S.B. No. 321

AN ACT

relating to contributions to, benefits from, and the administration of the Employees Retirement System of Texas.

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

SECTION 1.  Section 803.202, Government Code, is amended by adding Subsection (c) to read as follows:

(c)  A member of the Employees Retirement System of Texas who is subject to Chapter 820 is eligible to participate in the program provided by this chapter.

SECTION 2.  Chapter 805, Government Code, is amended by adding Section 805.0015 to read as follows:

Sec. 805.0015.  APPLICABILITY. This chapter does not apply to a member of the employees retirement system who is subject to Chapter 820.

SECTION 3.  Section 811.001, Government Code, is amended by adding Subdivision (5-a) and amending Subdivision (16) to read as follows:

(5-a)  "Cash balance group member" means a member subject to Chapter 820.

(16)  "Service credit" means the amount of membership and, if applicable, military service ascribed to a person's account in the retirement system for which all required contributions have been made to, and are being held by, the retirement system.

SECTION 4.  Section 812.101(c), Government Code, is amended to read as follows:

(c)  For a law enforcement or custodial officer, the withdrawal of accumulated contributions under Subsection (a) includes all of the officer's contributions made under Section 815.402(h) or 820.101(b), as applicable.

SECTION 5.  Section 813.001, Government Code, is amended to read as follows:

Sec. 813.001.  TYPES OF CREDITABLE SERVICE. The types of service creditable in the retirement system are membership service and, if applicable, military service[~~,~~] and equivalent membership service.

SECTION 6.  Subchapter A, Chapter 813, Government Code, is amended by adding Section 813.0015 to read as follows:

Sec. 813.0015.  PROVISIONS APPLICABLE TO CASH BALANCE GROUP MEMBERS. The following provisions of this chapter do not apply to a cash balance group member:

(1)  Sections 813.102, 813.104, 813.106, 813.202, 813.402, 813.403, 813.404, 813.502, 813.504, 813.505, 813.506, 813.509, 813.511, 813.513, and 813.514; and

(2)  Subchapter D.

SECTION 7.  Section 813.401, Government Code, is amended to read as follows:

Sec. 813.401.  SERVICE CREDITABLE IN ELECTED CLASS. Service creditable in the elected class of membership is:

(1)  membership service in an office included in that class; and

(2)  for members other than cash balance group members:

(A)  military service established as provided by Subchapter D; and

(B) [~~(3)~~]  equivalent membership service specifically made creditable in that class.

SECTION 8.  Section 814.009(a), Government Code, is amended to read as follows:

(a)  A person who receives an annuity under this subtitle [~~subchapter~~] may, on a form prescribed by and filed with the retirement system, authorize the retirement system to deduct from the person's monthly annuity payment the amount of a fee for the person's membership in a state employee organization that:

(1)  is a certified eligible state employee organization under Section 403.0165; or

(2)  has at least 2,500 retirees as members on January 1 preceding the fiscal year for which the deduction is made.

SECTION 9.  Section 814.0095(a), Government Code, is amended to read as follows:

(a)  Except as provided by Section 814.0096(c), a person who receives an annuity under this subtitle [~~subchapter~~] may, on a printed or electronic form filed with the retirement system, authorize the retirement system to deduct from the person's monthly annuity payment the amount of a contribution to the state employee charitable campaign in the manner and for the same purposes for which a state employee may authorize deductions to that campaign under Subchapter I, Chapter 659.

SECTION 10.  Subchapter B, Chapter 814, Government Code, is amended by adding Section 814.1005 to read as follows:

Sec. 814.1005.  INAPPLICABILITY OF SUBCHAPTER TO CASH BALANCE GROUP MEMBERS. This subchapter does not apply to a cash balance group member.

SECTION 11.  Subchapter B, Chapter 814, Government Code, is amended by adding Section 814.109 to read as follows:

Sec. 814.109.  ELIGIBILITY OF CERTAIN MEMBERS FOR SERVICE RETIREMENT. Notwithstanding any other law other than Section 815.507:

(1)  a member eligible to retire under this subchapter from either class of membership may retire without separating from a position in that class if the member:

(A)  has accrued enough service credit in the class to receive the maximum annuity permitted under this subchapter; and

(B)  is at least 60 years old; and

(2)  a member who retires from either class of membership under this section is not entitled to earn any additional retirement benefits under this subtitle.

