

CHAPTER 791

S.B. No. 1181

AN ACT

relating to the powers and duties of and systems and programs under 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 to read as follows:

Sec. 803.202. SERVICE IN CERTAIN RETIREMENT SYSTEMS. (a) The board of trustees of the Employees Retirement System of Texas by rule may:

(1) consider the classes of service in the Employees Retirement System of Texas as if they were, for purposes of this chapter, classes in separate statewide retirement systems; or

(2) permit a person who is retiring exclusively from retirement systems administered by the board to use the shortest length-of-service requirement provided for retirement in any class in which the person has service credit.

(b) A member of a retirement system administered by the board of trustees of the Employees Retirement System of Texas may reestablish service credit previously canceled in another retirement system administered by the board if the member holds a position included in the system of which the person is a member and has held the position for at least 12 months. The method of reestablishment and the amount to be deposited are as provided by the applicable law providing for reestablishment of service credit generally in the particular retirement system.

SECTION 2. Subtitle A, Title 8, Government Code, is amended by adding Chapter 805 to read as follows:

CHAPTER 805. CREDIT TRANSFER BETWEEN EMPLOYEES RETIREMENT SYSTEM OF TEXAS AND TEACHER RETIREMENT SYSTEM OF TEXAS

Sec. 805.001. **DEFINITIONS.** *In this chapter:*

- (1) "Employees retirement system" means the Employees Retirement System of Texas.
- (2) "Member" means a person having membership in the employees retirement system or the teacher retirement system under statutes and rules governing membership in the respective systems.
- (3) "Service credit" has the meaning assigned, as applicable, by Section 811.001 or Section 821.001.
- (4) "System" means the employees retirement system or the teacher retirement system.
- (5) "Teacher retirement system" means the Teacher Retirement System of Texas.

Sec. 805.002. **ELIGIBILITY TO TRANSFER SERVICE CREDIT.** (a) A member of both the employees retirement system and the teacher retirement system who applies for service or disability retirement from either system may transfer to that system service credit established in the other system if the member has at least three years of service credit in the system from which the member is retiring.

(b) A member of both the employees retirement system and the teacher retirement system who has less than three years of service credit in the system in which the person most recently received service credit may, at the time the person applies for service or disability retirement from the other system, transfer service credit to that system from the system in which the person most recently received service credit.

(c) Except as provided by Subsections (e) and (f), a member of the employees retirement system or the teacher retirement system who formerly was a member of the other system may reinstate or purchase service credit in the other system for the purpose of making a transfer under Subsection (a) if the member has at least three years of service credit in the system in which the person currently is a member.

(d) Except as provided by Subsections (e) and (f), the designated beneficiary of a member of the employees retirement system or the teacher retirement system who dies while holding a position included in the membership of the system may make a transfer under Subsection (a) and a reinstatement or purchase under Subsection (c) if the deceased member had at least three years of service credit in the system in which the member was performing service at the time of death. The designated beneficiary may make a transfer under Subsection (b) if the deceased member had less than three years of service credit in the system in which the member was performing service at the time of death. If a member is not survived by a designated beneficiary, the personal representative of the member's estate has the same right under this subsection as a designated beneficiary.

(e) Service credit that is canceled by a termination of membership that occurs after August 31, 1993, may be reinstated and other service purchased only by a member of the system in which the service is creditable who meets the general requirements for reinstatement or purchase of service credit in that system.

(f) A person who is receiving retirement benefits based on the person's service credited in one system and who applies for service or disability retirement from the other system is not eligible to transfer service credit under this chapter. The designated beneficiary, or the personal representative of the estate, of a person who at the time of death was receiving benefits based on the person's service credited in one system and who held a position included in the other system is not eligible to transfer service credit under this chapter.

Sec. 805.003. **PAYMENTS TO REINSTATE OR PURCHASE SERVICE CREDIT.** The cost of reinstating or purchasing service credit under Section 805.002 is determined according to the statutes that govern the reinstatement or purchase of the type of service credit in the system in which it is to be reinstated or purchased. All payments for service credit reinstated or purchased under Section 805.002 must be made before retirement or the first payment of a death benefit annuity, as applicable.

Sec. 805.004. TRANSFER OF SERVICE CREDIT. (a) A person who elects to transfer service credit under Section 805.002 shall notify, in the manner required by the system to which the credit will be transferred, the system of the election. The system shall notify the other system of the election.

(b) The systems by rule or agreement shall determine the manner in which the service credit is transferred.

(c) A transfer of service credit under this chapter cancels service credit and, if applicable, membership in the system from which it is transferred.

Sec. 805.005. APPLICABILITY OF PROPORTIONATE RETIREMENT PROGRAM. An election to transfer service credit under Section 805.002 is an alternative to participation in the program provided by Chapter 803, except that a person having service credit in the employees retirement system, the teacher retirement system, and another public retirement system participating in that program may transfer service credit under this chapter, if eligible, and use the combined service credit for purposes of the program provided by Chapter 803.

Sec. 805.006. CREDITING OF TRANSFERRED SERVICE CREDIT; REFUND. (a) Except as provided by Subsections (b) and (c), service credit transferred under this chapter is credited in the system to which it is transferred according to rules of the teacher retirement system determining the amount of service creditable.

(b) Not more than one month of service credit may be granted for service during that month.

(c) A person who transfers service credit under this chapter may not receive service credit for all military service performed in an amount that exceeds the maximum amount creditable in the system to which credit is transferred. A person is eligible for a refund from the system from which credit is transferred under this section of contributions made for military service credit, other than any amount that represents a fee, that exceeds the maximum amount creditable.

Sec. 805.007. EFFECT OF TRANSFER OF SERVICE CREDIT. (a) A person who transfers service credit under this chapter forfeits all rights to benefits payable by the system from which it is transferred and is not an annuitant of that system for any purpose, including the payment of postretirement increases to annuitants of that system.

(b) Service credit transferred under this chapter is considered as if it had been granted for service performed under the system to which it has been transferred and is used in satisfying minimum service requirements for retirement and in determining the amount of benefits that are based on the amount of a person's service credit:

(1) except that a person's average salary for the purpose of computing an annuity may be determined only from service credit that was originally established in one system and that results in the higher average salary; and

(2) except as provided by Section 805.006.

Sec. 805.008. RESPONSIBILITY FOR BENEFIT PAYMENTS. (a) The system from which a person's service credit is transferred under this chapter shall transfer to the other system, at the time the annuity based on the service credit becomes payable, an amount equal to the portion of the actuarial value of the annuity that represents the percentage of the total amount of the person's service credited in both systems that was credited in the system from which the credit is being transferred.

(b) The systems jointly by rule shall adopt actuarial tables and investment assumptions to be used in computing actuarial values under this section.

(c) For the purpose of computing an amount to be transferred under this section, service credit in either system must be considered as if it were credited under rules of the teacher retirement system determining the amount of service creditable.

(d) An amount transferred under this section is payable from amounts credited to the person's individual account and amounts credited to the account in which the system places state contributions. An amount received under this section shall be deposited in the account from which the system receiving the amount pays annuities.

