

CHAPTER 91

S.B. No. 636

An Act relating to internal accounting procedures of the Employees Retirement System of Texas; creating a trust fund for the Employees Retirement System of Texas to which certain assets are credited and certain disbursements are made; amending Title 110B, Public Retirement Systems, Revised Statutes, as amended, by adding Section 25.3061 to Subchapter D, Chapter 25, and amending the following sections and subsections: 25.306, 21.001(1), 24.005(c), 24.211(a), 24.401(a), 24.402(a), 24.403(a), 24.502(a), 24.503(a), 24.504(a), 25.106, 25.208(b), 25.209(e), 25.301(a), 25.307 through 25.312, 25.314 through 25.317, 25.401(c), 25.402 (d) and (e), 25.403(f), 25.502 (a), (f), (g), and (h).

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 25.306, Title 110B, Revised Statutes, is amended to read as follows:
 "Section 25.306. **CREDITING SYSTEM ASSETS.** All assets of the retirement system, except assets of the law enforcement and custodial officer supplemental retirement fund, shall be credited to the trust fund established by Section 25.3061 of this subtitle [; according to the purpose for which they are held, to one of the following funds:

- "(1) employees saving fund;
- "(2) state accumulation fund;
- "(3) retirement annuity reserve fund;
- "(4) interest fund;
- "(5) expense fund;
- "(6) benefit increase reserve fund; or
- "(7) law enforcement and custodial officer supplemental retirement fund]."

SECTION 2. Subchapter D, Chapter 25, Title 110B, Revised Statutes, as amended, is amended by adding Section 25.3061 to read as follows:

"Section 25.3061. **TRUST FUND.** (a) A trust fund for the Employees Retirement System of Texas is established with the state treasurer.

"(b) All assets of the trust fund shall be credited, according to the purpose for which they are held, to one of the following accounts:

- "(1) employees saving account;
- "(2) state accumulation account;
- "(3) retirement annuity reserve account;
- "(4) interest account;
- "(5) expense account; or
- "(6) benefit increase reserve account."

SECTION 3. Subdivision (1), Section 21.001, Title 110B, Revised Statutes, is amended to read as follows:

"(1) 'Accumulated contributions' means the total of amounts in a member's individual account in the employees saving account [fund], including:

- "(A) amounts deducted from the compensation of the member;
- "(B) other member deposits required to be placed in the member's individual account;
- and
- "(C) interest credited to amounts in the member's individual account."

SECTION 4. Subsection (c), Section 24.005, Title 110B, Revised Statutes, is amended to read as follows:

"(c) The retirement system shall transfer to the state accumulation account [fund] amounts from the appropriate benefit payment accounts not used to pay benefits because of a waiver executed under this section."

SECTION 5. Subsection (a), Section 24.211, Title 110B, Revised Statutes, is amended to read as follows:

"(a) Except as provided by Subsection (b) of this section, if a disability retirement annuity is discontinued under Section 24.208 of this subtitle, the retiree is entitled to a lump-sum payment from the retirement annuity reserve account [fund] in an amount, if any, by which the amount in the retiree's individual account in the employees saving account [fund] at the time of disability retirement exceeds the amount of payments payable before the date the annuity was discontinued."

SECTION 6. Subsection (a), Section 24.401, Title 110B, Revised Statutes, is amended to read as follows:

"(a) Except as provided by Subsection (d) of this section, if a member dies under a circumstance described in Subsection (c) of this section, a lump-sum death benefit is payable from the state accumulation account [fund] in an amount computed at the rate of five percent of the amount in the member's individual account in the employees saving account [fund] at the time of death, times the number of full years of service credit the member had at the time of death."

SECTION 7. Subsection (a), Section 24.402, Title 110B, Revised Statutes, is amended to read as follows:

"(a) Except as provided by Subsection (b) of this section, if a member dies and the executive director determines that the death was an occupational death, a lump-sum death benefit is

payable from the state accumulation *account* [fund] in an amount equal to one year's salary, computed on the basis of the member's rate of compensation at the time of death."

SECTION 8. Subsection (a), Section 24.403, Title 110B, Revised Statutes, is amended to read as follows:

"(a) Except as provided by Subsection (c) of this section, if a member dies before retirement, the amount in the member's individual account in the employees saving *account* [fund] at the time of death is payable as a lump-sum death benefit."

