

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

1 by Section [812.203](#) or [812.2035](#), receives an annuity based on
2 service that was credited to the person in a class of membership.

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

6 (b) An office or employment that is included in the coverage
7 of the Teacher Retirement System of Texas, other than in a position
8 identified as a peace officer position under Section [825.515](#) in
9 which an election is made under Section [812.0035](#) or [812.0036](#), the
10 Judicial Retirement System of Texas Plan One, or the Judicial
11 Retirement System of Texas Plan Two or, except as provided by
12 Section 9.01, Chapter 238 (S.B. 378), Acts of the 73rd Legislature,
13 Regular Session, 1993, is with a university system or institution
14 of higher education, as defined by Section [61.003](#), Education Code,
15 is not a position with a department, commission, board, agency, or
16 institution of the state for purposes of this subtitle.

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

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

23 SECTION 4. Subchapter A, Chapter [812](#), Government Code, is
24 amended by adding Sections [812.0035](#) and [812.0036](#) to read as
25 follows:

26 Sec. [812.0035](#). OPTIONAL MEMBERSHIP FOR CERTAIN LAW
27 ENFORCEMENT OFFICERS. (a) In lieu of participating in the Teacher

1 Retirement System of Texas, a person who is employed in a position
2 identified as a peace officer position for a public school other
3 than an institution of higher education under Section 825.515 may
4 elect, not later than the 60th day after the first date of
5 employment, to participate, or return to participation, in the
6 retirement system.

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

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

12 Sec. 812.0036. CERTAIN PEACE OFFICERS EMPLOYED ON AUGUST
13 31, 2019. (a) This section applies to a person who, on August 31,
14 2019:

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

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

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

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

27 (A) was employed as a law enforcement or

1 custodial officer;

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

5 (C) elects, not later than November 1, 2019, to
6 return to membership as a peace officer participating in the
7 Employees Retirement System of Texas law enforcement, custodial,
8 and peace officer supplemental retirement fund beginning January 1,
9 2020.

10 (b) For the purposes of this chapter, service credit earned
11 by a person described by Subsection (a)(1) is considered service
12 credit earned in two retirement systems and is subject to Section
13 803.201. The membership on which combined service credit is based
14 is service credit accrued:

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

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

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

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

3 (c) For a law enforcement, ~~or~~ custodial, or peace officer,
4 the withdrawal of accumulated contributions under Subsection (a)
5 includes all of the officer's contributions made under Section
6 815.402(h).

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

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

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

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

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

1 taking a position included in the employee class.

2 SECTION 8. The heading to Section [812.203](#), Government Code,
3 is amended to read as follows:

4 Sec. 812.203. ELECTED CLASS BENEFITS AFFECTED.

5 SECTION 9. Subchapter C, Chapter [812](#), Government Code, is
6 amended by adding Section 812.2035 to read as follows:

7 Sec. 812.2035. CERTAIN EMPLOYEE CLASS BENEFITS AFFECTED.

8 (a) If a retiree takes a position as a peace officer and elects to
9 participate again in the system under Section 812.0035, the
10 retirement system shall suspend annuity payments to the person for
11 service that was credited in that class until the person no longer
12 holds that position.

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

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

27 SECTION 10. Section [813.513](#)(a), Government Code, is amended

1 to read as follows:

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

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

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

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

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

23 (c) The standard combined service retirement annuity that
24 is payable under this section is based on retirement on or after the
25 attainment of the normal retirement age, which for purposes of this
26 section is the earlier of either the age of 57 or the age at which
27 the sum of the member's age and amount of service credit in the

1 employee class equals the number 80. The annuity of a law
2 enforcement, ~~[or]~~ custodial, or peace officer who retires before
3 reaching the age of 57 under any eligibility criteria is
4 actuarially reduced by five percent for each year of difference
5 between the member's age at retirement and 57. The actuarial
6 reduction described by this section is in addition to any other
7 actuarial reduction required by law.