(e) *The system to which a transfer is made under this section is responsible for paying the annuity for which the transfer was made, including the entire amount of any increase in the annuity granted after the transfer.*

Sec. 805.009. *RULES. In addition to the rules specifically required by this chapter, a system may adopt other rules for the administration of this chapter.*

SECTION 3. Subchapter B, Chapter 813, Government Code, is amended by adding Section 813.104 to read as follows:

Sec. 813.104. *ALTERNATIVE PAYMENTS TO ESTABLISH OR REESTABLISH SERVICE CREDIT. (a) A member who is otherwise eligible may establish or reestablish service creditable in the retirement system by making payments as provided by this section in lieu of lump-sum payments otherwise authorized or required by this subtitle.*

(b) *A payment authorized by this section consists of the contribution required to establish or reestablish at least one year of service credit, including any required interest and membership fees, except that a person's last in a series of payments under this section may be for a period of remaining service that is less than one year.*

(c) *The retirement system shall grant the applicable amount of service credit after each payment is made under this section.*

(d) *Payments may not be made under this section:*

- (1) *to establish or reestablish service credit of a person who has retired or died; or*
- (2) *to establish current service under Section 813.201.*

(e) *The retirement system may adopt rules to administer this section.*

SECTION 4. Subchapter B, Chapter 813, Government Code, is amended by adding Section 813.105 to read as follows:

Sec. 813.105. *PAYROLL DEDUCTIONS TO ESTABLISH OR REESTABLISH SERVICE CREDIT. (a) A contributing member who is otherwise eligible may establish or reestablish service creditable in the retirement system by making payments as provided by this section in lieu of lump-sum payments otherwise authorized or required by this subtitle.*

(b) *A payment authorized by this section consists of a monthly payroll deduction in an amount not less than one-twelfth of the contribution required to establish or reestablish at least one year of service credit, including any required interest and membership fee, except as provided by Subsection (c).*

(c) *Payments to establish or reestablish service credit of less than one year or to establish or reestablish service credit by a member who plans to retire in less than a year may be made by payroll deduction for a period determined by the retirement system.*

(d) *Payroll deductions for payments under this section shall be made and submitted to the retirement system at the times and in the manner provided for member contributions under Section 815.402.*

(e) *The retirement system shall credit a member's payments made under this section to a suspense account in the trust fund until the sum of the payments equals the amount required for one year of service credit or the amount required for credit under Subsection (c), at which time the retirement system shall deposit the payments in the appropriate accounts in the trust fund and grant the applicable amount of service credit.*

(f) *A member who, while making payments under this section, ceases to hold a position or withdraws the authority for payroll deductions may contract with the retirement system for an alternative method of continuing the payments. The retirement system may refund payments credited to the suspense account and not transferred to trust fund accounts if a remaining payment becomes delinquent by more than 60 days.*

(g) *Payments may not be made under this section to establish or reestablish service credit of a person who has retired or died, except that a beneficiary may make payment in a lump sum for the remainder of service credit for which payments were begun before the member's death.*

(h) *The retirement system may adopt rules to administer this section.*

SECTION 5. Subchapter B, Chapter 813, Government Code, is amended by adding Section 813.106 to read as follows:

Sec. 813.106. SERVICE NOT PREVIOUSLY ESTABLISHED. The state shall make contributions for service not previously established that is established under Section 813.104 or 813.105 in the amount provided by Section 813.202(e) for membership service or the amount provided by Section 813.302(d) for military service, as applicable. The state contributions will be made at the time the service credit is granted.

SECTION 6. Subsection (b), Section 813.304, Government Code, is amended to read as follows:

(b) The retirement system shall use military service credit in computing service retirement or nonoccupational disability retirement benefits of a member of the employee class only if the member has, without military service credit, at least *five* [10] years of service credit in that class.

SECTION 7. Section 813.504, Government Code, is amended to read as follows:

Sec. 813.504. ELIGIBILITY FOR SERVICE CREDIT PREVIOUSLY CANCELED. A member may reestablish service credit previously canceled in the retirement system if the member, after cancellation of the credit, holds a position for six [24] months that is included in the employee class.

SECTION 8. Subsection (a), Section 813.509, Government Code, is amended to read as follows:

(a) A member who retires based on service or a disability is entitled to service credit in the retirement system for the member's sick leave that has accumulated and is unused on the last day of employment. Sick leave is creditable in the retirement system at the rate of one month of service credit for each *20* [40] days, or *160* [320] hours, of accumulated sick leave. An increment of less than *20* [40] days is not creditable.

SECTION 9. Subchapter F, Chapter 813, Government Code, is amended by adding Section 813.510 to read as follows:

Sec. 813.510. CREDIT FOR COUNTY CHILD WELFARE BOARD SERVICE. (a) An eligible member may, before September 1, 1994, claim service credit not otherwise creditable in the retirement system for service performed before September 1, 1980, for a county child welfare board.

(b) A member eligible to claim credit under this section is one who:

(1) was a contributing member on August 31, 1993, having performed at least 24 months of continuous state service as of that date; and

(2) was subject during the period of welfare board service to personnel rules of and direct supervision by the Texas Department of Human Services or its predecessor.

(c) A member may claim credit under this section by depositing with the retirement system in a lump sum:

(1) a contribution based on the member's monthly salary during the period of service for a county child welfare board and computed for the number of months for which credit is sought at the combined rates currently required of the state and employee members of the system for new service;

(2) interest computed on the basis of the state fiscal year at an annual rate of 10 percent from the date the service was performed to the date of deposit; and

(3) any membership fees required of members of the system during the period beginning on the date the service began and ending on the date of deposit.

(d) The retirement system shall deposit the salary contribution in the member's individual account in the employees saving account, interest in the state accumulation account, and membership fees in the expense account.

(e) The retirement system shall determine the amount to be deposited in each case and may not grant service credit under this section until the required amount has been paid in full.

(f) Service credit may not be established under this section if the service is currently credited in another public retirement system.

(g) This section expires October 1, 1994.

SECTION 10. Subchapter G, Chapter 814, Government Code, is amended by adding Section 814.603 to read as follows:

Sec. 814.603. SUPPLEMENTAL ONE-TIME PAYMENT. (a) The retirement system shall make a supplemental payment to persons whose annuities are described by Section 814.107, 814.207, 814.305, or 814.601(a) and that are based on service retirements, disability retirements, or deaths. This supplemental payment is in addition to the regular monthly annuity payment. Each person who receives an annuity described by this subsection is entitled to receive one payment equal to 10 percent of one month's annuity payment for each fiscal year before the fiscal year beginning September 1, 1993, in which the annuity has been paid. A supplemental payment may not exceed 350 percent of a monthly annuity. Only a person whose annuity began in the fiscal year ending August 31, 1993, or earlier is eligible for the supplemental payment. Supplemental payments under this subsection must comply with Section 811.006.

(b) The retirement system shall pay the supplemental payment provided by Subsection (a) from the retirement annuity reserve account and may transfer to that account from the state accumulation account any portion of the amount that exceeds the amount in the retirement annuity reserve account available to finance this supplemental payment and that is actuarially determined to be necessary to finance the supplemental payment.

(c) The board of trustees may adopt rules to implement the payment, including rules that govern the timing of the supplemental payment described by Subsection (a).

(d) The board of trustees may by rule authorize similar supplemental payments in the fiscal year ending August 31, 1995, if the payments are in compliance with Section 811.006.

SECTION 11. Section 815.002, Government Code, is amended by adding Subsection (d) to read as follows:

(d) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

SECTION 12. Subchapter A, Chapter 815, Government Code, is amended by adding Section 815.0031 to read as follows:

Sec. 815.0031. INELIGIBILITY FOR BOARD AND OF CERTAIN EMPLOYEES. (a) A person is not eligible for appointment or election to the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the retirement system; or

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the retirement system.

