

## **BILL ANALYSIS**

H.B. 2169  
By: Telford  
Pensions & Investments  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Private third-party entities are encouraging active classroom teachers who are at or near retirement eligibility to retire and return to the classroom not as an employee of the school district, but as an employee of the third-party entity.

Under this arrangement, educators receive an overall enhancement in pay by taking retirement and receiving a reduced salary from the third-party employer. This practice will harm the TRS fund by significantly altering retirement patterns because educators will have an inducement to retire earlier than they otherwise would have.

In a letter to the Teachers Retirement System dated September 9, 2002, the system's consulting actuaries, Gabriel, Roeder, Smith & Company, cautioned:

“The critical issue ... is whether the provision will alter the basic retirement pattern of members. If the provision encourages the members to retire earlier than they otherwise would have, then there is going to be an adverse actuarial consequence.”

Moreover, on February 3, 2003, the Texas Attorney General issued an opinion (GA-0018) in which he ruled that, under current law, employees of a third party entity with a contractual arrangement to provide personnel to a public education institution are *not* employees of the school district. This ruling effectively removes these employees from current statutory return-to-work limitations, as well as removing liability protections afforded to educators under Section 22.051 of the Education Code.

H.B. 2169 protects the TRS pension fund by specifying that an individual employed by a third-party entity that is retained by a public educational institution is considered employed by the educational institution for purposes of TRS retirement benefits forfeiture.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Teacher Retirement System of Texas in SECTION 1 of this bill (Section 824.601(f), Government Code).

### **ANALYSIS**

SECTION 1. Amends Section 824.601 of the Government Code by adding the following subsections:

- (a) defines “third party entity” as an entity retained by a public educational institution to provide personnel to perform duties that otherwise would be performed by an employee of the institution.
- (d) specifies that an individual employed by a third party entity is considered an employee of the school district for purposes of the Sec. 824.601, Government Code.
- (f) gives the Teacher Retirement System rulemaking authority to administer this subchapter.

SECTION 2. Makes these amendments to Section 824.601, Government Code applicable beginning with the 2003-2004 school year.

SECTION 3. Effective date.

**EFFECTIVE DATE**

On passage, or if the Act does not receive the necessary vote, the Act takes effect September 1, 2003.