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H.B. No. 1585

A BILL TO BE ENTITLED

AN ACT

relating to the operations and functions of the Teacher Retirement  
System of Texas.

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

SECTION 1. Section 824.002(c), Government Code, is amended  
to read as follows:

(c) For the purposes of this section, a member's employment  
in a position covered by the retirement system does not end if the  
member is on leave of absence or has a contract for future  
employment in a public school, other than a contract for employment  
that would, if the retiring member and the employer were to comply  
with all procedural requirements, qualify under Section 824.602 for  
an exception to a reduction or ~~[the]~~ loss of monthly benefits  
required by Section 824.601.

SECTION 2. Section 824.2031(b), Government Code, is amended  
to read as follows:

(b) A determination under this section shall be founded on  
the information in the most recent report of an investment  
practices and performance evaluation ~~[audit]~~ conducted under  
Section 802.109 ~~[825.512]~~ and the application of that information  
to:

(1) the present amortization period for liabilities of  
the retirement system;

(2) the rate of return on retirement system

1 investments over and above the rate of inflation of the investment  
2 portfolio as a whole, of the portion of the investment portfolio  
3 entrusted to private investment entities, and of the portion of the  
4 investment portfolio entrusted to investment officers who are  
5 employees of the retirement system;

6 (3) economic projections of market conditions and  
7 future investment rates of return as reflected in the comptroller's  
8 most recent economic forecast and revenue estimate;

9 (4) the costs, including changes in the amortization  
10 period for liabilities of the retirement system, of providing  
11 cost-of-living or other increases in benefits to current  
12 annuitants; and

13 (5) an evaluation of the diversity of retirement  
14 system investments and whether the portfolio provides low-risk,  
15 long-term growth.

16 SECTION 3. The heading to Subchapter G, Chapter 824,  
17 Government Code, is amended to read as follows:

18 SUBCHAPTER G. REDUCTION OR LOSS OF BENEFITS ON RESUMPTION OF  
19 SERVICE

20 SECTION 4. The heading to Section 824.601, Government Code,  
21 is amended to read as follows:

22 Sec. 824.601. REDUCTION OR LOSS OF MONTHLY BENEFITS.

23 SECTION 5. Section 824.601, Government Code, is amended by  
24 amending Subsections (b) and (e) and adding Subsections (b-3) and  
25 (b-4) to read as follows:

26 (b) Except as provided by Subsection (b-1), (b-3), or (b-4),  
27 or Section 824.602 and subject to Subsection (b-2), during [a

1 ~~retiree is not entitled to service or disability retirement benefit~~  
2 ~~payments, as applicable, for] any month in which a [the] retiree is~~  
3 ~~employed in any position by a Texas public educational institution,~~  
4 the retiree's entitlement to service or disability retirement  
5 benefit payments for that month is reduced by an amount equal to the  
6 lesser of:

7 (1) the retiree's benefit payment for that month; or  
8 (2) the total compensation earned by the retiree for  
9 the employment during that month:

10 (A) as reported by the retiree's employer; or  
11 (B) if not reported, verified in a manner  
12 prescribed by the retirement system.

13 (b-3) If the total compensation earned by a retiree is not  
14 reported or verified under Subsection (b)(2), the retiree's  
15 entitlement to service or disability retirement benefit payments  
16 for that month is reduced by an amount equal to the retiree's  
17 benefit payment for that month.

18 (b-4) A retiree under Section 824.302 who is employed in any  
19 position by a Texas public educational institution for more than 90  
20 days in a school year is not entitled to disability retirement  
21 benefit payments for the remaining months of the school year during  
22 which the retiree continues to be employed by an institution unless  
23 the retiree qualifies for the exception described by Section  
24 824.602(g).

25 (e) A reduction or loss [~~Loss~~] of benefits under this  
26 section does not extend any period of guaranteed benefits elected  
27 pursuant to Section 824.204.

1           SECTION 6. Sections 824.602(a), (g), and (k), Government  
2 Code, are amended to read as follows:

3           (a) Subject to Section 825.506, the retirement system may  
4 not, under Section 824.601, reduce or withhold a monthly benefit  
5 payment if the retiree is employed in a Texas public educational  
6 institution:

7           (1) as a substitute only with pay not more than the  
8 daily rate of substitute pay established by the employer and, if the  
9 retiree is a disability retiree, the employment has not exceeded a  
10 total of 90 days in the school year;

11           (2) in a position, other than as a substitute, on no  
12 more than a one-half time basis for the month;

13           (3) in one or more positions on as much as a full-time  
14 basis, if the retiree has been separated from service with all Texas  
15 public educational institutions for at least 12 full consecutive  
16 months after the retiree's effective date of retirement; or

17           (4) in a position, other than as a substitute, on no  
18 more than a one-half time basis for no more than 90 days in the  
19 school year, if the retiree is a disability retiree.