(b) A paid officer, employee, or consultant of a Texas trade association in the field of insurance or investment may not be a trustee or an employee of the retirement system who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(c) A person who is the spouse of a paid officer, manager, or consultant of a Texas trade association in the field of insurance or investment may not be a trustee and may not be an employee of the retirement system who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(d) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(e) A person may not serve as a trustee or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's

activities for compensation on behalf of a business or an association related to the operation of the board.

SECTION 13. Subchapter A, Chapter 815, Government Code, is amended by adding Section 815.008 to read as follows:

Sec. 815.008. **GROUNDS FOR REMOVAL OF TRUSTEE.** (a) It is a ground for removal from the board if a trustee:

(1) violates a prohibition established by Section 815.0081;

(2) cannot discharge the person's duties for a substantial part of the term for which the person is appointed or elected because of illness or disability; or

(3) is absent from more than half of the regularly scheduled board meetings that the person is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a trustee exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chairman of the board of the ground. The chairman shall then notify the appropriate appointing officer, if any, that a potential ground for removal exists.

SECTION 14. Subchapter B, Chapter 815, Government Code, is amended by adding Section 815.111 to read as follows:

Sec. 815.111. **MISCELLANEOUS BOARD DUTIES.** (a) The board shall provide to its trustees and employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the retirement system.

(c) The board shall prepare information of interest to the retirement system's members describing the functions of the system and the system's procedures by which complaints are filed with and resolved by the system. The system shall make the information available to the system's members and appropriate state agencies.

(d) The board by rule shall establish methods by which members are notified of the name, mailing address, and telephone number of the retirement system for the purpose of directing complaints to the system.

(e) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(f) The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

SECTION 15. Subchapter C, Chapter 815, Government Code, is amended by adding Section 815.212 to read as follows:

Sec. 815.212. **EMPLOYMENT PRACTICES.** (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program shall require intra-agency posting of all non-entry-level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for retirement system employees must be based on the system established under this subsection.

(c) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the retirement system's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the retirement system's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(d) A policy statement prepared under Subsection (c) must cover an annual period, be updated at least annually, and be filed with the governor's office.

(e) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (d). The report may be made separately or as a part of other biennial reports made to the legislature.

SECTION 16. Subsections (a) and (b), Section 815.301, Government Code, are 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) collectively for the proportionate benefit of:

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

(B) the law enforcement and custodial officer supplemental retirement fund.

(b) The ~~[Except for assets of the law enforcement and custodial officer supplemental retirement fund, the]~~ board of trustees may, under the standard of care provided by Section 815.307, invest and reinvest any of the retirement system's assets and may commingle assets of the trust fund and the law enforcement and custodial officer supplemental retirement fund with the assets of the Judicial Retirement System of Texas Plan Two for investment purposes, as long as proportionate ownership records are maintained and credited. Investments may include home office facilities, including land, equipment, and office building, used in administering the retirement system.

SECTION 17. Subsection (b), Section 815.310, Government Code, is amended to read as follows:

(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; or
- (5) expense account~~[-or~~
- ~~[(6) benefit increase reserve account].~~

SECTION 18. Subsection (a), Section 815.313, Government Code, is amended to read as follows:

(a) The retirement system shall transfer to the retirement annuity reserve account money as required by Section 815.318, 815.319, ~~[815.320,]~~ or 815.321.

SECTION 19. Subsection (a), Section 815.317, Government Code, is amended to read as follows:

(a) The retirement system shall deposit in the law enforcement and custodial officer supplemental retirement fund *state contributions and other* ~~[payments made as provided by Section 815.405, any]~~ appropriations made by the legislature to the fund~~[-, money collected under Section 2(1), Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called~~

~~Session, 1929 (Article 6675a-2, Vernon's Texas Civil Statutes),]~~ and proceeds from investment of the fund.

SECTION 20. Section 815.318, Government Code, is amended to read as follows:

Sec. 815.318. TRANSFER OF ASSETS FROM INTEREST ACCOUNT. (a) The board of trustees shall transfer from the interest account to the employees saving account amounts of interest computed under Section 815.311 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 to the expense account 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 to the retirement annuity reserve account an amount equal to:

(1) five percent of the mean amount in the retirement annuity reserve account for that fiscal year; or

(2) an amount computed at a greater rate if the actuary recommends the greater rate to finance adequately the annuities payable from the retirement annuity reserve account.

~~(d) [As of the last day of each fiscal year, the board of trustees shall transfer from the interest account to the benefit increase account an amount computed at the rate set by the board under Section 815.106.~~

~~[(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 to the state accumulation account.

SECTION 21. Subsection (c), Section 815.401, Government Code, 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 in an amount equal to or greater than the membership fee required by Subsection (a), the members are not required to pay the membership fee for that year. *The retirement system may apply the membership fee to the administration of any program administered by the board of trustees.*

SECTION 22. Section 815.403, Government Code, is amended by amending Subsections (a) and (b) and by adding Subsection (g) to read as follows:

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

(1) an amount equal to 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 ~~[and payment]~~ of ~~[benefits from]~~ the law enforcement and custodial officer supplemental retirement fund; and

(5) ~~[(4)]~~ money for service credit not previously established, as provided by Section 813.202(e) or 813.302(d).

(b) Before November 2 of each even-numbered year, the retirement system shall certify to the Legislative Budget Board and to the budget division of the governor's office for review:

(1) an estimate of the amount necessary to pay the state's contribution under Subsections (a)(1), (a)(2), ~~(a)(3)~~, and ~~(a)(5)~~ ~~[(a)(4)]~~ for the following biennium;

~~[(2) the estimated amount, based on actuarial valuations, of appropriated funds required in addition to other available money to finance all benefits provided from the law enforcement and custodial officer supplemental retirement fund for the following biennium;~~

~~[(3) the estimated amount, based on actuarial valuations, of appropriated funds required for the following biennium to fully finance, within a period of not more than 36 years after September 1, 1979, liabilities of the law enforcement and custodial officer supplemental retirement fund accrued because of service performed before September 1, 1979;] and~~

(2) [(4)] as a separate item, an estimate of the amount required to administer the law enforcement and custodial officer supplemental retirement fund for the following biennium.