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

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

1 retirement fund and the portion payable from the trust fund
2 established by Section 815.310.

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

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

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

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

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

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

27 (a) This section applies only to a member who participates

1 in the law enforcement, custodial, and peace officer supplemental
2 retirement fund.

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

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

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

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

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

1 amount computed and funded as provided by Section 814.107,
2 including any applicable reduction factors.

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

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

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

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

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

18 (a) The board of trustees shall:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 SECTION 22. 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, ~~[or]~~ custodial, or peace officer shall deduct an
23 additional 0.5 percent contribution from that member's
24 compensation, to be deposited in the law enforcement, ~~[and]~~
25 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 23. 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, custodial, and peace ~~[law enforcement]~~ officers for
16 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 24. Section 815.505, Government Code, is amended to
23 read as follows:

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

1 officer, the Public Safety Commission, the Texas Alcoholic Beverage
2 Commission, the Parks and Wildlife Commission, the office of
3 inspector general at the Texas Juvenile Justice Department, the
4 Board of Pardons and Paroles, or the Texas Board of Criminal
5 Justice, as applicable, shall certify to the retirement system, in
6 the manner prescribed by the system, the name of the employee and
7 such other information as the system determines is necessary for
8 the crediting of service and financing of benefits under this
9 subtitle.

10 (b) This subsection applies only to a person who elects or
11 elected to participate in the retirement system as a peace officer.
12 Not later than the 12th day of the month following the month in
13 which a person begins or ceases employment as a peace officer, an
14 employer required to provide information about a person identified
15 as being employed in a position as a peace officer in a public
16 school other than an institution of higher education under Section
17 825.515 shall certify to the retirement system, in the manner
18 prescribed by the system, the name of the employee and such other
19 information as the system determines is necessary for the crediting
20 of service and financing of benefits under this subtitle.

21 SECTION 25. Section 822.001(a), Government Code, is amended
22 to read as follows:

23 (a) Membership in the retirement system includes:
24 (1) all persons who were members of the retirement
25 system on the day before the effective date of this subtitle; and
26 (2) all employees of the public school system, unless
27 an employee is excluded from membership under Section 822.002.

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

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

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

7 (2) is eligible and elects to participate in the
8 Employees Retirement System of Texas under Section 812.0035 or
9 812.0036(a); or

10 (3) [~~(2)~~] has retired under the retirement system and
11 has not been reinstated to membership pursuant to Section 824.005
12 or 824.307.

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

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

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

25 (e) The comptroller shall allocate the court costs received
26 under this section to the following accounts and funds so that each
27 receives to the extent practicable, utilizing historical data as

1 applicable, the same amount of money the account or fund would have
2 received if the court costs for the accounts and funds had been
3 collected and reported separately, except that the account or fund
4 may not receive less than the following percentages:

- 5 (1) crime stoppers assistance 0.2581 percent;
- 6 (2) breath alcohol testing 0.5507 percent;
- 7 (3) Bill Blackwood Law Enforcement Management
8 Institute 2.1683 percent;
- 9 (4) law enforcement officers standards and
10 education 5.0034 percent;
- 11 (5) law enforcement, ~~and~~ custodial, and peace
12 officer supplemental retirement fund 11.1426 percent;
- 13 (6) criminal justice planning 12.5537 percent;
- 14 (7) an account in the state treasury to be used only
15 for the establishment and operation of the Center for the Study and
16 Prevention of Juvenile Crime and Delinquency at Prairie View A&M
17 University 1.2090 percent;
- 18 (8) compensation to victims of crime fund
19 37.6338 percent;
- 20 (9) emergency radio infrastructure account
21 5.5904 percent;
- 22 (10) judicial and court personnel training fund
23 4.8362 percent;
- 24 (11) an account in the state treasury to be used for
25 the establishment and operation of the Correctional Management
26 Institute of Texas and Criminal Justice Center
27 Account 1.2090 percent; and

1 (12) fair defense account 17.8448 percent.

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

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