SECTION 9. Subsection (a), Section 24.502, Title 110B, Revised Statutes, is amended to read as follows:

"(a) Except as provided by Subsection (b) of this section, if a person who receives a disability retirement annuity dies, a lump-sum death benefit is payable in the manner provided by Section 24.401 of this subtitle, except that the amount is computed at the rate of five percent of the amount in the retiree's individual account in the employees saving *account* [fund] at the time of disability retirement, times the number of full years of service credit the retiree had at the time of retirement."

SECTION 10. Subsection (a), Section 24.503, Title 110B, Revised Statutes, is amended to read as follows:

"(a) Except as provided by Subsection (b) of this section, if a person who receives an occupational disability retirement annuity dies and the executive director determines that the death was an occupational death, a lump-sum death benefit is payable from the state accumulation *account* [fund] in an amount equal to one year's salary, computed on the basis of the retiree's rate of compensation at the time of disability retirement."

SECTION 11. Subsection (a), Section 24.504, Title 110B, Revised Statutes, is amended to read as follows:

"(a) Except as provided by Subsection (c) of this section, if a person who receives a disability retirement annuity dies, a lump-sum death benefit is payable from the retirement annuity reserve *account* [fund] in an amount, if any, by which the amount in the retiree's individual account in the employees saving *account* [fund] at the time of disability retirement exceeds the amount of annuity payments payable before the retiree's death."

SECTION 12. Section 25.106, Title 110B, Revised Statutes, is amended to read as follows:

"Section 25.106. **INTEREST RATE FOR BENEFIT INCREASE RESERVE ACCOUNT [FUND].** After consulting with the actuary, the board of trustees shall set a rate of interest that represents a reasonable recognition of earnings from investment of assets in the benefit increase reserve *account* [fund]."

SECTION 13. Subsection (b), Section 25.208, Title 110B, Revised Statutes, is amended to read as follows:

"(b) Except as provided by Subsection (c) of this section, the board of trustees shall pay compensation and expenses required by Subsection (a) of this section from the expense *account* [fund]."

SECTION 14. Subsection (e), Section 25.209, Title 110B, Revised Statutes, is amended to read as follows:

"(e) The board of trustees shall pay from the expense *account* [fund] all expenses for the execution of a bond under this section, including premiums."

SECTION 15. Subsection (a), Section 25.301, Title 110B, Revised Statutes, as amended, is amended to read as follows:

"(a) The board of trustees shall:

"(1) invest the assets of the retirement system, other than assets of the law enforcement and custodial officer supplemental retirement fund, as a single fund without distinction as to their source; and

"(2) hold securities purchased with the assets described by Subsection (a)(1) of this section collectively for the proportionate benefit of all [funds, other than the law enforcement and custodial officer supplemental retirement fund, and] accounts in [of] the trust fund that are listed in Section 25.3061(b) of this subtitle [system]."

SECTION 16. Sections 25.307, 25.308, 25.309, 25.310, 25.311, 25.312, 25.314, 25.315, 25.316, and 25.317, Title 110B, Revised Statutes, as amended, are amended to read as follows:

"Section 25.307. **EMPLOYEES SAVING ACCOUNT [FUND].** (a) The retirement system shall deposit in a member's individual account in the employees saving *account* [fund] the following amounts:

"(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.

"(b) Interest on money in an individual account in the *employees saving account* [fund] is earned monthly and is computed at the rate of five percent a year on the mean balance of the member's account for the fiscal year.

"(c) Unless an account is closed before the last day of the fiscal year, interest is computed for the fiscal year and is credited to the member's account as of the last day of the fiscal year.

"(d) If a member's [am] account is closed before the last day of the fiscal year, interest is computed for the following period:

"(1) if the account is closed because of death, from the first day of the fiscal year through the last day of the month that preceded the month in which the member's death occurred;

"(2) if the account is closed by withdrawal of contributions, from the first day of the fiscal year through the last day of the month that precedes the month in which the withdrawal request is validated by the retirement system; or

"(3) if the account is closed because of retirement, from the first day of the fiscal year through the effective date of retirement.