(g) *The contributions from the state to the law enforcement and custodial officer supplemental retirement fund may be made only from the general revenue fund.*

SECTION 23. Section 815.505, Government Code, is amended to read as follows:

Sec. 815.505. CERTIFICATION OF NAMES OF LAW ENFORCEMENT AND CUSTODIAL OFFICERS. *Not later than the 12th day of the month following the month in which a person begins or ceases employment as a law enforcement officer or custodial officer [As of the last day of each fiscal year], the [Department of] Public Safety Commission, the Texas Alcoholic Beverage Commission, the Parks and Wildlife Commission [Department], or [the State Purchasing and General Services Commission, and] the Texas Board [Department] of Criminal Justice, as applicable, [Corrections] shall certify to the retirement system, in the manner prescribed by the system, the name of the employee and such other information as the system determines is necessary for the crediting of service and financing of benefits under this subtitle [the names of employees and the amount of service each employee performed as a law enforcement officer or custodial officer during that fiscal year].*

SECTION 24. Subchapter F, Chapter 815, Government Code, is amended by adding Section 815.5071 to read as follows:

Sec. 815.5071. TRUSTEE-TO-TRUSTEE TRANSFER. *Notwithstanding Section 811.005 and to the extent required as a condition of plan qualification under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), the retirement system shall, in accordance with Section 401(a)(31) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(31)) and related regulations, permit the distributee of an eligible rollover distribution to elect to have the distribution paid directly to an eligible retirement plan specified by the distributee in the form of a direct trustee-to-trustee transfer. The board of trustees may adopt rules to carry out this section. Terms used in this section have the meanings assigned by the Internal Revenue Code of 1986 (Title 26, United States Code).*

SECTION 25. Subchapter F, Chapter 815, Government Code, is amended by adding Section 815.508 to read as follows:

Sec. 815.508. COMPLAINT FILES. (a) *The retirement system shall keep an information file about each complaint filed with the system that the system has authority to resolve.*

(b) *If a written complaint is filed with the retirement system that the system has authority to resolve, the system, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.*

SECTION 26. Subchapter F, Chapter 815, Government Code, is amended by adding Sections 815.509 and 815.510 to read as follows:

Sec. 815.509. ADVISORY COMMITTEES. (a) *The board of trustees may establish advisory committees as it considers necessary to assist it in performing its duties. Members of advisory committees established under this section serve at the pleasure of the board.*

(b) *Notwithstanding any other law to the contrary, the board of trustees by rule shall determine the amount and manner of any compensation or expense reimbursement to be paid members of an advisory committee performing service for the retirement system for performing the work of the advisory committee. All compensation and expense reimbursements for an advisory committee established under this section are payable from the expense account.*

Sec. 815.510. ANNUAL REPORT. (a) *The Employees Retirement System of Texas shall submit a report not later than the 25th day of the month following the end of each fiscal year to the governor, the lieutenant governor, the speaker of the house of representatives, the executive director of the State Pension Review Board, the appropriate oversight committees*

of the house and senate, and the Legislative Budget Board. The report shall include the following:

- (1) the current end-of-fiscal-year market value of the trust fund;
- (2) the current book value of the trust fund;
- (3) the asset allocations of the trust fund expressed in percentages of stocks, fixed income, cash, or other financial investments; and
- (4) the investment performance of the trust fund utilizing accepted industry measurement standards.

(b) The report required by this section is the only periodic report of investments required to be made by the retirement system other than a report required by Section 815.108 or the General Appropriations Act.

SECTION 27. Before October 1, 1995, the Public Safety Commission, the Texas Alcoholic Beverage Commission, the Parks and Wildlife Commission, and the Texas Board of Criminal Justice shall certify to the Employees Retirement System of Texas, in the manner prescribed by the retirement system, the name of each person employed on September 1, 1995, by the particular agency as a law enforcement officer, as defined by Section 811.001, Government Code, or a custodial officer, as defined by that section, and such other information as the system determines is necessary for the crediting of service and financing of benefits under Subtitle B, Title 8, Government Code.

SECTION 28. (a) All persons who were employed by the Texas Rehabilitation Commission on August 31, 1993, who were contributing members of the Teacher Retirement System of Texas on that date, and who remain employees of the Texas Rehabilitation Commission on September 1, 1993, become members of the Employees Retirement System of Texas on the latter date.

(b) At the time of the retirement or death of a person described by Subsection (a) of this section, the Teacher Retirement System of Texas and the Employees Retirement System of Texas shall make a computation and transfer of money in the manner provided by Section 805.008, Government Code, as added by this Act, and the person's service credit in the Teacher Retirement System of Texas will be transferred to the Employees Retirement System of Texas. The Employees Retirement System of Texas has the same responsibility for payments after retirement or death as is provided by Section 805.008, Government Code, as added by this Act.

(c) Notwithstanding Chapter 805, Government Code, as added by this Act, a person who becomes a member of the Employees Retirement System of Texas under this section is not eligible to transfer service credit from the Employees Retirement System of Texas to the Teacher Retirement System of Texas.

SECTION 29. (a) A retiree of the Employees Retirement System of Texas who at the time of retirement had at least 25 years of service credit in the retirement system and has served as the executive head of a legislative service agency is eligible to make an election under this section.

(b) A member of the Employees Retirement System of Texas who was an elected officer of the 73rd Senate of the State of Texas, as determined by the senate journal, and who has at least 28 years of service credit in the retirement system and has attained the age of 50 is eligible to make an election under this section.

(c) An election under this section must be made in writing and filed with the Employees Retirement System of Texas and is irrevocable after filing. An election under Subsection (a) of this section must be filed before January 1, 1994. After the filing of an election under this section, the retirement system shall consider all the service credit established by the person who makes the election, including service credit established after the date the election is filed, as if it were performed as a member of the elected class of membership.

SECTION 30. Chapter 805, Government Code, as added by this Act, applies only to retirements and deaths that occur on or after August 31, 1993.

SECTION 31. Subchapter B, Chapter 833, Government Code, is amended by adding Section 833.105 to read as follows:

Sec. 833.105. ALTERNATIVE PAYMENTS TO ESTABLISH OR REESTABLISH SERVICE CREDIT. (a) A member who is otherwise eligible may establish or reestablish service creditable in the retirement system by making payments as provided by this section in lieu of lump-sum payments otherwise authorized or required by this subtitle.

(b) A payment authorized by this section consists of the contribution required to establish or reestablish at least one year of service credit, including any required interest and membership fees, except that a person's last in a series of payments under this section may be for a period of remaining service that is less than one year.

(c) The retirement system shall grant the applicable amount of service credit after each payment is made under this section.

(d) Payments may not be made under this section:

(1) to establish or reestablish service credit of a person who has retired or died; or

(2) to establish current service under Section 833.101.

(e) The retirement system may adopt rules to administer this section.

SECTION 32. Subchapter B, Chapter 833, Government Code, is amended by adding Section 833.106 to read as follows:

Sec. 833.106. PAYROLL DEDUCTIONS TO ESTABLISH OR REESTABLISH SERVICE CREDIT. (a) A contributing member who is otherwise eligible may establish or reestablish service creditable in the retirement system by making payments as provided by this section in lieu of lump-sum payments otherwise authorized or required by this subtitle.

(b) A payment authorized by this section consists of a monthly payroll deduction in an amount not less than one-twelfth of the contribution required to establish or reestablish at least one year of service credit, including any required interest and membership fee, except as provided by Subsection (c).

(c) Payments to establish or reestablish service credit of less than one year or to establish or reestablish service credit by a member who plans to retire in less than a year may be made by payroll deduction for a period determined by the retirement system.

(d) Payroll deductions for payments under this section shall be made and submitted to the retirement system at the times and in the manner provided for member contributions under Section 835.101.

(e) The retirement system shall credit a member's payments made under this section to a suspense account until the sum of the payments equals the amount required for one year of service credit or the amount required for credit under Subsection (c), at which time the retirement system shall deposit the payments in the general revenue fund and grant the applicable amount of service credit.

(f) A member who, while making payments under this section, ceases to be a judicial officer or withdraws the authority for payroll deductions may contract with the retirement system for an alternative method of continuing the payments. The retirement system may refund payments credited to the suspense account and not transferred to the general revenue fund if a remaining payment becomes delinquent by more than 60 days.

(g) Payments may not be made under this section to establish or reestablish service credit of a person who has retired or died, except that a beneficiary may make payment in a lump sum for the remainder of service credit for which payments were begun before the member's death.