SECTION 12.  Sections 815.311(a) and (b), Government Code, are amended to read as follows:

(a)  The retirement system shall deposit in a member's individual account in the employees saving account the following amounts, as applicable:

(1)  the amount of contributions to the retirement system that is deducted from the member's compensation;

(2)  the portion of a deposit required to reinstate service credit previously canceled that represents only the amount withdrawn;

(3)  the portion of a deposit required to establish service credit not previously established that represents only the required contribution; [~~and~~]

(4)  the portion of a deposit required to establish military service credit that represents only the member's contribution for that credit; and

(5)  interest and gain sharing interest in accordance with Sections 820.102 and 820.103, respectively.

(b)  Except as provided by Section 820.102 or 820.103, interest [~~Interest~~] on money in an individual account in the employees saving account is earned monthly and is computed at the rate of two percent a year on the mean balance of the member's account for the fiscal year.

SECTION 13.  Section 815.314, Government Code, is amended to read as follows:

Sec. 815.314.  INTEREST ACCOUNT. Except as provided by Section 815.317, 820.102, or 820.103, the retirement system shall deposit in the interest account all income, interest, and dividends from deposits and investments of assets of the retirement system.

SECTION 14.  Section 815.317(d), Government Code, is amended to read as follows:

(d)  Member contributions to the fund deducted under Section 815.402(h) or 820.101(b), as applicable:

(1)  earn interest at the same rate as money in an individual account in the employees saving account under Section 815.311; and

(2)  are subject to the same computations and limitations that apply to member contributions under Section 815.311.

SECTION 15.  Section 815.401(a), Government Code, is amended to read as follows:

(a)  Each member annually shall pay a membership fee of $2. A contributing member shall pay the fee with the member's first contribution to the retirement system in each fiscal year in the manner provided by Section 815.402 or 820.101, as applicable, for payment of the member's contribution to the retirement system.

SECTION 16.  The heading to Section 815.402, Government Code, is amended to read as follows:

Sec. 815.402.  COLLECTION OF CERTAIN MEMBER CONTRIBUTIONS.

SECTION 17.  Section 815.402(a), Government Code, is amended to read as follows:

(a)  Except as provided by Section 813.201, each payroll period, each department or agency of the state shall cause to be deducted from the [~~each member's~~] compensation of each member, other than a cash balance group member, a contribution of:

(1)  9.5 percent of the compensation if the member is not a member of the legislature, for service rendered after August 31, 2015, and before September 1, 2017;

(2)  for service by a member who is not a member of the legislature rendered on or after September 1, 2017, the lesser of:

(A)  9.5 percent of the [~~member's annual~~] compensation; or

(B)  a percentage of the [~~member's annual~~] compensation equal to 9.5 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution rate for the fiscal year to which the service relates is less than the state contribution rate established for the 2017 fiscal year; or

(3)  9.5 percent of the compensation if the member is a member of the legislature.

SECTION 18.  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 9.5 [~~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 officer supplemental retirement fund equal to 2.13 percent of the aggregate state compensation of all custodial and law enforcement officers for that year;

(4)  money necessary for the administration of the law enforcement and custodial 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 19.  Sections 815.406(a) and (c), Government Code, are amended to read as follows:

(a)  The state shall pick up the employee contribution required of each of its employees by Section 815.402 or 820.101, as applicable, for all compensation earned [~~after December 31, 1987~~]. The state shall pay to the retirement system the picked-up contributions from the same source of funds that is used in paying earnings to the employees. Such payments shall be in lieu of contributions by the employees. The state shall pick up these contributions by a corresponding reduction in the cash salary of the employees, by an offset against a future salary increase, or by a combination of a salary reduction and offset against a future salary increase. Employees do not have the option of choosing to receive the contributed amounts directly instead of having them paid by the state to the retirement system.

(c)  Employee contributions picked up as provided by Subsection (a) shall be transmitted to the retirement system in the manner required by Section 815.402 or 820.101, as applicable. Employee contributions picked up by the state and credited to the employee's account shall be treated for all other purposes as if the amount were a part of the member's compensation and had been deducted pursuant to Section 815.403(a).

SECTION 20.  Subchapter E, Chapter 815, Government Code, is amended by adding Section 815.407 to read as follows:

Sec. 815.407.  LEGACY PAYMENTS. (a) In addition to the state contributions required by this subtitle, each fiscal year the state shall make an actuarially determined payment in the amount necessary to amortize the system's unfunded actuarial liabilities by not later than the fiscal year ending August 31, 2054.