"Section 25.308. STATE ACCUMULATION ACCOUNT [FUND]. (a) The retirement system shall deposit in the state accumulation account [fund] all contributions for retirement made by the state to the retirement system and transfer to the account [fund] the amounts required by Section 25.314 or 25.502 of this subtitle.

"(b) The retirement system also shall deposit in the state accumulation account [fund] the interest portion of the following deposits made by members:

"(1) deposits required to reinstate service credit previously canceled;

"(2) deposits required to establish service credit not previously established; and

"(3) deposits required to establish military service credit.

"Section 25.309. RETIREMENT ANNUITY RESERVE ACCOUNT [FUND]. (a) The retirement system shall transfer to the retirement annuity reserve account [fund] money as required by Sections 25.314, 25.315, 25.316, and 25.317 of this subtitle.

"(b) The retirement system shall use the money in the account [fund] to pay annuities as provided by this subtitle.

"Section 25.310. INTEREST ACCOUNT [FUND]. Except as provided by Section 25.313 of this subtitle, the retirement system shall deposit in the interest account [fund] all income, interest, and dividends from deposits and investments of assets of the retirement system.

"Section 25.311. EXPENSE ACCOUNT [FUND]. (a) The retirement system shall deposit in the expense account [fund] membership fees, money required to be transferred to the account [fund] under Section 25.314 of this subtitle, and any appropriations made by the legislature to the account [fund].

"(b) The retirement system shall pay from the expense account [fund] administration and maintenance expenses of the retirement system except those expenses the payment of which is provided for by Section 25.208(c) or 25.313(b) of this subtitle.

"Section 25.312. BENEFIT INCREASE RESERVE ACCOUNT [FUND]. The retirement system shall transfer to the benefit increase reserve account [fund] money required to be deposited in the account [fund] under Section 25.314 of this subtitle and money appropriated to pay increases in preexisting annuities if the increases:

"(1) are payments for service credited in the employee class; and

"(2) were authorized by the legislature after April 30, 1977."

"Section 25.314. TRANSFER OF ASSETS FROM INTEREST ACCOUNT [FUND]. (a) The board of trustees shall transfer from the interest account [fund] to the employee saving account [fund] amounts of interest computed under Section 25.307 of this subtitle at the following times:

"(1) as required during the fiscal year for a member's account in the retirement system that is closed before the last day of the fiscal year; and

"(2) as of the last day of the fiscal year for a member's account that is not closed before the last day of the fiscal year.

"(b) As required during the year, the board of trustees shall transfer from the interest account [fund] to the expense account [fund] amounts it determines necessary for the payment of the retirement system's expenses that exceed the amount of money available for those expenses.

"(c) As of the last day of each fiscal year, the board of trustees shall transfer from the interest account [fund] to the retirement annuity reserve account [fund] an amount equal to five percent of the mean amount in the retirement annuity reserve account [fund] for that fiscal year.

"(d) As of the last day of each fiscal year, the board of trustees shall transfer from the interest account [fund] to the benefit increase account [fund] an amount computed at the rate set by the board under Section 25.106 of this subtitle.

"(e) After making the transfers required by this section, the board of trustees, as of the last day of each fiscal year, shall transfer the amount remaining in the interest account [fund] to the state accumulation account [fund].

Section 25.315. TRANSFER OF ASSETS ON RETIREMENT AND RESTORATION TO ACTIVE SERVICE. (a) When a member retires, the retirement system shall transfer:

"(1) from the employees saving account [fund] to the retirement annuity reserve account [fund], an amount equal to the member's accumulated contributions; and

"(2) from the state accumulation account [fund] to the retirement annuity reserve account [fund], an amount equal to the difference between the total reserve at present worth reserve value of the member's retirement annuity and the amount credited to the member's individual account as of the day of retirement.

"(b) If a person who receives disability benefits has those benefits terminated under Section 24.210 of this subtitle, the retirement system shall transfer the balance of the person's retirement reserve from the retirement annuity reserve account [fund] to the employees saving account [fund] and to the state accumulation account [fund] in proportion to the original amount transferred to the retirement annuity reserve account [fund] from those accounts [funds].

