

By: Armbrister

S.B. No. 1243

A BILL TO BE ENTITLED

1 AN ACT

2 relating to systems and programs administered by the Teacher  
3 Retirement System of Texas.

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

5 SECTION 1. Subsection (b), Section 12.012, Education Code,  
6 is amended to read as follows:

7 (b) An employee of a home-rule school district does not  
8 qualify [~~who qualifies~~] for membership in the Teacher Retirement  
9 System of Texas [~~shall be covered under the system in the same~~  
10 ~~manner and to the same extent as a qualified employee employed by an~~  
11 ~~independent school district is covered~~].

12 SECTION 2. Subsection (b), Section 12.057, Education Code,  
13 is amended to read as follows:

14 (b) An employee of an independent school district who is  
15 employed on a campus or program granted a charter under this  
16 subchapter and who qualifies for membership in the Teacher  
17 Retirement System of Texas shall be covered under the system in the  
18 same manner and to the same extent as a qualified employee of the  
19 independent school district who is employed on a regularly  
20 operating campus or in a regularly operating program [~~is covered~~].

21 SECTION 3. Subsection (a), Section 12.1057, Education Code,  
22 is amended to read as follows:

23 (a) An employee of an open-enrollment charter school  
24 operating under a charter granted by the State Board of Education

1 who qualifies for membership in the Teacher Retirement System of  
2 Texas shall be covered under the system to the same extent a  
3 qualified employee of a school district is covered.

4 SECTION 4. Subsection (a), Section 609.113, Government  
5 Code, is amended to read as follows:

6 (a) Subject to Section 609.1145, a [A] plan administrator  
7 shall develop and implement criteria and procedures for evaluating  
8 a vendor's application to become a qualified vendor.

9 SECTION 5. Subchapter B, Chapter 609, Government Code, is  
10 amended by adding Section 609.1145 to read as follows:

11 Sec. 609.1145. ADDITIONAL REQUIREMENTS FOR 457 PLAN VENDORS  
12 IN SCHOOL DISTRICTS. A plan administrator of a 457 plan for a  
13 political subdivision that is a public school district may approve  
14 a vendor's application to be a qualified vendor only if the vendor  
15 is a company that:

16 (1) has certified to the Teacher Retirement System of  
17 Texas as provided by Chapter 22, Acts of the 57th Legislature, 3rd  
18 Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil  
19 Statutes);

20 (2) does not have costs or commissions associated with  
21 its investment products that exceed the maximum amounts established  
22 by rules adopted by the Teacher Retirement System of Texas; and

23 (3) provides the notice required by Section 11,  
24 Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962  
25 (Article 6228a-5, Vernon's Texas Civil Statutes), and includes in  
26 that notice the current renewal interest rate, if any, and the  
27 current interest rate, if any, on deposits made before the current

1 year.

2 SECTION 6. Subsection (c), Section 822.201, Government  
3 Code, is amended to read as follows:

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

19 (10) any amount [~~supplemental compensation~~] received  
20 by an employee under Article 3.50-8, Insurance Code; and

21 (11) any compensation not described in Subsection (b).

22 SECTION 7. Subchapter F, Chapter 823, Government Code, is  
23 amended by adding Section 823.502 to read as follows:

24 Sec. 823.502. REESTABLISHMENT OF SERVICE CREDIT BY RETIREE.

25 (a) A person who is retired may reestablish service credit  
26 previously canceled in the retirement system by depositing with the  
27 retirement system the actuarial present value, at the time of

1 deposit, of the standard retirement annuity benefits that would be  
2 attributable to the previously canceled service credit, based on  
3 rates and tables recommended by the retirement system's actuary and  
4 adopted by the board of trustees.

5 (b) The retirement system shall make account transfers and  
6 change records for a person who makes a deposit under Subsection  
7 (a).