(h) The retirement system may adopt rules to administer this section.

SECTION 33. Subchapter B, Chapter 838, Government Code, is amended by adding Section 838.105 to read as follows:

Sec. 838.105. ALTERNATIVE PAYMENTS TO ESTABLISH OR REESTABLISH SERVICE CREDIT. (a) A member who is otherwise eligible may establish or reestablish service creditable in the retirement system by making payments as provided by this section in lieu of lump-sum payments otherwise authorized or required by this subtitle.

(b) A payment authorized by this section consists of the contribution required to establish or reestablish at least one year of service credit, including any required interest and

membership fees, except that a person's last in a series of payments under this section may be for a period of remaining service that is less than one year.

(c) The retirement system shall grant the applicable amount of service credit after each payment is made under this section.

(d) Payments may not be made under this section:

- (1) to establish or reestablish service credit of a person who has retired or died; or
- (2) to establish current service under Section 838.101.

(e) The retirement system may adopt rules to administer this section.

SECTION 34. Subchapter B, Chapter 838, Government Code, is amended by adding Section 838.106 to read as follows:

Sec. 838.106. PAYROLL DEDUCTIONS TO ESTABLISH OR REESTABLISH SERVICE CREDIT. (a) A contributing member who is otherwise eligible may establish or reestablish service creditable in the retirement system by making payments as provided by this section in lieu of lump-sum payments otherwise authorized or required by this subtitle.

(b) A payment authorized by this section consists of a monthly payroll deduction in an amount not less than one-twelfth of the contribution required to establish or reestablish at least one year of service credit, including any required interest and membership fee, except as provided by Subsection (c).

(c) Payments to establish or reestablish service credit of less than one year or to establish or reestablish service credit by a member who plans to retire in less than a year may be made by payroll deduction for a period determined by the retirement system.

(d) Payroll deductions for payments under this section shall be made and submitted to the retirement system at the times and in the manner provided for member contributions under Section 840.102.

(e) The retirement system shall credit a member's payments made under this section to a suspense account in the trust fund until the sum of the payments equals the amount required for one year of service credit or the amount required for credit under Subsection (c), at which time the retirement system shall deposit the payments in the appropriate accounts in the trust fund and grant the applicable amount of service credit.

(f) A member who, while making payments under this section, ceases to be a judicial officer or withdraws the authority for payroll deductions may contract with the retirement system for an alternative method of continuing the payments. The retirement system may refund payments credited to the suspense account and not transferred to trust fund accounts if a remaining payment becomes delinquent by more than 60 days.

(g) Payments may not be made under this section to establish or reestablish service credit of a person who has retired or died, except that a beneficiary may make payment in a lump sum for the remainder of service credit for which payments were begun before the member's death.

(h) The retirement system may adopt rules to administer this section.

SECTION 35. Subchapter B, Chapter 838, Government Code, is amended by adding Section 838.107 to read as follows:

Sec. 838.107. SERVICE NOT PREVIOUSLY ESTABLISHED. The state shall make contributions for service not previously established that is established under Section 838.105 or 838.106 in the amount provided by Section 838.103(f) for military service. The state contributions will be made at the time the service credit is granted.

SECTION 36. Subsection (a), Section 839.101, Government Code, is amended to read as follows:

(a) A member is eligible to retire and receive a service retirement annuity if the member:

- (1) is at least 65 years old, currently holds a judicial office, and has at least 10 years of service credited in the retirement system, the most recently performed of which was for a continuous period of at least one year;

(2) is at least 65 years old and has at least 12 years of service, continuous or otherwise, credited in the retirement system, regardless of whether the member currently holds a judicial office; or

(3) has at least 20 [25] years of service credited in the retirement system, the most recently performed of which was for a continuous period of at least 10 years, regardless of whether the member currently holds a judicial office.

SECTION 37. Section 839.102, Government Code, is amended to read as follows:

Sec. 839.102. SERVICE RETIREMENT ANNUITY. (a) Except as provided by Subsections (b) and (c), the standard service retirement annuity is an amount equal to 50 percent of the state salary being paid at the time the member retires to a judge of a court of the same classification as the last court to which the retiring member was elected or appointed [~~computed on the basis of the member's average monthly compensation for the 36 highest months of compensation during the last 60 months of service, multiplied by one twelfth of three percent for each month of service that is credited in the retirement system~~].

(b) ~~The retirement system shall increase by 10 percent of the amount of the applicable state salary under Subsection (a) or (c) the annuity of a member who on the effective date of retirement has not been out of judicial office for more than one year [standard service retirement annuity may not be more than 60 percent of the average monthly compensation computed under Subsection (a)].~~

(c) The standard service retirement annuity of a person qualifying for retirement under Section 839.101(b) is an amount computed as a percentage of the state salary being paid at the time the member retires to a judge of a court of the same classification as the last court to which the retiring member was elected or appointed, according to the following schedule:

<i>age at retirement</i>	<i>percentage of state salary</i>
<i>at least 60 but less than 61</i>	<i>40 percent</i>
<i>at least 61 but less than 62</i>	<i>41.7 percent</i>
<i>at least 62 but less than 63</i>	<i>43.6 percent</i>
<i>at least 63 but less than 64</i>	<i>45.6 percent</i>
<i>at least 64 but less than 65</i>	<i>47.7 percent</i>

[~~as provided by Subsection (a), reduced by one-third of one percent for each whole or partial calendar month that occurs during the period from the date of retirement to the date of the retiree's 65th birthday, including the months that contain the dates of retirement and birthday~~].

SECTION 38. Subsection (b), Section 840.103, Government Code, is amended to read as follows:

(b) Before November 2 of each even-numbered year, the retirement system shall certify to the Legislative Budget Board and to the budget division of the governor's office for review:

(1) an actuarial valuation of the retirement system to determine the percentage of annual payroll required from the state to finance fully the retirement system *as provided by Section 840.106* [~~without any unfunded liability~~];

(2) an estimate of the amount necessary to pay the state's contribution under Subdivision (1) for the following biennium; and

(3) as a separate item, an estimate of the amount, in addition to anticipated receipts from membership fees, required to administer the retirement system for the following biennium.

SECTION 39. Subchapter B, Chapter 840, Government Code, is amended by adding Section 840.106 to read as follows:

Sec. 840.106. ACTION INCREASING AMORTIZATION PERIOD. (a) *A rate of member or state contributions to or a rate of interest required for the establishment of credit in the retirement system may not be reduced or eliminated, a type of service may not be made creditable in the retirement system, a limit on the maximum permissible amount of a type of creditable service may not be removed or raised, a new monetary benefit payable by the retirement system may not be established, and the determination of the amount of a monetary benefit from the system may not be increased, if, as a result of the particular*

action, the time, as determined by an actuarial valuation, required to amortize the unfunded actuarial liabilities of the retirement system would be increased to a period that exceeds 30 years by one or more years.

(b) If the amortization period for the unfunded actuarial liabilities of the retirement system exceeds 30 years by one or more years at the time an action described by Subsection (a) is proposed, the proposal may not be adopted if, as a result of the adoption, the amortization period would be increased, as determined by an actuarial valuation.

