

By: Gutierrez

H.B. No. 2472

A BILL TO BE ENTITLED

1 AN ACT

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

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

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

8 (11-a) "Peace officer" means a member of the
9 retirement system who is elected, employed, or appointed as a peace
10 officer under Article 2.12, Code of Criminal Procedure, Section
11 37.081 or 51.203, Education Code, or other law.

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

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

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

19 (g) Notwithstanding any other law, a member who is at least
20 55 years old and who has at least 10 years of service credit as a
21 peace officer engaged in law enforcement activities by a school
22 district or institution of higher education is eligible to retire
23 and receive a service retirement annuity.

24 SECTION 4. Subchapter C, Chapter 824, Government Code, is

1 amended by adding Section 824.2035 to read as follows:

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

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

14 (c) The standard combined service retirement annuity that
15 is payable under this section is based on retirement on or after the
16 attainment of the normal retirement age, which for purposes of this
17 section is the earlier of either the age of 57 or the age at which
18 the sum of the member's age and amount of service credit equals the
19 number 80. The annuity of a peace officer who retires before
20 reaching the age of 57 under any eligibility criteria is
21 actuarially reduced by five percent for each year of difference
22 between the member's age at retirement and 57. The actuarial
23 reduction described by this section is in addition to any other
24 actuarial reduction required by law.

25 (d) A peace officer who retires before attaining the age of
26 50 is entitled only to an annuity that is actuarially reduced from
27 the annuity available at the age of 50 to the peace officer whose

1 service credit annuity amount is based on the sum of the member's
2 age and amount of peace officer service credit and other service
3 credit, and is not entitled to have the annuity recalculated at
4 normal retirement age. The standard or reduced annuity under this
5 section is payable from appropriate accounts described by Section
6 825.306 and the peace officer supplemental retirement fund in a
7 ratio determined by the retirement system.

8 (e) Optional retirement annuities provided by Section
9 824.204 are available to a member eligible to receive a service
10 retirement annuity under this section, but the same optional plan
11 and beneficiary must be selected for the portion of the annuity
12 payable from the peace officer supplemental retirement fund and the
13 portion payable from appropriate accounts described by Section
14 825.306.

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

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

27 (h) For purposes of this section, service as a peace officer

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

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

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

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

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

21 (d) The portions of the annuity under this section payable
22 from the peace officer supplemental retirement fund are the amount
23 remaining after deduction of any amount payable under Section
24 824.304, except the portion of an amount that exceeds the minimum
25 payments provided by Section 824.304 and that is made for service
26 other than as a peace officer and any amount by which an annuity is
27 increased under Subsection (e).

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

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

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

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

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

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

- 25 (1) eligibility for membership;
26 (2) the administration of the funds of the retirement
27 system; ~~and~~

- 1 (3) the transaction of business of the board; and
2 (4) the program of supplemental benefits for peace
3 officers.

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

6 (b-1) 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 peace officer supplemental
10 retirement fund may be invested.

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

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

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

18 (a) The board of trustees shall invest and reinvest assets
19 of the retirement system without distinction as to their source in
20 accordance with Section 67, Article XVI, Texas Constitution, and
21 hold securities purchased with the assets described by this
22 subsection collectively for the proportionate benefit of all
23 accounts listed under Section 825.306 and the peace officer
24 supplemental retirement fund. For purposes of the investment
25 authority of the board of trustees under Section 67, Article XVI,
26 Texas Constitution, "securities" includes any investment
27 instrument within the meaning of the term as defined by Section 4,

1 The Securities Act (Article 581-4, Vernon's Texas Civil Statutes),
2 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10), any
3 derivative instrument, and any other instrument commonly used by
4 institutional investors to manage institutional investment
5 portfolios. An interest in a limited partnership or investment
6 contract is considered a security without regard to the number of
7 investors or the control, access to information, or rights granted
8 to or retained by the retirement system. Any instrument or contract
9 intended to manage transaction or currency exchange risk in
10 purchasing, selling, or holding securities is considered to be a
11 security. Investment decisions are subject to the standard
12 provided in the Texas Trust Code by Section 117.004(b), Property
13 Code.

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

16 Sec. 825.305. AVAILABLE CASH. The board of trustees may
17 keep on deposit with the comptroller available cash not exceeding
18 10 percent of the total assets of the retirement system, to pay
19 annuity and other disbursements, excluding the assets of the peace
20 officer supplemental retirement fund.

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

23 (a) The assets of the retirement system, except assets of
24 the peace officer supplemental retirement fund, shall be maintained
25 and reported in a manner that reflects the source of the assets or
26 the purpose for which the assets are held, using appropriate
27 ledgers and subledgers, in accordance with generally accepted

1 accounting principles prescribed by the Governmental Accounting
2 Standards Board or its successor. In addition, the maintenance and
3 reporting of the assets must be in compliance with applicable tax
4 law and consistent with any fiduciary duty owed with respect to the
5 trust. In the alternative, the assets may be credited, according
6 to the purpose for which they are held, to one of the following
7 accounts:

- 8 (1) member savings account;
- 9 (2) state contribution account;
- 10 (3) retired reserve account;
- 11 (4) interest account;
- 12 (5) expense account; or
- 13 (6) deferred retirement option account.

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

16 Sec. 825.316. PEACE OFFICER SUPPLEMENTAL RETIREMENT FUND.

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

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

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

1 (d) Member contributions to the fund deducted under Section
2 825.403(a-1):

3 (1) earn interest at the same rate as money in an
4 individual account in the member savings account under Section
5 825.307; and

6 (2) are subject to the same computations and
7 limitations that apply to member contributions under Section
8 825.307.

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

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

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

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

24 (1) an amount equal to at least six and not more than
25 10 percent of the aggregate annual compensation of all members of
26 the retirement system during that fiscal year;

27 (2) an amount for the peace officer supplemental

1 retirement fund equal to 2.13 percent of the aggregate state
2 compensation of all peace officers for that fiscal year; and

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

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

10 (1) 50 percent of the eligible creditable compensation
11 of employees who:

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

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

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

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

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

25 (b) Before November 2 of each even-numbered year, the board
26 of trustees, in coordination with the Legislative Budget Board,
27 shall certify to the comptroller of public accounts for review and

1 adoption an estimate of the amount necessary to pay the state's
2 contributions to the retirement system for the following biennium
3 and, as a separate item, an estimate of the amount required to
4 administer the peace officer supplemental retirement fund for the
5 following biennium. For qualifying employees under Subsection
6 (a-1)(1), the board of trustees shall include only the amount
7 payable by the state under Subsection (a-1)(1) in determining the
8 amount to be certified.

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

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

23 Sec. 825.5155. CERTIFICATION OF NAMES OF PEACE OFFICERS.
24 Not later than the 12th day of the month following the month in
25 which a person begins or ceases employment as a peace officer, the
26 employer shall certify to the retirement system, in the manner
27 prescribed by the system, the name of the employee and such other

1 information as the system determines is necessary for the crediting
2 of service and financing of benefits under this subtitle.

3 SECTION 17. (a) Except as provided by Subsection (b) of
4 this section, employers participating in the Teacher Retirement
5 System of Texas shall begin making deductions and collecting the
6 contributions for the peace officer supplemental retirement fund as
7 provided by Section 825.403(a-1), Government Code, as added by this
8 Act, based on service that is performed on or after December 31,
9 2019.

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

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

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

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