

## **BILL ANALYSIS**

Senate Research Center  
78R6334 SMJ-D

S.B. 1243  
By: Armbrister  
State Affairs  
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### **DIGEST AND PURPOSE**

Currently, the Teacher Retirement System of Texas (TRS) administers and oversees the funds for all members of the public education system in Texas and many of the public university systems. As proposed, S.B. 1243 adds to some of the administrative laws dealing with TRS and with some of the programs administered by that system. S.B. 1243 updates certain provisions, changes board makeup, and cleans up some statutory language.

### **RULEMAKING AUTHORITY**

Rulemaking authority is expressly granted to the Teacher Retirement System of Texas in SECTION 4 (Section 822.0025, Government Code) and SECTION 6 (Section 824.601, Government Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 12.012(b), Education Code, to provide that an employee of a home-rule school district does not qualify for membership in the Teacher Retirement System of Texas (TRS).

Deletes text stating that such an employee is required to be covered under TRS in the same manner and to the same extent as a qualified employee of an independent school district.

SECTION 2. Amends Section 12.057(b), Education Code, to provide that an employee of an independent school district who is employed on a campus or program granted a charter under this subchapter and who qualifies for membership in TRS shall be covered under TRS in the same manner and to the same extent as a qualified employee of the independent school district who is employed on a regularly operating campus or in a regularly operating program. Makes a nonsubstantive change.

SECTION 3. Amends Section 12.1057(a), to provide that an employee of an open-enrollment charter school operating under a charter granted by the State Board of Education who qualifies for TRS membership shall be covered under TRS to the same extent a qualified employee of a school district is covered.

SECTION 4. Amends Subchapter A, Chapter 822, Government Code, by adding Section 822.0025, as follows:

Sec. 822.0025. OPTIONAL MEMBERSHIP. (a) Authorizes a person actively participating in the optional retirement program (ORP) under Chapter 830, subject to Subsection (d), to make a one-time election to cease active participation in ORP and become a member of TRS if the person is otherwise eligible to participate in TRS at the time of the election. Requires the person to make the election on a date and in the manner prescribed by TRS.

(b) Requires TRS to prescribe the form and details of an election under this section. Requires the election to be filed with TRS and the institution of higher education that employs the person.

(c) Authorizes TRS to adopt rules for the implementation of the election, including rules to prevent the receipt of credit under TRS and ORP for the same service.

(d) Provides that this section may take effect only on receipt by TRS of a favorable private letter ruling from the Internal Revenue Service regarding the federal tax consequences of the one-time election provided by this section, including the effect of the election on certain elements.

(e) Provides that if TRS does not receive the favorable private letter ruling described by Subsection (d), this section has no effect.

SECTION 5. Amends Section 822.201(c), Government Code, to exclude from salary and wages any amount, rather than supplemental compensation, received by an employee under Article 3.50-8 (Active Employee Health Coverage or Compensation Supplementation), Insurance Code.

SECTION 6. (a) Amends Section 824.601, Government Code, as follows:

Sec. 824.601. (a) Defines “third-party entity.”

(b) This subsection is created from existing text.

(c) This subsection is created 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 the 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) This subsection is created from existing text.

(f) Authorizes TRS to adopt rules necessary for administering this subchapter.

(b) Prohibits TRS, notwithstanding Section 824.601, Government Code, as amended by this section, from withholding a monthly benefit payment from a retiree who retired under Section 824.202, Government Code, before January 1, 2003, and is employed by a school district or an open-enrollment charter school.

SECTION 7. Amends Section 824.802(a), Government Code, to require a member to make an election to participate in the plan not later than December 1, 2003.

SECTION 8. Amends Section 824.805(b), Government Code, to authorize a member participating in the plan on September 1, 2003, rather than 2001, before December 31, 2003, rather than 2001, to elect to discontinue participation in the plan on a form prescribed by and filed with TRS.

SECTION 9. Amends Section 825.002, Government Code, by amending Subsection (a) and adding Subsections (h) and (i), as follows:

(a) Requires the governor, with the advice and consent of the senate and as provided by this section, to appoint the, rather than seven, members of the TRS board of trustees.

