

By: Stephenson

H.B. No. 4643

A BILL TO BE ENTITLED

AN ACT

relating to a pilot program to study implementation of a pension revenue enhancement plan for the Employees Retirement System of Texas.

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

SECTION 1. Subtitle B, Title 8, Government Code, is amended by adding Chapter 816 to read as follows:

CHAPTER 816. PILOT PROGRAM TO STUDY PENSION REVENUE ENHANCEMENT PLAN

Sec. 816.0001. DEFINITIONS. In this chapter:

(1) "Beneficiary" or "designated beneficiary" means a person or entity who is designated by a member or annuitant under authority of Section 816.0002(a)(2) to receive the proceeds of a life insurance policy purchased under the plan.

(2) "Pension revenue enhancement plan" or "plan" means the pension revenue enhancement plan established under the pilot program.

(3) "Pilot program" means the pilot program established under Section 816.0002.

(4) "Plan manager" means the plan manager the comptroller enters into a contract with under Section 816.0008.

(5) "Trust fund" means the ERS pension revenue enhancement plan trust fund established under Section 816.0004.

(6) "Trustee" means the trustee the comptroller enters

1 into a contract with under Section 816.0007.

2 Sec. 816.0002. PENSION REVENUE ENHANCEMENT PLAN. (a) The
3 comptroller, in consultation with the Texas Department of
4 Insurance, the board of trustees of the Employees Retirement System
5 of Texas, and any other agency or person the comptroller determines
6 appropriate, shall establish and oversee a 10-year pilot program
7 designed to study the feasibility, financial benefit, and
8 anticipated impact of implementing a pension revenue enhancement
9 plan that provides a life insurance benefit to members and
10 annuitants of the retirement system who elect to participate in the
11 pilot program while also providing an additional revenue source for
12 funding the retirement system. Under the plan:

13 (1) the trustee shall purchase a life insurance policy
14 that provides for a cash value, the face value of which is \$100,000,
15 for each member or annuitant enrolled in the plan;

16 (2) each member or annuitant enrolled in the plan may
17 designate a beneficiary to receive \$50,000 of the proceeds of the
18 life insurance policy purchased under the plan; and

19 (3) except as provided by Subdivision (2), the trust
20 fund is the owner and beneficiary of each life insurance policy
21 purchased under the plan.

22 (b) The trustee or plan manager may obtain a loan from a
23 third-party lender to pay the premium of a life insurance policy
24 purchased under the plan. On the death of a member or annuitant
25 enrolled in the plan, the trustee or plan manager, as applicable,
26 shall repay the third-party lender from the proceeds of the life
27 insurance policy.

1 (c) When the cash value of a life insurance policy is
2 sufficient, as determined by the trustee, the trustee may borrow
3 against the policy to:

4 (1) repay the loan of a third-party lender; and

5 (2) use excess cash flow to purchase life insurance
6 policies for other members enrolled in the plan or for another
7 purpose authorized under the plan.

8 (d) The comptroller has all the authority necessary and
9 proper to carry out the comptroller's duties under this chapter,
10 including the authority to adopt rules to implement this chapter.

11 Sec. 816.0003. MEMBER AND ANNUITANT PARTICIPATION:

12 ENROLLMENT IN PLAN. (a) A member or annuitant of the retirement
13 system may elect to enroll in the plan if the member or annuitant,
14 as applicable:

15 (1) is 62 years of age or younger; and

16 (2) meets the insurer's requirements for issuance of a
17 life insurance policy.

18 (b) The comptroller, in cooperation with the retirement
19 system, shall:

20 (1) attempt to enroll at least 10,000 members or
21 annuitants in the plan; and

22 (2) ensure that not later than the 30th day after the
23 date a person becomes eligible for membership in the system, the
24 person is given an opportunity to elect to enroll in the plan.

25 (c) A member or annuitant may not be required to enroll in
26 the plan or to pay the premium or any other fee to enroll in the
27 plan.

1 Sec. 816.0004. ERS PENSION REVENUE ENHANCEMENT PLAN TRUST
2 FUND. (a) In this section, "financial institution" has the meaning
3 assigned by Section 201.101, Finance Code.

4 (b) The ERS pension revenue enhancement plan trust fund is a
5 trust fund outside the state treasury that is:

6 (1) held in a financial institution by the comptroller
7 on behalf of members and annuitants of the retirement system; and

8 (2) administered by the comptroller through a contract
9 with the trustee and plan manager.