Section 25.316. TRANSFER OF ASSETS TO PAY BENEFIT INCREASES. Each month [on certification by] the retirement system [; the comptroller of public accounts] shall transfer from the benefit increase reserve account [fund] to the retirement annuity reserve account [fund] the amount required to pay increases in preexisting annuities authorized by the legislature after April 30, 1977, for service credited in the employee class.

Section 25.317. TRANSFER OF ASSETS FOR DEATH BENEFIT ANNUITIES. (a) When a member dies who selected or was eligible to select a death benefit plan, or whose beneficiary is eligible to receive an annuity under Subsection (b) of Section 24.302 or Section 24.304 of this subtitle, the retirement system shall transfer:

"(1) from the employees saving account [fund] to the retirement annuity reserve account [fund], an amount equal to the member's accumulated contributions; and

"(2) from the state accumulation account [fund] to the retirement annuity reserve account [fund], an amount equal to the difference between the total reserve, at present worth reserve value, of the death benefit annuity and the amount credited to the member's individual account as of the day of the member's death."

SECTION 17. Subsection (c), Section 25.401, Title 110B, Revised Statutes, is amended to read as follows:

"(c) If the legislature appropriates, on behalf of each contributing member for any fiscal year, a membership fee to be deposited in the expense account [fund] in an amount equal to or greater than the membership fee required by Subsection (a) of this section, the members are not required to pay the membership fee for that year."

SECTION 18. Subsections (d) and (e), Section 25.402, Title 110B, Revised Statutes, are amended to read as follows:

"(d) The disbursing officer of each department or agency on authority from the department or agency head shall:

"(1) make deductions from each member's compensation for contributions to the retirement system;

"(2) transmit monthly, or at the time designated by the board of trustees, a certified copy of the payroll or report to the retirement system; and

"(3) pay the amount deducted to the retirement system for deposit in the employees saving account [fund].

"(e) The retirement system shall record all receipts of member contributions and shall deliver the receipts to the state treasurer. The state treasurer shall credit the receipts to the employees saving account [fund]."

SECTION 19. Subsection (f), Section 25.403, Title 110B, Revised Statutes, is amended to read as follows:

"(f) On certification by the retirement system, the comptroller of public accounts shall transfer from the general revenue fund to the state accumulation account [fund] of the retirement system the amount then required for the payment of lump-sum death benefits for retirees under Section 24.501 of this subtitle."

SECTION 20. Subsections (a), (f), (g), and (h), Section 25.502, Title 110B, Revised Statutes, are amended to read as follows:

“(a) Except as provided by Subsection (b) of this section, if a valid application for payment based on money or credit in a member’s individual account in the employees saving *account* [fund] is not filed with the retirement system before the expiration of five years after the last day of the most recent month of service for which the member has credit in the retirement system, the retirement system shall mail a notice to the member at the member’s most recent address as shown on system records. If no address is available or if the notice is returned unclaimed, the retirement system shall cause a notice to be published in a newspaper of general circulation in the state.”

“(f) If a valid application is not made as provided by Subsection (d) of this section, the retirement system shall cancel the service credit in the member’s account, transfer the accumulated contributions in the account to the state accumulation *account* [fund], and close the member’s *account*.

“(g) Except as provided by Subsection (j) of this section, if a person files with the retirement system a valid application for payment based on a closed account the accumulated contributions of which have been transferred under Subsection (f) of this section, the retirement system shall restore to the employees saving *account* [fund] the amount transferred and credit canceled and shall pay any benefit to which the applicant is entitled.

“(h) Except as provided by Subsection (j) of this section, if a person whose accumulated contributions have been transferred under Subsection (f) of this section again becomes a member, the retirement system shall reinstate in the member’s active individual account in the employees saving *account* [fund] the amount transferred and credit canceled.”

SECTION 21. On the effective date of this Act, all assets credited as of the close of business on August 31, 1985, to the employees saving fund, state accumulation fund, retirement annuity reserve fund, interest fund, expense fund, or benefit increase reserve fund are transferred to the trust fund established by Section 25.3061, Title 110B, Revised Statutes, as added by this Act.

SECTION 22. This Act takes effect September 1, 1985.

SECTION 23. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 21, 1985, by the following vote: Yeas 30, Nays 0; passed the House on April 25, 1985, by the following vote: Yeas 143, Nays 0, two present not voting.

Approved: May 9, 1985

Effective: September 1, 1985