

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

1 to read as follows:

2 (c) For a law enforcement or custodial officer, the  
3 withdrawal of accumulated contributions under Subsection (a)  
4 includes all of the officer's contributions made under Section  
5 815.402(h) or 820.101(b), as applicable.

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

8 Sec. 813.001. TYPES OF CREDITABLE SERVICE. The types of  
9 service creditable in the retirement system are membership service  
10 and, if applicable, military service~~[7]~~ and equivalent membership  
11 service.

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

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

17 (1) Sections 813.102, 813.104, 813.106, 813.202,  
18 813.402, 813.403, 813.404, 813.502, 813.504, 813.505, 813.506,  
19 813.509, 813.511, 813.513, and 813.514; and

20 (2) Subchapter D.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6       Sec. 814.109. ELIGIBILITY OF CERTAIN MEMBERS FOR SERVICE  
7 RETIREMENT. Notwithstanding any other law other than Section  
8 815.507:

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

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

15                       (B) is at least 60 years old; and

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

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

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

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

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

1 withdrawn;

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

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

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

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

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

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

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

23 (d) Member contributions to the fund deducted under Section  
24 815.402(h) or 820.101(b), as applicable:

25 (1) earn interest at the same rate as money in an  
26 individual account in the employees saving account under Section  
27 815.311; and

1           (2) are subject to the same computations and  
2 limitations that apply to member contributions under Section  
3 [815.311](#).

4           SECTION 15. Section [815.401](#)(a), Government Code, is amended  
5 to read as follows:

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

11           SECTION 16. The heading to Section [815.402](#), Government  
12 Code, is amended to read as follows:

13           Sec. 815.402. COLLECTION OF CERTAIN MEMBER CONTRIBUTIONS.

14           SECTION 17. Section [815.402](#)(a), Government Code, is amended  
15 to read as follows:

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

20                   (1) 9.5 percent of the compensation if the member is  
21 not a member of the legislature, for service rendered after August  
22 31, 2015, and before September 1, 2017;

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

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

27                           (B) a percentage of the ~~[member's annual]~~

1 compensation equal to 9.5 percent reduced by one-tenth of one  
2 percent for each one-tenth of one percent that the state  
3 contribution rate for the fiscal year to which the service relates  
4 is less than the state contribution rate established for the 2017  
5 fiscal year; or

6 (3) 9.5 percent of the compensation if the member is a  
7 member of the legislature.

8 SECTION 18. Section 815.403(a), Government Code, is amended  
9 to read as follows:

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

12 (1) an amount equal to 9.5 [~~7.4~~] percent of the total  
13 compensation of all members of the retirement system for that year;

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

16 (3) an amount for the law enforcement and custodial  
17 officer supplemental retirement fund equal to 2.13 percent of the  
18 aggregate state compensation of all custodial and law enforcement  
19 officers for that year;

20 (4) money necessary for the administration of the law  
21 enforcement and custodial officer supplemental retirement fund;  
22 and

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

25 SECTION 19. Sections 815.406(a) and (c), Government Code,  
26 are amended to read as follows:

27 (a) The state shall pick up the employee contribution

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

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

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

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

27 (b) Before each regular legislative session, the retirement

1 system shall provide the Legislative Budget Board with the amount  
2 necessary to make the actuarially determined payment required under  
3 Subsection (a). The director of the Legislative Budget Board,  
4 under the direction of the Legislative Budget Board, shall include  
5 that payment in the general appropriations bill prepared for  
6 introduction at each regular legislative session under Section  
7 322.008. This subsection expires September 1, 2055.

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

10 CHAPTER 820. CASH BALANCE BENEFIT

11 SUBCHAPTER A. GENERAL PROVISIONS

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

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

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

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

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

25 (1) was hired or took office on or after September 1,  
26 2022; and

27 (2) was not a member on the date the member was hired

1 or took office.

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

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

8 SUBCHAPTER B. CASH BALANCE BENEFITS

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

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

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

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

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

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

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

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

1           (2) who:

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

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

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

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

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

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

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

25                   (2) service credited to the employee class of  
26 membership by a member eligible to retire under this chapter as a  
27 law enforcement or custodial officer is an amount computed by

1 multiplying the member's accumulated account balance by:

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

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

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

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

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

27 Sec. 820.054. DEATH AND DISABILITY BENEFITS.

1 (a) Notwithstanding any other law, a member subject to this  
2 chapter, a retiree receiving a cash balance annuity under this  
3 chapter, or the beneficiary of a member or retiree described by this  
4 subsection, who qualifies for a death or survivor benefit annuity  
5 or a disability retirement annuity under Chapter 814 is entitled to  
6 a cash balance annuity under Section 820.053 instead of the annuity  
7 otherwise provided under Chapter 814.

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

11 SUBCHAPTER C. CONTRIBUTIONS AND INTEREST

12 Sec. 820.101. COLLECTION OF MEMBER CONTRIBUTIONS.

13 (a) Each payroll period, each department or agency of the state  
14 shall cause to be deducted from the compensation of a member subject  
15 to this chapter a contribution of six percent of the compensation of  
16 the member.

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

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

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

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

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

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

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

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

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

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

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

26       SECTION 22. Section [1551.102\(b\)](#), Insurance Code, is amended  
27 to read as follows:

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

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

5 (2) the individual:

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

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

13 (C) receives or is eligible to receive an annuity  
14 that is based on eligibility under Section 814.002, 814.102,  
15 814.104(b), 814.107(a), 834.101, or 839.101, Government Code; or

16 (D) receives or is eligible to receive an annuity  
17 under Subchapter B, Chapter 820, Government Code, and has at least  
18 10 years of eligible service credit.

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

26 SECTION 24. This Act takes effect immediately if it  
27 receives a vote of two-thirds of all the members elected to each

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1 house, as provided by Section 39, Article III, Texas Constitution.  
2 If this Act does not receive the vote necessary for immediate  
3 effect, this Act takes effect September 1, 2021.

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

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