20           (g) The exceptions provided by Subsections (a)(2) and  
21 (a)(3) do not apply to disability retirees. The retirement system  
22 nevertheless may not withhold a monthly benefit payment under  
23 Section 824.601 if:

24           (1) a disability retiree is employed in a Texas public  
25 educational institution in a position, other than as a substitute,  
26 for a period not to exceed three consecutive months;

27           (2) the work occurs in a period, designated by the

1 disability retiree, of no more than three consecutive months;

2 (3) the disability retiree executes on a form and at a  
3 time prescribed by the retirement system a written election to have  
4 this exception apply on a one-time trial basis in determining  
5 whether benefits are to be suspended for the months of employment  
6 after retirement and in determining whether a disability retiree is  
7 no longer mentally or physically incapacitated for the performance  
8 of duty; and

9 (4) the disability retiree has not previously elected  
10 to avoid a reduction or loss of monthly benefits under this  
11 subsection.

12 (k) The actuary designated by the board of trustees shall,  
13 in investigating the experience of the members of the system, note  
14 any significant increase in early age retirements and determine the  
15 extent to which any increase has been caused by the exception to a  
16 reduction or loss of benefits for employment after retirement  
17 provided by Subsection (a)(3). If the actuary certifies in writing  
18 to the retirement system that sound actuarial funding of the  
19 retirement system's benefits is endangered by continuation of this  
20 exception, the board of trustees may determine that no further  
21 elections of the exception will be accepted from retirees, other  
22 than from those who have previously relied on the exception in  
23 retiring under this subtitle. A retiree may be considered to have  
24 relied on this exception only if retirement occurred on or after May  
25 31, 1985, but before the date the board of trustees acknowledges  
26 receipt of such certification and if the retiree has first elected  
27 to receive benefits under the exception not later than two years

1 after the retiree's effective date of retirement.

2 SECTION 7. Section 824.601(f), Government Code, is  
3 redesignated as Section 824.604, Government Code, and amended to  
4 read as follows:

5 Sec. 824.604. RULES. [~~(f)~~] The board of trustees [~~system~~]  
6 may adopt rules necessary for administering this subchapter.

7 SECTION 8. Section 825.0041, Government Code, is amended by  
8 amending Subsection (b) and adding Subsection (d) to read as  
9 follows:

10 (b) The [A] training program must provide the person with  
11 information regarding:

12 (1) the law governing [~~legislation that created the~~]  
13 retirement system operations; [~~and the system's~~]

14 (2) the programs, functions, rules, and budget of the  
15 system;

16 (3) the scope of and limitations on the rulemaking  
17 authority of the board of trustees;

18 (4) [~~(2)~~] the results of the most recent formal audit  
19 of the system;

20 (5) [~~(3)~~] the requirements of:

21 (A) laws relating to open meetings, public  
22 information, administrative procedure, and disclosing  
23 conflicts-of-interest [~~conflicts of interest~~]; and

24 (B) other laws applicable to members of a state  
25 policy-making body in performing their duties; and

26 (6) [~~(4)~~] any applicable ethics policies adopted by  
27 the system or the Texas Ethics Commission.

1       (d) The executive director of the retirement system shall  
2 create a training manual that includes the information required by  
3 Subsection (b). The executive director shall distribute a copy of  
4 the training manual annually to each member of the board of  
5 trustees. Each member of the board of trustees shall sign and  
6 submit to the executive director a statement acknowledging that the  
7 member received and has reviewed the training manual.

8       SECTION 9. Section 825.006, Government Code, is amended to  
9 read as follows:

10       Sec. 825.006. SUNSET PROVISION. The board of trustees of  
11 the Teacher Retirement System of Texas is subject to review under  
12 Chapter 325 (Texas Sunset Act), but is not abolished under that  
13 chapter. The board shall be reviewed during the period in which  
14 state agencies abolished in 2033 [~~2021~~], and every 12th year after  
15 that year, are reviewed.