(b)  Before each regular legislative session, the retirement system shall provide the Legislative Budget Board with the amount necessary to make the actuarially determined payment required under Subsection (a). The director of the Legislative Budget Board, under the direction of the Legislative Budget Board, shall include that payment in the general appropriations bill prepared for introduction at each regular legislative session under Section 322.008. This subsection expires September 1, 2055.

SECTION 21.  Subtitle B, Title 8, Government Code, is amended by adding Chapter 820 to read as follows:

CHAPTER 820. CASH BALANCE BENEFIT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 820.001.  DEFINITION. In this chapter, "accumulated account balance" means the total of amounts in a member's individual account in the employees saving account, including:

(1)  amounts deducted from the compensation of the member;

(2)  other member deposits required to be placed in the member's individual account; and

(3)  interest credited to amounts in the member's individual account, including interest and gain sharing interest credited in accordance with Sections 820.102 and 820.103, respectively.

Sec. 820.002.  APPLICABILITY. This chapter applies only to a member of the employee or elected class of membership who:

(1)  was hired or took office on or after September 1, 2022; and

(2)  was not a member on the date the member was hired or took office.

Sec. 820.003.  CONFLICT OF LAW. To the extent of a conflict between this chapter, including a rule adopted by the retirement system under authority of this chapter, and any other law, this chapter prevails.

Sec. 820.004.  RULES. The board of trustees may adopt rules necessary to implement this chapter.

SUBCHAPTER B. CASH BALANCE BENEFITS

Sec. 820.051.  APPLICATION FOR CASH BALANCE BENEFIT. (a)  A member may apply for a cash balance annuity by filing an application for retirement with the board of trustees.

(b)  An application for a cash balance annuity may not be made:

(1)  after the date the member wishes to retire; or

(2)  more than 90 days before the date the member wishes to retire.

Sec. 820.052.  ELIGIBILITY FOR CASH BALANCE BENEFIT. A member:

(1)  who has service credit in the employee class of membership is eligible to retire and receive a cash balance annuity if the member:

(A)  is at least 65 years old and has five years of service credit in that class; or

(B)  has at least five years of service credit in that class and the sum of the member's age and amount of service credit in that class, including months of age and credit, equals or exceeds the number 80;

(2)  who:

(A)  has at least 20 years of service credit as a law enforcement or custodial officer is eligible to retire regardless of age and receive a cash balance annuity in an amount computed and funded as provided by Section 820.053; or

(B)  is at least 55 years old and has at least 10 years of service credit as a law enforcement or custodial officer is eligible to retire and receive a cash balance annuity in an amount computed and funded as provided by Section 820.053, provided that the member is only entitled to the enhanced benefit described by Section 820.053(a)(2)(B) if the member has at least 20 years of service as a law enforcement or custodial officer; or

(3)  who has service credit in the elected class of membership is eligible to retire and receive a cash balance annuity if the member:

(A)  is at least 60 years old and has eight years of service credit in that class; or

(B)  is at least 50 years old and has 12 years of service credit in that class.

Sec. 820.053.  CASH BALANCE BENEFITS FOR MEMBERS. (a)  The state match for the cash balance benefit for:

(1)  service credited to the employee class of membership is an amount computed by multiplying the member's accumulated account balance by 150 percent;

(2)  service credited to the employee class of membership by a member eligible to retire under this chapter as a law enforcement or custodial officer is an amount computed by multiplying the member's accumulated account balance by:

(A)  except as provided by Paragraph (B), 150 percent; and

(B)  for the portion of the accumulated account balance based on the member's additional two percent contribution under Section 820.101(b), including interest, attributable to service as a law enforcement or custodial officer, 300 percent, paid from the law enforcement and custodial officer supplemental retirement fund; and

(3)  subject to Subsection (c), service credited to the elected class of membership is an amount computed by multiplying the member's accumulated account balance by 150 percent.

(b)  The retirement system shall compute a member's cash balance annuity under this section by taking the sum of the member's accumulated account balance and the state match computed under Subsection (a) and annuitizing that amount over the life expectancy of the member as of the effective date of the member's retirement using mortality and other tables adopted by the board for that purpose under Section 815.105.

