

AN ACT

relating to the payment of retirement benefits to retirees who are employed by certain public educational institutions and to the participation of the commissioner of education in certain state retirement systems.

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

SECTION 1. 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 a 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 purposes of this subtitle.

SECTION 2. Section 824.601, Government Code, is amended to read as follows:

Sec. 824.601. LOSS OF MONTHLY BENEFITS. (a) In this

1 section, "third-party entity" means an entity retained by a Texas
2 public educational institution to provide personnel to the
3 institution that perform duties or provide services that employees
4 of the institution would otherwise perform or provide.

5 (b) Except as provided by Section 824.602, a retiree is not
6 entitled to service or disability retirement benefit payments, as
7 applicable, for any month in which the retiree is employed in any
8 position by a Texas public educational institution.

9 (c) A Texas public educational institution, for the purposes
10 of this subchapter, is any entity included in the definition of
11 "employer" or "public school" in Section 821.001 or any entity in
12 whose employment the retiree has earned credit as a member of the
13 retirement system.

14 (d) A retiree who is an employee of a third-party entity is
15 considered to be employed by a Texas public educational institution
16 for purposes of this subchapter unless the retiree does not perform
17 duties or provide services on behalf of or for the benefit of the
18 institution.

19 (e) Loss of benefits under this section does not extend any
20 period of guaranteed benefits elected pursuant to Section 824.204.

21 (f) The system may adopt rules necessary for administering
22 this subchapter.

23 SECTION 3. (a) Notwithstanding Section 830.106, Government
24 Code, a commissioner of education who is a participant in the
25 optional retirement program under Chapter 830, Government Code, on
26 the effective date of this Act may make a one-time election to cease
27 active participation in the program and become a member of the

1 Teacher Retirement System of Texas under Section 822.0015,
2 Government Code, as added by this Act, on or after that date.

3 (b) A commissioner of education who makes the one-time
4 election under Subsection (a) of this section is not eligible to
5 again participate in the optional retirement program under Chapter
6 830, Government Code, after making the election.

7 SECTION 4. The change in law made by Section 824.601,
8 Government Code, as amended by this Act, applies only to the payment
9 of retirement benefits to a retiree who is first employed by a
10 third-party entity on or after May 24, 2003. The payment of
11 retirement benefits to a retiree who was first employed by a
12 third-party entity before May 24, 2003, is governed by the law in
13 effect before the effective date of this Act, and the former law is
14 continued in effect for that purpose.

15 SECTION 5. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2003.

President of the Senate

Speaker of the House

I certify that H.B. No. 2169 was passed by the House on April 24, 2003, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 2169 on May 26, 2003, by the following vote: Yeas 138, Nays 1, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2169 was passed by the Senate, with amendments, on May 24, 2003, by the following vote: Yeas 28, Nays 1.

Secretary of the Senate

APPROVED: _____

Date

Governor