10 (c) The trust fund consists of:

11 (1) proceeds of a life insurance policy issued to a
12 member or annuitant enrolled in the plan;

13 (2) gifts, grants, and other donations received for
14 the trust fund;

15 (3) proceeds of loans obtained for purposes of the
16 trust fund; and

17 (4) interest earned on trust fund money.

18 (d) The plan manager shall allocate money deposited in the
19 trust fund for the purposes specified under this chapter.

20 (e) The comptroller and the trustee shall administer the
21 trust fund in a manner that qualifies income earned in the trust
22 fund for an exemption from federal income taxation under Section
23 115, Internal Revenue Code of 1986.

24 Sec. 816.0005. USES OF TRUST FUND MONEY. The trustee may
25 use trust fund money only to:

26 (1) purchase life insurance policies for members and
27 annuitants enrolled in the plan;

1 (2) distribute proceeds in accordance with Section
2 816.0006;

3 (3) pay the interest, principal, and any fees
4 associated with a loan obtained under the plan;

5 (4) pay costs associated with plan administration and
6 operation, including the plan manager's fee in accordance with the
7 contract between the board of trustees and the plan manager; and

8 (5) make a contribution to retirement system assets.

9 Sec. 816.0006. TRUST FUND DISTRIBUTIONS. On the death of a
10 member or annuitant enrolled in the plan, the trustee shall:

11 (1) distribute \$50,000 from the proceeds under the
12 life insurance policy to the member's or annuitant's designated
13 beneficiary, if any; and

14 (2) retain the remaining proceeds in the trust fund to
15 use in accordance with Section 816.0005.

16 Sec. 816.0007. TRUSTEE. (a) The comptroller shall
17 contract with a person that is independent of the board of trustees,
18 the retirement system, the plan manager, and the insurance company
19 issuing the life insurance policy provided under the plan to act as
20 the trustee of the trust fund. The trustee shall:

21 (1) hold and administer the assets of the trust fund;

22 (2) distribute life insurance policy proceeds as
23 appropriate;

24 (3) annually or at the request of the comptroller or
25 the board of trustees, provide status reports on the performance of
26 the plan to the comptroller and the board;

27 (4) as appropriate, enter into a loan agreement with a

1 third-party lender on behalf of the trust fund to finance the
2 premiums of life insurance policies purchased under the plan;

3 (5) as appropriate, sign a collateral assignment for a
4 life insurance policy on behalf of the trust fund;

5 (6) work with the plan manager to ensure loan and life
6 insurance policy information is correct and complies with the plan;

7 (7) as appropriate, provide death benefit information
8 to and request life insurance policy loans from the insurer; and

9 (8) on the death of a member or annuitant enrolled in
10 the plan, distribute the proceeds under the life insurance policy
11 to the designated beneficiary in accordance with Section
12 816.0006(1).

13 (b) The trustee has all the authority necessary or proper to
14 carry out the trustee's duties under this section.

15 Sec. 816.0008. PLAN MANAGER. The comptroller shall
16 contract with a person to act as plan manager. The plan manager
17 shall:

18 (1) design, implement, and assist the comptroller with
19 overseeing the pension revenue enhancement plan and ensure
20 compliance with all applicable legal and technical requirements;

21 (2) implement the plan and modify the plan as
22 necessary to comply with Section 816.0004(e);

23 (3) design or select a life insurance policy
24 appropriate for the plan;

25 (4) obtain the approval and support of an insurance
26 company for the plan;

27 (5) negotiate with an insurance company to obtain

1 beneficial life insurance policy enhancements for the plan,
2 including low-commission products;

3 (6) negotiate with a third-party lender for the most
4 advantageous loan terms;

5 (7) facilitate loan renewals as necessary;

6 (8) provide the trustee with information needed to
7 complete annual status reports required under Section
8 816.0007(a)(3);

9 (9) by working with the retirement system, facilitate
10 member and annuitant enrollment in the plan;

11 (10) work with the retirement system to ensure members
12 or annuitants enrolled in the plan have access to the insurance
13 company's claims department;

14 (11) oversee member and annuitant compliance with the
15 insurance company's underwriting process to ensure proper
16 enrollment in the plan;

17 (12) enroll new members in the plan as appropriate;

18 and

19 (13) advise the comptroller and the trustee on:

20 (A) plan maintenance or changes;

21 (B) appropriate repayment of loans; and

22 (C) obtaining life insurance policy loans.

23 Sec. 816.0009. LIFE INSURANCE COMPANY. To be eligible to
24 participate in the pension revenue enhancement plan, an insurance
25 company must have a suitable credit rating, as determined by the
26 comptroller.

