

BILL ANALYSIS

Senate Research Center
78R16099 SMJ-D

H.B. 2169
By: Telford (Shapiro)
Education
5/17/2003
Committee Report (Amended)

DIGEST AND PURPOSE

According to a Texas Attorney General opinion (GA-0018), former teachers temporarily employed by third-party contractors who provide educational services to school districts are not considered as professional employees and thereby do not forfeit their retirement benefits. H.B. 2169 clarifies that an individual employed by a company that contracts with a public school and who performs the duties of a teacher is considered a school employee who is not entitled to benefits unless the individual has fulfilled existing return-to-work provisions.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Teacher Retirement System in SECTION 1 (Section 824.601, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 824.601, Government Code, as follows:

- Sec. 824.601. (a) Defines “third party.”
- (b) Creates new subsection from existing text.
- (c) Creates new subsection from existing text.
- (d) Provides that a retiree who is an employee of a third-party entity is considered to be employed by a Texas public educational institution for purposes of this subchapter unless the retiree does not perform duties or provide services on behalf of or for the benefit of the institution.
- (e) Creates new subsection from existing text.
- (f) Authorizes the Teacher Retirement System to adopt rules necessary to administering this subchapter.

SECTION 2. Provides that the change in law made by Section 824.601, Government Code, as amended by this Act, applies only to the payment of retirement benefits to a retiree who is first employed by a third-party entity on or after April 22, 2003. Provides that the payment of retirement benefits to a retiree who was first employed by a third-party entity before April 22, 2003, is governed by the law in effect before the effective date of this Act, and the former law is continued in effect for that purpose.

SECTION 3. Effective date: upon passage or September 1, 2003.

LIST OF COMMITTEE AMENDMENTS

Amends H.B. 2169 by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. Subchapter A, Chapter 822, Government Code, is amended by adding Section 822.0015 to read as follows:

Sec. 822.0015. OPTIONAL MEMBERSHIP FOR CERTAIN OFFICIALS. (a) In lieu of participating in the Employees Retirement System of Texas, the commissioner of education may elect to participate in the retirement system in the same manner and under the same conditions as a member who is an employee of the public school system.

(b) An election by the commissioner of education to participate in the retirement system must be on form prescribed by the retirement system for that purpose.

(c) Notwithstanding Section 821.001, if the commissioner of education elects to participate in the retirement system, the State Board of Education is the employer of the commissioner for purpose of this subtitle.

SECTION __. (a) Notwithstanding Section 830.106, Government Code, a commissioner of education who is a participant in the optional retirement program under Chapter 830, Government Code, on the effective date of this Act may make a one-time election to cease active participation in the program and become a member of the Teacher Retirement System of Texas under Section 822.0015, Government Code, as added by this Act, on or after that date.

(b) A commissioner of education who makes the one-time election under Subsection (a) of this section is not eligible to again participate in the optional retirement program under Chapter 830, Government Code, after making the election.