirement system's assets and may commingle assets of the trust fund and the law enforcement, [~~and~~] custodial, and peace officer supplemental retirement fund with the assets of the Judicial Retirement System of Texas Plan Two for investment purposes, as long as proportionate ownership records are maintained and credited.  Investments may include home office facilities, including land, equipment, and office building, used in administering the retirement system.

SECTION 18.  Section 815.308(b), Government Code, is amended to read as follows:

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

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

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

SECTION 20.  The heading to Section 815.317, Government Code, is amended to read as follows:

Sec. 815.317.  LAW ENFORCEMENT, [~~AND~~] CUSTODIAL, AND PEACE OFFICER SUPPLEMENTAL RETIREMENT FUND.

SECTION 21.  Sections 815.317(a), (a-1), and (b), Government Code, are amended to read as follows:

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

(a-1)  The comptroller shall deposit fees collected under Section 133.102(e)(5) [~~133.102(e)(7)~~], Local Government Code, to the credit of the law enforcement, [~~and~~] custodial, and peace officer supplemental retirement fund.

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

SECTION 22.  Section 815.402(h), Government Code, is amended to read as follows:

(h)  In addition to the contribution under Subsection (a)(1), each department or agency of the state that employs a law enforcement, [~~or~~] custodial, or peace officer shall deduct an additional 0.5 percent contribution from that member's compensation, to be deposited in the law enforcement, [~~and~~] custodial, and peace officer supplemental retirement fund, provided that, if the state contribution to the law enforcement, [~~and~~] custodial, and 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 23.  Section 815.403(a), Government Code, is amended to read as follows:

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

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

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

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

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

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

SECTION 24.  Section 815.505, Government Code, is amended to read as follows:

Sec. 815.505.  CERTIFICATION OF NAMES OF LAW ENFORCEMENT, [~~AND~~] CUSTODIAL, AND PEACE OFFICERS. (a) Not later than the 12th day of the month following the month in which a person begins or ceases employment as a law enforcement officer or custodial officer, the Public Safety Commission, the Texas Alcoholic Beverage Commission, the Parks and Wildlife Commission, the office of inspector general at the Texas Juvenile Justice Department, the Board of Pardons and Paroles, or the Texas Board of Criminal Justice, as applicable, 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.

(b)  This subsection applies only to a person who elects or elected to participate in the retirement system as a peace officer. Not later than the 12th day of the month following the month in which a person begins or ceases employment as a peace officer, an employer required to provide information about a person identified as being employed in a position as a peace officer in a public school other than an institution of higher education under Section 825.515 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 25.  Section 822.001(a), Government Code, is amended to read as follows:

(a)  Membership in the retirement system includes:

(1)  all persons who were members of the retirement system on the day before the effective date of this subtitle; and

(2)  all employees of the public school system, unless an employee is excluded from membership under Section 822.002.

SECTION 26.  Section 822.002(a), Government Code, is amended to read as follows:

(a)  An employee of the public school system is not permitted to be a member of the retirement system if the employee:

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

(2)  is eligible and elects to participate in the Employees Retirement System of Texas under Section 812.0035 or 812.0036(a); or

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

SECTION 27.  Section 840.301(a), Government Code, is amended to read as follows:

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

SECTION 28.  Section 133.102(e), Local Government Code, is amended to read as follows:

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

(1)  crime stoppers assistance 0.2581 percent;

(2)  breath alcohol testing 0.5507 percent;

(3)  Bill Blackwood Law Enforcement Management Institute 2.1683 percent;

(4)  law enforcement officers standards and education 5.0034 percent;

(5)  law enforcement, [~~and~~] custodial, and peace officer supplemental retirement fund 11.1426 percent;

(6)  criminal justice planning 12.5537 percent;

(7)  an account in the state treasury to be used only for the establishment and operation of the Center for the Study and Prevention of Juvenile Crime and Delinquency at Prairie View A&M University 1.2090 percent;

(8)  compensation to victims of crime fund

37.6338 percent;

(9)  emergency radio infrastructure account

5.5904 percent;

(10)  judicial and court personnel training fund

4.8362 percent;

(11)  an account in the state treasury to be used for the establishment and operation of the Correctional Management Institute of Texas and Criminal Justice Center Account 1.2090 percent; and

(12)  fair defense account 17.8448 percent.

SECTION 29.  The name of the law enforcement and custodial officer supplemental retirement fund is changed to the law enforcement, custodial, and peace officer supplemental retirement fund. A reference in Subtitle B, Title 8, Government Code, or other law to the law enforcement and custodial officer supplemental retirement fund means the law enforcement, custodial, and peace officer supplemental retirement fund.

SECTION 30.  This Act takes effect September 1, 2019.