27 Sec. 816.0010. PREMIUM FINANCE COMPANY. (a) To be eligible

1 to participate in the pension revenue enhancement plan, a premium
2 finance company must, as determined by the trustee:

3 (1) have at least 10 years of experience in the full
4 recourse life insurance premium finance industry in the United
5 States;

6 (2) have suitable support capability to service the
7 plan;

8 (3) have at least two life insurance company and bank
9 references;

10 (4) have deployed at least one financed insurance
11 solution that complies with principles prescribed by the
12 Governmental Accounting Standards Board; and

13 (5) demonstrate suitable testing of the company's
14 designs to withstand an economic crisis.

15 (b) A premium finance company participating in the plan may:

16 (1) act as technical advisor to the trustee on
17 securing premium financing for life insurance policies;

18 (2) assist with educating members and annuitants about
19 the plan in partnership with the comptroller and the retirement
20 system;

21 (3) participate in designing the plan;

22 (4) analyze the plan design to determine its ability
23 to withstand an economic crisis;

24 (5) negotiate life insurance policy terms with an
25 insurance company;

26 (6) help select an insurance company and life
27 insurance policy;

- 1 (7) facilitate lending for the trustee;
2 (8) facilitate member enrollment;
3 (9) facilitate insurance underwriting;
4 (10) facilitate policy placement;
5 (11) engage in plan servicing and monitoring;
6 (12) technically advise on when to cease obtaining
7 loans under the plan;
8 (13) assist with preparing annual status reports
9 required under Section 816.0007(a)(3);
10 (14) assist with insurance claims processing; and
11 (15) act as a liaison to insurance companies and
12 third-party lenders.

13 Sec. 816.0011. CONFIDENTIALITY OF RECORDS. (a) Except as
14 provided by Subsection (b), all information relating to the plan is
15 public and subject to disclosure under Chapter 552.

16 (b) Information relating to a prospective or current member
17 or annuitant, including any personally identifiable information,
18 is confidential except that the board may disclose that information
19 to:

20 (1) the member regarding the member's life insurance
21 policy; or

22 (2) an insurance company or a state or federal agency
23 as necessary to administer the plan.

24 Sec. 816.0012. PLAN LIMITATIONS. (a) This chapter may not
25 be construed to guarantee that proceeds under a life insurance
26 policy will be sufficient to cover the expenses of a designated
27 beneficiary.

1 (b) This chapter may not be construed to create any
2 obligation of the state, any agency or instrumentality of the
3 state, or the plan manager to guarantee for the benefit of a member
4 or annuitant enrolled in the plan or a designated beneficiary:

5 (1) the return of any amount contributed to the trust
6 fund on behalf of the enrolled member or annuitant;

7 (2) the rate of interest or other return on the life
8 insurance policy; or

9 (3) the payment of interest or other return on the life
10 insurance policy.

11 Sec. 816.0013. BIENNIAL REPORTS. (a) Not later than
12 November 1 of each even-numbered year, the comptroller, with the
13 assistance of the retirement system, shall prepare and submit to
14 the governor, the lieutenant governor, the speaker of the house of
15 representatives, and each member of the legislature a report that
16 includes a status report on the pilot program, including an
17 evaluation of the performance of the plan.

18 (b) In its final report under this section, the comptroller
19 shall include its findings and recommendations regarding whether
20 the pension revenue enhancement plan established under the pilot
21 program should be continued or terminated and make specific
22 recommendations on any statutory changes the comptroller
23 determines appropriate based on that recommendation.

24 (c) This section expires September 1, 2033.

25 Sec. 816.0014. TERMINATION OF PILOT PROGRAM. The pilot
26 program terminates September 1, 2033.

27 Sec. 816.0015. EFFECT OF TERMINATION. An insurance policy

1 remains in effect after the pilot program is terminated if, when the
2 program is terminated, the member or annuitant is enrolled in the
3 plan and has been issued an insurance policy under the plan unless
4 the member or annuitant, as applicable, elects to cancel the
5 policy.

6 SECTION 2. Not later than September 1, 2022, the
7 comptroller of public accounts shall ensure the pilot program and
8 pension revenue enhancement plan are established in accordance with
9 Chapter 816, Government Code, as added by this Act, and,
10 notwithstanding Section 816.0003, Government Code, as added by this
11 Act, shall ensure enrollment of members of the Employees Retirement
12 System of Texas in the plan is delayed until the plan has been
13 implemented.

14 SECTION 3. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2021.