16       SECTION 10. Subchapter C, Chapter 825, Government Code, is  
17 amended by adding Section 825.216 to read as follows:

18       Sec. 825.216. OMBUDSMAN. (a) Subject to Section 825.506,  
19 the board of trustees shall designate an ombudsman within the  
20 retirement system to assist members and retirees by performing  
21 member and retiree protection and advocacy functions, including:

22               (1) monitoring the system's interactions with members  
23 and retirees;

24               (2) receiving and reviewing complaints from members  
25 or retirees;

26               (3) taking appropriate action regarding complaints,  
27 including conducting investigations of complaints or escalating or

1 reporting complaints to the board;

2 (4) informing a member or retiree and the board of the  
3 results of the ombudsman's review or investigation of the member's  
4 or retiree's complaint; and

5 (5) recommending corrective actions to the board as  
6 determined necessary by the ombudsman to resolve complaints.

7 (b) The ombudsman designated under this section shall  
8 regularly submit a report to the board of trustees recommending  
9 changes to the retirement system's operations that would benefit  
10 members and retirees and increase opportunities for the members and  
11 retirees to participate in the system's decisions.

12 SECTION 11. Section 825.308, Government Code, is amended to  
13 read as follows:

14 Sec. 825.308. STATE CONTRIBUTION ACCOUNT. The retirement  
15 system shall deposit in the state contribution account:

16 (1) all state contributions to the retirement system  
17 required by Section 825.404;

18 (2) amounts from the interest account as provided by  
19 Section 825.313(b)(2);

20 (3) retirement annuities, or that portion of  
21 annuities, as applicable, waived or forfeited in accordance with  
22 Section 824.601 or 824.004;

23 (4) fees collected under Section 825.403(h);

24 (5) fees and interest for reinstatement of service  
25 credit or establishment of membership service credit as provided by  
26 Section 823.501;

27 (6) the portion of a deposit required by Section

1 823.302 to establish military service credit that represents a fee;  
2 and

3 (7) employer contributions required under Section  
4 825.4092.

5 SECTION 12. Section 825.4041(f), Government Code, is  
6 amended to read as follows:

7 (f) At the end of each school year, the retirement system  
8 shall certify to the [~~commissioner of education and to the~~] state  
9 auditor:

10 (1) the name of each employer that is an institution of  
11 higher education and has failed to remit, within the period  
12 required by Section 825.408, all payments required under this  
13 section for the school year; and

14 (2) the amounts of the unpaid required payments.

15 SECTION 13. Section 825.405(f), Government Code, is amended  
16 to read as follows:

17 (f) If the commissioner of education receives a  
18 certification from the retirement system regarding unpaid  
19 contributions [~~under Subsection (e)~~], the commissioner shall  
20 direct the comptroller of public accounts to withhold the amount  
21 certified, plus interest computed at the rate and in the manner  
22 provided by Section 825.408, from the first state money payable to  
23 the employer. The amount withheld shall be deposited to the credit  
24 of the appropriate accounts of the retirement system.

25 SECTION 14. Section 825.502, Government Code, is amended by  
26 amending Subsection (b) and adding Subsection (c) to read as  
27 follows:

1 (b) If the member or the member's heirs cannot be found  
2 after complying with the policy adopted under Subsection (c), the  
3 member's accumulated contributions are forfeited to the retirement  
4 system. The retirement system shall credit the amount forfeited to  
5 the retired reserve account.

6 (c) The board of trustees shall adopt a policy requiring the  
7 retirement system to make all reasonable efforts to locate and  
8 notify a member or, if appropriate, the member's heirs of their  
9 entitlement to a return of accumulated contributions under this  
10 section. The policy must ensure that the:

11 (1) notice:

12 (A) provides information on how a member or the  
13 member's heirs, as appropriate, may withdraw the accumulated  
14 contributions, including information on how to effectuate a  
15 withdrawal through an election to receive a direct rollover of the  
16 contributions to an eligible retirement plan; and

17 (B) is initially sent to the member by certified  
18 mail, return receipt requested, at the last known address of the  
19 member according to the system's records; and

20 (2) procedure used to locate a member or the member's  
21 heirs:

22 (A) requires, at a minimum, that the system  
23 conduct Internet searches to determine a current and accurate  
24 mailing address of the member or the member's heir and send a notice  
25 that complies with Subdivision (1) to the member or the member's  
26 heir, as applicable, by certified mail, return receipt requested;  
27 and

1           (B) employs a matrix based on defined factors for  
2 determining on a graduated scale the degree and type of additional  
3 effort required, and those efforts must include:

4                   (i) contacting the member's designated  
5 beneficiary;

6                   (ii) obtaining information from consumer  
7 reporting agencies; and

8                   (iii) using commercial locating services.