SECTION 40. Subsection (a), Section 840.301, Government Code, is amended to read as follows:

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

SECTION 41. Subchapter E, Chapter 840, Government Code, is amended by adding Section 840.405 to read as follows:

Sec. 840.405. TRUSTEE-TO-TRUSTEE TRANSFER. Notwithstanding Section 836.004 and to the extent required as a condition of plan qualification under Section 401(a) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401), the retirement system shall, in accordance with Section 401(a)(31) of the Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)(31)) and related regulations, permit the distributee of an eligible rollover distribution to elect to have the distribution paid directly to an eligible retirement plan specified by the distributee in the form of a direct trustee-to-trustee transfer. The board of trustees may adopt rules to carry out this section. Terms used in this section have the meanings assigned by the Internal Revenue Code of 1986 (Title 26, United States Code).

SECTION 42. Subchapter E, Chapter 840, Government Code, is amended by adding Section 840.406 to read as follows:

Sec. 840.406. PLAN QUALIFICATION. (a) The provisions of this subtitle shall be interpreted and administered in a manner that permits the retirement system's benefit plan to be considered a qualified plan under Section 401, Internal Revenue Code of 1986 (26 U.S.C. Section 401). The board of trustees may adopt rules necessary to accomplish that purpose, and those rules are considered a part of the plan.

(b) The retirement system's benefit plan shall be considered the primary retirement plan for members of the retirement system in determining qualification status under Section 401(a), Internal Revenue Code of 1986 (26 U.S.C. Section 401(a)).

SECTION 43. Subparagraph (A), Paragraph (5), Subsection (a), Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as amended by Chapters 242 and 391, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(A) "*Employee*" [~~"State employee"~~] shall mean any appointive or elective state officer or employee in the service of the State of Texas, including an employee of an institution of higher education:

(i) who is retired or retires and is an annuitant under the jurisdiction of the Employees Retirement System of Texas, pursuant to Subtitle B, D, or E, or Chapter 803, Title 8, Government Code, who is retired or retires and is an annuitant under the jurisdiction of the Teacher Retirement System of Texas, pursuant to Subtitle C, Title 8, Government Code, whose last employment with the state prior to retirement was as an employee of the Teacher Retirement System of Texas, school districts established within state eleemosynary institutions, the Texas Rehabilitation Commission, the Central Education Agency, the Texas Higher Education Coordinating Board, or an institution of higher education, or who is retired or retires and is an annuitant under the optional retirement program established by Chapter 830, Government Code, if the person's last state employment before retirement, including employment by a public community/junior college, was as an officer or employee of the Texas Higher Education Coordinating Board, or an institution of higher education, and if the person either:

(a) would have been eligible to retire and receive a service retirement annuity from the Teacher Retirement System of Texas had the person not elected to participate in the optional retirement program; or

(b) is disabled;

(ii) who receives his compensation for services rendered to the State of Texas on a warrant issued pursuant to a payroll certified by a department or by an elected or duly appointed officer of this state;

(iii) who receives payment for the performance of personal services on a warrant issued pursuant to a payroll certified by a department and drawn by the State Comptroller of Public Accounts upon the State Treasurer against appropriations made by the Texas Legislature from any state funds or against any trust funds held by the State Treasurer or who is paid from funds of an official budget of a state department, rather than from funds of the General Appropriations Act;

(iv) who is appointed, subject to confirmation of the senate, as a member of a board or commission with administrative responsibility over a statutory agency having statewide jurisdiction whose employees are covered by this Act;

(v) *who is a member of the governing body of an institution of higher education, as that term is defined by Section 61.003, Education Code, including subsequent amendments to that section;*

(vi) who is a member of the State Board of Education;

(vii) who receives compensation for services rendered to an institution of higher education on a warrant or check issued pursuant to a payroll certified by an institution of higher education or by an elected or duly appointed officer of this state, and who is eligible for participation in the Teacher Retirement System of Texas; or

(viii) ~~(vi)~~ who receives compensation for services rendered to an institution of higher education as provided by this subdivision but is not permitted to be a member of the Teacher Retirement System of Texas because the person is solely employed by an institution of higher education that as a condition of employment requires the person to be enrolled as a student in an institution of higher education in graduate-level courses and who is employed by the institution at least 20 hours a week.

SECTION 44. Paragraphs (6), (14), and (15), Subsection (a), Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), are amended to read as follows:

(6) "Employer" shall mean the State of Texas *and*[,] all its departments[~~, and any participating school district~~].

(14) "Part-time employee" shall mean, for purposes of this Act, an employee designated by his employing agency as working less than 20 hours per week. A part-time [state] employee shall receive the benefits of one-half the amount of the state's contribution received by full-time employees.

(15) "Full-time employee" shall mean, for purposes of this Act, an employee designated by his employing agency as working 20 or more hours per week. A full-time [state] employee shall receive the benefits of a full state contribution for coverage under this Act.

SECTION 45. Subsection (e), Section 5, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as amended by Chapters 391 and 850, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(e) The trustee is authorized to select, contract for, and make available to eligible employees and annuitants in a specific area of the state, services performed by health maintenance organizations which are approved by the federal government or the State of Texas to offer health care services in that area. Eligible employees and annuitants may participate in a selected health maintenance organization in lieu of participation in the health insurance benefits in the Employees Uniform Group Insurance Program[~~, and the employer contributions provided by Section 14(a) or (b) of this Act for health care coverage shall be paid to the selected health maintenance organizations on behalf of the participants~~].

SECTION 46. Subsection (a), Section 13B, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), is amended to read as follows:

(a) The trustee may study the feasibility of establishing a cafeteria plan and may design, develop, adopt, implement, and administer a cafeteria plan if the trustee determines that the establishment of a cafeteria plan is feasible, would be beneficial to the state and to the ~~[state]~~ employees who would be eligible to participate in the cafeteria plan, and would not adversely affect the insurance program established under this Act. The trustee may include in the cafeteria plan any benefit that may be included in a cafeteria plan under federal law.

SECTION 47. Section 14, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as amended by Chapters 391 and 850, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 14. PAYMENT OF CONTRIBUTIONS. (a) The trustee shall use the amount appropriated for employer contributions in accordance with Section 15 of this Act to fund the basic coverage. The trustee may equitably allocate to each health benefits plan the employer contributions that would be required to fund basic health coverage for participants in the plans to the extent funds are available. In allocating the employer contributions among plans, the trustee shall consider the relevant risk characteristics of each plan's enrollment, including demographic variations in the use and cost of health care and the prevailing cost patterns in the area in which the plan operates. The allocation must be reasonable and set in a manner which assures employees a fair choice among health benefit plans providing a basic plan. The contribution set for each employee shall be within the total amount appropriated in the General Appropriations Act.