(h) Requires the governor to appoint one member of the board who is employed by a public school district as a classroom teacher, or retired and receiving benefits from TRS based on prior membership in TRS.

(i) Requires the governor to appoint one member of the board who is a representative of the

public.

SECTION 10. Amends the heading to Section 825.512, Government Code, to read as follows:

Sec. 825.512. ANNUAL INVESTMENT PERFORMANCE AUDIT.

SECTION 11. Amends Section 825.512(e), Government Code, to delete the designation of Subsection (e).

SECTION 12. Amends Section 1575.154, Insurance Code, as effective June 1, 2003, to remove a provision authorizing a retiree to not be enrolled in a basic plan offered under the group program if the retiree rejects enrollment in the group program in writing on a form provided by the board of trustees.

SECTION 13. Amends Section 9, Article 3.50-7, Insurance Code, by adding Subsection (f), to provide that a premium or contribution on a policy, insurance contract, or agreement authorized by this article is not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee.

SECTION 14. Amends Sections 3(d) - (h), Article 3.50-8, Insurance Code, as follows:

(d) Deletes the existing text of Subsections (d) and (e), regarding an election under this section and a model and form relating to the election. Redesignates the text of Subsection (f) as (d). Removes the requirement that the explanation of the options an employee may elect under this section be based on the model explanation prepared by the trustee under Subsection (e) of this section.

(e) Deletes the existing text of Subsection (g) and redesignates the text of Subsection (h) as (e).

SECTION 15. Amends Article 6228a-5, V.T.C.S., by adding Subsection (g), to authorize an educational institution to send an employee contribution made under a salary reduction agreement only to a company that has certified to TRS under this section.

SECTION 16. Amends Article 6228a-5, V.T.C.S., to prohibit an educational institution from accepting any benefit from a company or from an agent or affiliate of a company that offers qualified investment products, other than benefits in the form of a meal or entertainment valued at \$50 or less per employee receiving the meal or entertainment, or marketing material, such as pens, bags, or hats valued at \$10 or less per employee receiving the material. Prohibits an educational institution from accepting a bid or awarding a contract for a qualified investment product under this Act or Chapter 609 (Deferred Compensation Plans), Government Code, that includes proposed financial participation by a person who participated to any extent in preparing a specification or request for proposal on which the bid or contract is based.

SECTION 17. Amends Article 6228a-5, V.T.C.S., by adding Section 13, as follows:

Sec. 13. Provides that an entity is not eligible to certify to TRS under Section 5 of this Act if the entity is a reinsurance company, third-party administrator, or an entity performing duties under a contract for administrative services only; or a broker, dealer, or licensed or registered agent; and the entity does not have primary liability for performance of the obligations in the investment product that the entity offers.

SECTION 18. (a) Repealer: Section 825.003 (Trustees Appointed by Governor From Nominees of Board of Education), Government Code.

(b) Repealers: Sections 825.512(a), (b), (c), and (d) (relating to an evaluation of TRS

investment practices and performance), Government Code.

SECTION 19. (a) Requires the governor, on September 1, 2003, to appoint the member of the board of trustees of TRS described by Section 825.002(h), Government Code, as added by this Act.

(b) Requires the governor, on September 1, 2007, to appoint the member of the board of trustees of TRS described by Section 825.002(i), Government Code, as added by this Act.

(c) Entitles a member of the board of trustees of TRS appointed under Section 825.003, Government Code, as that section existed before its repeal by this Act, to serve the remainder of the trustee's unexpired term.

(d) Requires a vacancy in the office of a trustee appointed under Section 825.003, Government Code, as that section existed before its repeal by this Act, to be filled in the manner provided by Section 825.002(i), Government Code, as added by this Act.

SECTION 20. Provides that an employee of a home-rule school district that operates under a charter under Subchapter B, Chapter 12, Education Code, may not receive service credit in TRS for services performed for the home-rule school district after August 31, 2003.

SECTION 21. Provides that to the extent of any conflict, this Act prevails over another Act of the 78th Legislature, Regular Session, 2003, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 22. Effective date: September 1, 2003.