9           SECTION 15. Sections 825.511(a) and (c), Government Code,  
10 are amended to read as follows:

11           (a) The retirement system shall maintain a system to  
12 promptly and efficiently act on complaints filed with the  
13 retirement system [~~that the system has authority to resolve~~]. The  
14 retirement system shall maintain information about parties to the  
15 complaint, the subject matter of the complaint, a summary of the  
16 results of the review or investigation of the complaint, and its  
17 disposition.

18           (c) The retirement system shall periodically notify the  
19 complaint parties of the status of the complaint until final  
20 disposition unless the notice would jeopardize an investigation.

21           SECTION 16. Section 825.521, Government Code, is amended to  
22 read as follows:

23           Sec. 825.521. DEADLINE TO APPEAL [~~FINAL~~] ADMINISTRATIVE  
24 DECISION. In adopting rules governing an [~~the~~] appeal authorized  
25 by law or rule of a determination or decision of the retirement  
26 system by the system's staff, including a final administrative  
27 decision of the [~~retirement~~] system, the board of trustees shall

1 ensure that rules establishing deadlines for [~~the~~] filing the [~~of~~  
2 ~~an~~] appeal afford a member or retiree at least the same amount of  
3 time to file the [~~an~~] appeal as the retirement system has to issue  
4 the determination or [~~retirement system's~~] decision.

5 SECTION 17. The heading to Subchapter G, Chapter 825,  
6 Government Code, is amended to read as follows:

7 SUBCHAPTER G. OUTREACH TO MEMBERS AND EMPLOYERS [~~MEMBER SERVICES~~]

8 SECTION 18. Section 825.601, Government Code, is amended to  
9 read as follows:

10 Sec. 825.601. OUTREACH PLAN [~~POLICIES GOVERNING RETIREMENT~~  
11 ~~BENEFITS COUNSELING~~]. (a) The board of trustees shall develop and  
12 adopt an outreach plan designed to assist each member of the system,  
13 and as appropriate the members' employers, in effectively planning  
14 for the member's retirement. The plan must require the retirement  
15 system to:

16 (1) identify and implement ways to improve  
17 communication between the system and the system's members and  
18 employers;

19 (2) update and develop outreach materials and other  
20 information distributed by the system, including handbooks,  
21 brochures, presentations, and handouts, in a manner that complies  
22 with Section 802.106(g);

23 (3) update and develop policies governing retirement  
24 benefits counseling provided to members by the system, including [~~-~~  
25 ~~The~~] policies that [~~must~~]:

26 (A) subject to Section 825.602, ensure [~~(1)~~  
27 ~~address the manner in which~~] the [~~retirement~~] system makes group

1 and individual member retirement benefits counseling available  
2 throughout the state;

3 ~~[(2) identify the geographic regions of the state most~~  
4 ~~in need of retirement benefits counseling services and the manner~~  
5 ~~in which that need will be met,]~~ and

6 (B) [(3)] clarify that the retirement system  
7 does not provide financial or legal advice;

8 (4) provide at least annually to each member of the  
9 system, regardless of whether the member is vested in the system, an  
10 estimate of the member's retirement benefits;

11 (5) enhance employer training and establish an  
12 Internet portal designed to assist employers to:

13 (A) satisfy applicable reporting requirements;

14 (B) provide general information to individual  
15 members on:

16 (i) employment after retirement;

17 (ii) enrollment in health insurance  
18 benefit plans; and

19 (iii) retirement benefits and retirement  
20 planning; and

21 (C) facilitate other communications or exchanges  
22 involving members and the retirement system; and

23 (6) design and implement methods for maintaining  
24 up-to-date contact information for members and beneficiaries based  
25 on best practices for outreach.

26 (b) In developing the outreach plan, the board of trustees  
27 shall solicit input through surveys or other means from members of

1 the system, employers, and other stakeholders, including  
2 appropriate advisory groups.

3 (c) Once every five years, the retirement system shall  
4 review and update the outreach plan adopted under this section.

5 SECTION 19. Section 825.602(b), Government Code, is amended  
6 to read as follows:

7 (b) The retirement system shall provide retirement benefits  
8 counseling for individual members:

9 (1) in different geographic regions of this state,  
10 including regions outside of Austin; and

11 (2) in person or by phone, at the election of the  
12 member.