(b) Any employer contributions remaining after the basic coverage has been funded may be allocated by the trustee to fund optional coverages in any manner the trustee determines is appropriate. ~~[Each participating school district shall contribute, for each school district employee covered by the program, an amount equal to the employee only cost of the plans of group coverages authorized by the trustee for school district employees, provided that the school district's contribution may not exceed the amount contributed for each state employee in accordance with Subsection (a) of this section. If the cost of the plan authorized by the trustee for school district employees exceeds the amount of the district's contribution, the district shall deduct from the monthly compensation of the employee an amount sufficient to pay the amount of the premiums not covered by the district's contribution.]~~

(c) The trustee may not allocate any employer contributions to fund voluntary coverages. Voluntary coverages must be funded solely by employee contributions. ~~[If an employee or annuitant refuses in writing the coverages, benefits, or services provided by this Act by a statement in writing satisfactory to the trustee, then in no event shall the State of Texas, the employee's department, or the participating school district make any contribution to the cost of any other coverages, services, or benefits on such employee or annuitant.]~~

(d) If the cost of the basic coverage exceeds the amount of employer contributions allocated to fund the basic coverage, the state shall deduct from or reduce the monthly compensation of the employee and shall deduct from the retirement benefits of the annuitant an amount sufficient to pay the cost of the basic coverage. ~~[Except as provided by Subsection (e) of this section, if any employee or annuitant applies for coverages for which the cost exceeds the state's, the employing department's, or the participating school district's contribution under this Act, he shall authorize in writing and in a form satisfactory to the trustee a deduction from his monthly compensation or annuity the difference between the cost of coverages under the said group programs and the amount contributed therefor by the State of Texas or the employing department.]~~

(e) The trustee shall apply the amount of any employer contribution allocated to fund optional coverages to the excess of the cost of the basic and optional coverages for which the employee or annuitant has applied over the basic coverage contribution. Except as provided by Subsection (h) of this section, if an employee or annuitant applies for basic and optional coverages for which the cost exceeds the contributions for those coverages under this Act, the employee or annuitant shall authorize in writing in a form satisfactory to the trustee a deduction from the employee's or annuitant's monthly compensation or annuity equal to the difference between the cost of basic and optional coverages for which the employee or annuitant has applied and the employer contributions for basic and optional coverage. ~~[If an~~

~~employee elects to participate in the cafeteria plan, he shall execute a salary reduction agreement under which his monthly compensation will be reduced in an amount that is equal to the difference between the amount contributed for the coverages by the State of Texas, the employing department, or the participating school district and the cost of the coverages for which the employee is eligible to pay under the cafeteria plan. An employee who executes a salary reduction agreement for insurance coverages included in the cafeteria plan is considered to have elected to participate in the cafeteria plan and agreed to a salary reduction for the insurance coverages for subsequent plan years unless the participant, during an annual enrollment period specified by the trustee, explicitly elects not to participate for the next plan year in the insurance coverages. After electing not to participate in insurance coverages included in the cafeteria plan, an employee must, to reestablish participation for subsequent plan years in insurance coverages included in the cafeteria plan, execute a new salary reduction agreement. A salary reduction agreement for other benefits of the cafeteria plan must be executed annually, during the annual enrollment period specified by the trustee, for each plan year. The employee shall pay any remaining portion of the cost of benefits that is not covered by the state's, department's, or district's contributions and the salary reductions under the cafeteria plan by executing a payroll deduction agreement.]~~

(f) Except as provided by Subsection (h) of this section, if an employee or annuitant applies for voluntary coverages, the employee shall authorize in writing in a form satisfactory to the trustee a deduction from the employee's monthly compensation or annuity equal to the cost of the voluntary coverages.

(g) If an employee or annuitant refuses the coverages or benefits provided under this Act in writing in a form satisfactory to the trustee, the state and the employee's department may not make any contribution to the cost of any coverages or benefits for the employee or annuitant.

(h) If an employee elects to participate in the cafeteria plan, the employee must execute a salary reduction agreement under which the employee's monthly compensation will be reduced in an amount that is equal to the difference between the employer contributions for basic and optional coverages and the cost of the cafeteria plan coverages identified by the trustee as comparable to the basic and optional coverages for which the employee is eligible. The salary reduction agreement must also provide for an additional reduction in the employee's compensation equal to the cost of voluntary coverages for which the employee has applied. An employee who executes a salary reduction agreement for insurance coverage included in the cafeteria plan has elected to participate in the cafeteria plan and agreed to a salary reduction for the insurance coverages for subsequent plan years unless the participant, during an annual enrollment period specified by the trustee, elects in writing not to participate for the next plan year in the insurance coverages. An employee who has elected not to participate in the cafeteria plan insurance coverages may re-enroll by executing a new salary reduction agreement during a subsequent annual enrollment period. A salary reduction agreement for cafeteria plan benefits other than insurance coverages must be executed annually, during the annual enrollment period. The employee shall pay any remaining portion of the cost of benefits that is not covered by the contributions for basic and optional coverages and the salary reduction under the cafeteria plan by executing a payroll deduction agreement.

SECTION 48. Subsection (a), Section 15, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), is amended to read as follows:

(a) On or before the first day of November next preceding each regular session of the legislature, the trustee shall certify to the Legislative Budget Board and budget division of the governor's office for information and review the amount necessary to pay the contributions of the State of Texas to the trustee for the coverages provided under this Act during the ensuing biennium. *A state contribution may not be made for coverages under this Act selected by a person who receives a state contribution, other than as a spouse, dependent, or beneficiary, for coverages under a group benefits program provided by an institution of higher education, as that term is defined by Section 61.003, Education Code.* This amount shall be included in the budget of the state which the governor submits to the legislature.

SECTION 49. Subsections (a) and (b), Section 16, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), are amended to read as follows:

(a) There is hereby created with the treasury of the State of Texas an Employees Life, Accident, and Health Insurance and Benefits Fund which shall be administered by the trustee. ~~The [Except as provided by Subsection (d) of this section, the]~~ contributions of employees, annuitants, ~~[participating school districts,]~~ and the state provided for under this Act shall be paid into the fund. The fund is available:

(1) without fiscal year limitation for all payments for any coverages provided for under this Act; and

(2) to pay expenses for administering this Act within the limitations that may be specified annually by the legislature.

(b) ~~Portions [Except as provided by Subsection (d) of this section, portions]~~ of the contributions made by employees, annuitants, ~~[participating school districts,]~~ and the state shall be regularly set aside in the fund as follows: a percentage determined by the trustee to be reasonably adequate to pay the administrative expenses made available by Subsection (a) of this section. The trustee, from time to time and in amounts it considers appropriate, may transfer unused funds for administrative expenses to the contingency reserves to be used by the trustee only for charges, claims, costs, and expenses under the program.

SECTION 50. Subsection (c), Section 17, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), is amended to read as follows:

(c) Each state department ~~[and each participating school district]~~ shall keep such records, make such certifications, and furnish the trustee with such information and reports as may be necessary to enable the trustee to carry out its functions under this Act.

SECTION 51. Subsection (a), Section 18, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as amended by Chapters 242 and 391, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

(a) The group benefits advisory committee is composed of 27 ~~[25]~~ voting members as provided by this section. The office of the attorney general, the office of the state treasurer, the office of the comptroller, the Railroad Commission of Texas, ~~the General Land Office,~~ and the Department of Agriculture are entitled to be represented by one member each on the committee, who may be appointed by the governing body of the state agency or elected by and from the employees of the agency, as determined by rule by the governing body of the agency. One employee shall be elected from each of the remaining ~~eight [seven]~~ largest state agencies that are governed by appointed officers by and from the employees of those agencies. One nonvoting member shall be the executive director of the Employees Retirement System of Texas. One member shall be an expert in employee benefit issues from the private sector, appointed by the governor. One member shall be an expert in employee benefits issues from the private sector, appointed by the lieutenant governor. One member shall be a retired state employee appointed by the trustee. One member shall be a state employee of a state agency other than one of the ~~eight [seven]~~ largest state agencies, appointed by the trustee. *Not more than one employee from a particular state agency may serve on the committee. Each of the seven largest institutions of higher education, as determined by the number of employees on the payroll of an institution, shall elect one member of the committee from among persons who have each been nominated by a petition signed by at least 300 employees. Two [members shall be employees of institutions of higher education appointed by the Texas Higher Education Coordinating Board. Five] members shall be employees of institutions of higher education, *other than the seven largest institutions of higher education, who are appointed by the Texas Higher Education Coordinating Board* ~~[elected by and from the institutions of higher education],~~ but not more than one employee shall be from any one institution. ~~[The remaining members shall be elected by and from the employees of the other state agencies, excluding institutions of higher education, and from the employees of participating school districts in a manner consonant with the election for membership to the board of the Employees Retirement System of Texas, but not more than one employee shall be from any one agency or district.]~~ The members shall elect a presiding officer from their membership to serve a one-year term.*

