

By: Pena

H.B. No. 2631

A BILL TO BE ENTITLED

AN ACT

relating to contributions for persons eligible to participate in the Teacher Retirement System of Texas.

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

SECTION 1. Subchapter B, Chapter 822, Government Code, is amended to read as follows:

Sec. 822.201. MEMBER COMPENSATION. (a) Unless otherwise provided by this subtitle, compensation subject to report and deduction for member contributions and to credit in benefit computations is:

(1) beginning with the 1981-82 school year, only a member's salary and wages for service, less any amounts excluded by rules of the board of trustees adopted pursuant to Section 825.110; and

(2) in school years before the 1981-82 school year, all compensation for service that was or should have been reported under laws and rules governing the retirement system when the compensation was paid but excluding compensation greater than \$25,000 for a school year beginning after August 31, 1969, but before September 1, 1979, and compensation greater than \$8,400 for a school year beginning before September 1, 1969.

(b) "Salary and wages" as used in Subsection (a) means:

(1) normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the

1 service performed;

2 (2) amounts by which the member's salary is reduced  
3 under a salary reduction agreement authorized by Chapter 610;

4 (3) amounts that would otherwise qualify as salary and  
5 wages under Subdivision (1) but are not received directly by the  
6 member pursuant to a good faith, voluntary written salary reduction  
7 agreement in order to finance payments to a deferred compensation  
8 or tax sheltered annuity program specifically authorized by state  
9 law or to finance benefit options under a cafeteria plan qualifying  
10 under Section 125 of the Internal Revenue Code of 1986, if:

11 (A) the program or benefit options are made  
12 available to all employees of the employer; and

13 (B) the benefit options in the cafeteria plan are  
14 limited to one or more options that provide deferred compensation,  
15 group health and disability insurance, group term life insurance,  
16 dependent care assistance programs, or group legal services plans;

17 (4) performance pay awarded to an employee by a school  
18 district as part of a total compensation plan approved by the board  
19 of trustees of the district and meeting the requirements of  
20 Subsection (e);

21 (5) the benefit replacement pay a person earns under  
22 Subchapter H, Chapter 659, as added by Chapter 417, Acts of the 74th  
23 Legislature, 1995, except as provided by Subsection (c);

24 (6) stipends paid to teachers in accordance with  
25 Section 21.410 or 21.411, Education Code;

26 (7) amounts by which the member's salary is reduced or  
27 that are deducted from the member's salary as authorized by

1 Subchapter J, Chapter 659; and

2 (8) a merit salary increase made under Section 51.962,  
3 Education Code.

4 (c) Excluded from salary and wages are:

5 (1) expense payments;

6 (2) allowances;

7 (3) payments for unused vacation or sick leave;

8 (4) maintenance or other nonmonetary compensation;

9 (5) fringe benefits;

10 (6) deferred compensation other than as provided by  
11 Subsection (b)(3);

12 (7) compensation that is not made pursuant to a valid  
13 employment agreement;

14 ~~(8) payments received by an employee in a school year~~  
15 ~~that exceed \$5,000 for teaching a driver education and traffic~~  
16 ~~safety course that is conducted outside regular classroom hours;~~

17 (8) ~~[(9)]~~ the benefit replacement pay a person earns  
18 as a result of a payment made under Subchapter B or C, Chapter 661;

19 (9) ~~[(10)]~~ supplemental compensation received by an  
20 employee under Article 3. 50-8, Insurance Code; and

21 (10) ~~[(11)]~~ any compensation not described in  
22 Subsection (b).

23 (d) For a person who first becomes a member of the  
24 retirement system after August 31, 1996, the person's annual  
25 compensation for purposes of the retirement system may not exceed  
26 the limit imposed by Section 401(a)(17) of the Internal Revenue  
27 Code of 1986 (26 U.S.C. Section 401(a)(17)), as adjusted by the

1 commissioner of internal revenue for cost-of-living increases in  
2 accordance with that provision. This limit does not apply to a  
3 person who first became a member of the retirement system before  
4 September 1, 1996.

5 (e) For purposes of Subsection (b)(4), a total compensation  
6 plan must:

7 (1) describe all elements of compensation received by  
8 or available to all employees of the employer;

9 (2) provide for the availability of at least one type  
10 of performance pay to classroom teachers employed by the employer;

11 (3) identify each type of performance pay, the  
12 performance criteria for each type of performance pay, and the  
13 classes of employees eligible for each type of performance pay;

14 (4) contain sufficient information concerning the  
15 plan to ascertain the amount of each qualifying employee's pay  
16 under the plan;

17 (5) contain performance criteria for earning  
18 performance pay that preclude the exercise of discretion for  
19 awarding the pay on any basis other than an evaluation of employee  
20 or group performance or availability of funding; and

21 (6) satisfy any other requirements adopted by the  
22 retirement system.

23 SECTION 2. This Act takes effect September 1, 2003.