(c)  For purposes of this section, a member of the elected class of membership under Section 812.002(a)(2) shall have the member's accumulated account balance computed as if the contributions to the account were based on the state base salary, excluding longevity pay payable under Section 659.0445, being paid a district judge as set by the General Appropriations Act in accordance with Section 659.012(a).

Sec. 820.054.  DEATH AND DISABILITY BENEFITS. (a)  Notwithstanding any other law, a member subject to this chapter, a retiree receiving a cash balance annuity under this chapter, or the beneficiary of a member or retiree described by this subsection, who qualifies for a death or survivor benefit annuity or a disability retirement annuity under Chapter 814 is entitled to a cash balance annuity under Section 820.053 instead of the annuity otherwise provided under Chapter 814.

(b)  The board of trustees may enter into contracts to provide additional death and disability benefits under this chapter.

SUBCHAPTER C. CONTRIBUTIONS AND INTEREST

Sec. 820.101.  COLLECTION OF MEMBER CONTRIBUTIONS. (a)  Each payroll period, each department or agency of the state shall cause to be deducted from the compensation of a member subject to this chapter a contribution of six percent of the compensation of the member.

(b)  In addition to the contribution under Subsection (a), each department or agency of the state that employs a law enforcement or custodial officer who is a member subject to this chapter shall deduct an additional two percent contribution from the member's compensation, to be deposited in the law enforcement and custodial officer supplemental retirement fund.

Sec. 820.102.  ANNUAL INTEREST ADJUSTMENT. Each fiscal year, the retirement system shall deposit for a member subject to this chapter an amount equal to four percent of the member's accumulated account balance deposited into the member's individual account in the employees saving account.

Sec. 820.103.  GAIN SHARING INTEREST ADJUSTMENT. (a)  Each fiscal year and subject to Subsection (b), the retirement system shall compute the gain sharing interest rate applicable to the subsequent fiscal year by:

(1)  determining the average return on the investment of the system's cash and securities during the preceding five fiscal years, expressed as a percentage rate;

(2)  subtracting four percentage points from the percentage rate determined under Subdivision (1); and

(3)  multiplying the sum determined under Subdivision (2) by 50 percent.

(b)  Subject to Subsection (c), in addition to the amount deposited under Section 820.102, each fiscal year, the retirement system shall:

(1)  deposit into each member's individual account in the employees saving account an amount equal to the gain sharing interest rate determined under Subsection (a) for the fiscal year multiplied by the member's accumulated account balance; and

(2)  recalculate the annuity of a retiree or annuitant under this chapter by multiplying the annuity by an amount equal to the gain sharing interest rate determined under Subsection (a).

(c)  The gain sharing interest rate applied under Subsection (b) may not be less than zero or more than three percent.

(d)  Subsection (b) applies only to a retiree who is receiving a cash balance annuity under Section 820.053.

SECTION 22.  Section 1551.102(b), Insurance Code, is amended to read as follows:

(b)  An individual is eligible to participate in the group benefits program as provided by Subsection (a) if:

(1)  the individual retires under the jurisdiction of the Employees Retirement System of Texas; and

(2)  the individual:

(A)  receives or is eligible to receive an annuity under Section 814.104(a)(2), Government Code, and has at least 10 years of eligible service credit;

(B)  receives or is eligible to receive an annuity under Chapter 803 or Section 814.104(a)(1), Government Code, has at least 10 years of eligible service credit, and is at least 65 years of age; [~~or~~]

(C)  receives or is eligible to receive an annuity that is based on eligibility under Section 814.002, 814.102, 814.104(b), 814.107(a), 834.101, or 839.101, Government Code; or

(D)  receives or is eligible to receive an annuity under Subchapter B, Chapter 820, Government Code, and has at least 10 years of eligible service credit.

SECTION 23.  The Employees Retirement System of Texas is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the Employees Retirement System of Texas may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

SECTION 24.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.

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I hereby certify that S.B. No. 321 passed the Senate on April 28, 2021, by the following vote: Yeas 20, Nays 11; and that the Senate concurred in House amendment on May 30, 2021, by the following vote: Yeas 19, Nays 12.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Secretary of the Senate

I hereby certify that S.B. No. 321 passed the House, with amendment, on May 26, 2021, by the following vote: Yeas 80, Nays 66, one present not voting.

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_    Chief Clerk of the House

Approved:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_             Date\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_           Governor