SECTION 52. Subsections (b) and (c), Section 19, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), are amended to read as follows:

(b) A surviving spouse of an employee or a retiree who is entitled to monthly benefits paid by a retirement system named in this Act may, following the death of the employee or retiree, elect to retain the spouse's authorized coverages and also retain authorized coverages for any dependent of the spouse, at the group rate for employees, provided such coverage was previously secured by the employee or retiree for the spouse or dependent, and the spouse directs the applicable retirement system to deduct required contributions from the monthly benefits paid the surviving spouse by the retirement system. *A surviving dependent of a retiree who was receiving monthly benefits paid by a retirement system named in this Act may, after the death of the retiree and if the retiree leaves no surviving spouse, elect to retain any coverage previously secured by the retiree, at the group rate for employees, until the dependent becomes ineligible for coverage for a reason other than the death of the member of the group. A dependent who makes an election under this subsection and who is entitled to monthly benefits from a retirement system named in this Act based on the service of the deceased retiree must direct the applicable retirement system to deduct required contributions for the coverage from the monthly benefits paid the surviving dependent by the retirement system.*

(c) The surviving spouse of an employee or a retiree who designated or selected a time certain annuity option or *a surviving dependent of a retiree who designated or selected a time certain annuity option*, upon expiration of the annuity option may retain authorized coverages by advance payment of contributions to the Employees Retirement System of Texas under rules and regulations adopted by the trustee.

SECTION 53. Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes), is amended by adding Section 3 to read as follows:

Sec. 3. (a) *A state agency may permit some or all of the employees of the agency to participate in an employer-sponsored program described by Section 457(f) of the Internal Revenue Code of 1986, including subsequent amendments of that law.*

(b) *Before a state agency begins sponsorship of a program under Subsection (a) of this section, the agency shall submit a proposal for the program to the Employees Retirement System of Texas for its review and comment.*

(c) *In this section, "state agency" means a board, office, commission, department, institution, court, or other agency in any branch of state government.*

SECTION 54. Subsection (c), Section 141, Uniform Act Regulating Traffic on Highways (Article 6701d, Vernon's Texas Civil Statutes), is amended to read as follows:

(c) The fee for compulsory inspection of a motor vehicle other than a moped, to be made under this Section, shall be Ten Dollars and Fifty Cents (\$10.50). The fee for compulsory inspection of a moped, to be made under this Section, shall be Five Dollars and Seventy-five Cents (\$5.75). Five Dollars and Fifty Cents (\$5.50) of each fee shall be paid to the Department and shall, except as provided by ~~[Section 815.405, Government Code, or]~~ Section 382.0622, Health and Safety Code, be *deposited* ~~[placed]~~ in the Motor Vehicle Inspection Fund for the purpose of paying the expense of the administration of this law, *after the deduction of Two Dollars and Twenty-five Cents (\$2.25) of each fee, which shall be deposited by the Department in the general revenue fund.* The Department may require each official inspection station to make an advance payment of Five Dollars and Fifty Cents (\$5.50) for each inspection certificate furnished to it. ~~No[, and the money so received shall, except as provided by Section 815.405, Government Code, be placed in the Motor Vehicle Inspection Fund, and no]~~ further payment to the Department shall be required upon issuance of the certificate. If such advance payment has been made, the Department shall refund to the inspection station the amount of Five Dollars and Fifty Cents (\$5.50) for each unissued certificate which the inspection station returns to the Department in accordance with rules and regulations promulgated by the Department. The Texas Natural Resource Conservation Commission shall refund to the Department Two Dollars (\$2.00) for each unused certificate returned to the Department by inspection stations licensed by the Department. An inspection station may waive the fee otherwise due from the owner of a vehicle inspected under this Section if the inspection station has rendered in advance to the Department the payment of

Five Dollars and Fifty Cents (\$5.50) for the certificate applied to a vehicle with respect to which the owner's fee has been so waived.

SECTION 55. Subsection (c-4), Section 10, Chapter 88, General Laws, Acts of the 41st Legislature, 2nd Called Session, 1929 (Article 6675a-10, Vernon's Texas Civil Statutes), is amended to read as follows:

(c-4) On Monday of each week each County Tax Collector shall submit to the State Department of Highways and Public Transportation a carbon copy of the receipt issued for payment of each fee received in the preceding week for registration of a log loader vehicle under Section 2(l) of this Act ~~and all~~. ~~On Monday of each week the County Tax Collector shall send to the Employees Retirement System of Texas an amount equal to four percent (4%) of the registration fees collected under Section 2(l) of this Act [and shall remit the remaining ninety-six percent (96%) to the Department. Money sent to the retirement system under this subsection shall be deposited in the law enforcement and custodial officer supplemental retirement fund].~~

SECTION 56. The following provisions are repealed:

(1) Subsection (d), Section 813.509, and Sections 815.005, 815.106, 815.305, 815.316, 815.320, 815.405, 839.104, and 840.009, Government Code;

(2) Paragraphs (19), (20), (21), and (22), Subsection (a), Section 3, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as added by Chapter 391, Acts of the 72nd Legislature, Regular Session, 1991;

(3) Section 3A, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), as added by Chapter 391, Acts of the 72nd Legislature, Regular Session, 1991;

(4) Section 13C, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code);

(5) Subsection (e), Section 15, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code);

(6) Subsection (d), Section 16, Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code); and

(7) effective September 1, 1995, Subsection (d), Section 813.506, Government Code.

SECTION 57. The Employees Retirement System of Texas may adopt rules to implement the changes in law made by this Act in the composition of the group benefits advisory committee under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code).

SECTION 58. The Legislative Budget Board shall perform a study of the law enforcement and custodial officer supplemental retirement fund and the program supported by that fund. The study shall include an examination of the membership in the program, including its potential for growth, and an examination of appropriate methods of financing the program. The board shall include its findings and recommendations as a result of the study in a report to the 74th Legislature.

SECTION 59. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1993.

(b) This section and Sections 2 and 30 of this Act take effect immediately. Sections 22 and 23 of this Act take effect September 1, 1995.

SECTION 60. 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, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed the Senate on April 28, 1993: Yeas 31, Nays 0; May 22, 1993, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 25, 1993, House granted request of the Senate; May 29, 1993, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0; passed the House, with amendments, on May 21, 1993, by a non-record vote; May

25, 1993, House granted request of the Senate for appointment of Conference Committee; May 29, 1993, House adopted Conference Committee Report by the following vote: Yeas 128, Nays 0, one present not voting.

Approved June 18, 1993.

Effective Sept. 1, 1993, except §§ 2 and 30 effective June 18, 1993, and §§ 22 and 23 effective Sept. 1, 1995.