13 SECTION 20. Subchapter A, Chapter 1575, Insurance Code, is  
14 amended by adding Section 1575.010 to read as follows:

15 Sec. 1575.010. INFORMATION REGARDING APPEALS. The trustee  
16 shall develop and distribute informational materials to  
17 individuals enrolled in a health benefit plan offered under the  
18 group program regarding:

19 (1) the enrollee's right to appeal denial of an adverse  
20 determination, as defined by Section 4201.002, to an independent  
21 review organization;

22 (2) the procedures for appealing to an independent  
23 review organization; and

24 (3) the assistance available from the trustee in  
25 navigating the procedures for appeal.

26 SECTION 21. Section 1575.453, Insurance Code, is amended to  
27 read as follows:

1           Sec. 1575.453. STUDY AND REPORT BY TRUSTEE. (a) The  
2 trustee shall study the operation and administration of this  
3 chapter, including:

4           (1) conducting surveys and preparing reports on  
5 financing group coverages and health benefit plans available to  
6 participants; ~~and~~

7           (2) studying the experience and projected cost of  
8 coverage; and

9           (3) reviewing the group coverages provided to and the  
10 benefits and services being received by individuals covered under  
11 this chapter.

12           (b) The trustee shall report annually to the legislature and  
13 the department ~~[at each regular session]~~ on the operation and  
14 administration of this chapter.

15           SECTION 22. Subchapter A, Chapter 1579, Insurance Code, is  
16 amended by adding Section 1579.010 to read as follows:

17           Sec. 1579.010. INFORMATION REGARDING APPEALS. The trustee  
18 shall develop and distribute informational materials to  
19 individuals enrolled in a health coverage plan provided under this  
20 chapter regarding:

21           (1) an enrollee's right to appeal denial of an adverse  
22 determination, as defined by Section 4201.002, to an independent  
23 review organization;

24           (2) the procedures for appealing to an independent  
25 review organization; and

26           (3) the assistance available from the trustee in  
27 navigating the procedures for appeal.

1 SECTION 23. Section 1579.106, Insurance Code, is amended by  
2 amending Subsection (c) and adding Subsection (d) to read as  
3 follows:

4 (c) Every 12 [~~six~~] months the trustee shall submit to the  
5 comptroller and the Legislative Budget Board a report regarding any  
6 cost savings achieved in the program through implementation of the  
7 prior authorization requirement of this section. The report must  
8 cover the previous 12-month [~~six-month~~] period.

9 (d) In the report under Subsection (c), the trustee:

10 (1) may include any cost savings achieved in the  
11 program for coverage of prescribed drugs that are not included in  
12 the categories listed in Subsection (b) for which prior  
13 authorization is required by a health coverage plan provided under  
14 this chapter; and

15 (2) considering cost and medical necessity, shall  
16 identify any categories of prescribed drugs in addition to the  
17 categories listed in Subsection (b) for which requiring prior  
18 authorization could achieve cost savings.

19 SECTION 24. The following provisions are repealed:

- 20 (1) Section 802.109(j), Government Code;  
21 (2) Section 825.405(e), Government Code;  
22 (3) Section 825.512, Government Code; and  
23 (4) Section 1575.452, Insurance Code.

24 SECTION 25. Sections 824.601 and 824.602, Government Code,  
25 as amended by this Act, apply only to a benefit payment made by the  
26 Teacher Retirement System of Texas that becomes payable on or after  
27 the effective date of this Act.

1           SECTION 26. (a) Except as provided by Subsection (b) of  
2 this section, Section 825.0041, Government Code, as amended by this  
3 Act, applies to a member of the board of trustees of the Teacher  
4 Retirement System of Texas appointed before, on, or after the  
5 effective date of this Act.

6           (b) A member of the board of trustees of the Teacher  
7 Retirement System of Texas who, before the effective date of this  
8 Act, completed the training program required by Section 825.0041,  
9 Government Code, as that law existed before the effective date of  
10 this Act, is only required to complete additional training on the  
11 subjects added by this Act to the training program required by  
12 Section 825.0041, Government Code. A board member described by  
13 this subsection may not vote, deliberate, or be counted as a member  
14 in attendance at a meeting of the board held on or after December 1,  
15 2021, until the member completes the additional training.

16           SECTION 27. As soon as practicable after the effective date  
17 of this Act, but not later than December 1, 2021, the Teacher  
18 Retirement System of Texas shall implement the outreach plan  
19 required by Section 825.601, Government Code, as amended by this  
20 Act.

21           SECTION 28. This Act takes effect immediately if it  
22 receives a vote of two-thirds of all the members elected to each  
23 house, as provided by Section 39, Article III, Texas Constitution.  
24 If this Act does not receive the vote necessary for immediate  
25 effect, this Act takes effect September 1, 2021.