8 (c) The retirement system shall pay the monthly retirement  
9 annuity as computed to reflect the deposit made under Subsection  
10 (a) not later than the date of the first monthly payment after the  
11 30th day after the date on which the deposit under Subsection (a) is  
12 made.

13 (d) This section applies only to a deposit made under  
14 Subsection (a) on or before December 31, 2003.

15 SECTION 8. (a) Section 824.601, Government Code, is  
16 amended to read as follows:

17 Sec. 824.601. LOSS OF MONTHLY BENEFITS. (a) In this  
18 section, "third-party entity" means an entity retained by a Texas  
19 public educational institution to provide personnel to the  
20 institution who perform duties or provide services that employees  
21 of the institution would otherwise perform or provide.

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

26 (c) A Texas public educational institution, for the  
27 purposes of this subchapter, is any entity included in the

1 definition of "employer" or "public school" in Section 821.001 or  
2 any entity in whose employment the retiree has earned credit as a  
3 member of the retirement system.

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

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

11 (f) The retirement system may adopt rules necessary for  
12 administering this subchapter.

13 (b) Notwithstanding Subsection (b), Section 824.601,  
14 Government Code, as amended by this section, the Teacher Retirement  
15 System of Texas may not withhold a monthly benefit payment from a  
16 retiree who:

17 (1) retired under Section 824.202, Government Code,  
18 before January 1, 2003; and

19 (2) is employed by a school district or an  
20 open-enrollment charter school.

21 SECTION 9. Subsection (a), Section 824.802, Government  
22 Code, is amended to read as follows:

23 (a) A contributing member who is eligible under Section  
24 824.202 to retire and receive a standard service retirement annuity  
25 that is not reduced for retirement at an early age and who has at  
26 least 25 years of service credit in the retirement system may, if  
27 the member remains an employee, elect to participate in the

1 deferred retirement option plan. A member must make an election to  
2 participate in the plan not later than December 31, 2003.

3 SECTION 10. Subsection (b), Section 824.805, Government  
4 Code, is amended to read as follows:

5 (b) This subsection applies only to a [A] member  
6 participating in the plan on September 1, 2003, or to a member whose  
7 period of participation in the plan has expired on or before  
8 September 1, 2003, but who has not retired on or before that date. A  
9 member described by this subsection [2001,] may, before December  
10 31, 2003, revoke the member's decision to participate [2001, elect  
11 to discontinue participation] in the plan on a form prescribed by  
12 and filed with the retirement system. The retirement system shall  
13 make account transfers and change records for a member who revokes  
14 the member's decision to participate [elects under this subsection  
15 to discontinue participation] in the plan as if the member had never  
16 participated in the plan.

17 SECTION 11. Section 825.002, Government Code, is amended by  
18 amending Subsection (a) and adding Subsections (h) and (i) to read  
19 as follows:

20 (a) The governor shall appoint, with the advice and consent  
21 of the senate and as provided by this section, the [seven] members  
22 of the board of trustees.

23 (h) The governor shall appoint one member of the board who  
24 is:

25 (1) employed by a public school district as a  
26 classroom teacher; or

27 (2) retired and receiving benefits from the retirement

1 system based on prior membership in the retirement system.

2 (i) The governor shall appoint one member of the board who  
3 is a representative of the public.

4 SECTION 12. Section 825.115, Government Code, is amended to  
5 read as follows:

6 Sec. 825.115. APPLICABILITY OF CERTAIN LAWS. (a) The  
7 board is subject to the open meetings law, Chapter 551, and the  
8 administrative procedure law, Chapter 2001.

9 (b) Subchapter C, Chapter 2260, does not apply to the  
10 retirement system.

11 SECTION 13. Subchapter D, Chapter 825, Government Code, is  
12 amended by adding Section 825.316 to read as follows:

13 Sec. 825.316. CERTAIN PURCHASES BY RETIREMENT SYSTEM.

14 (a) The Texas Building and Procurement Commission delegates to the  
15 retirement system, in the exercise of the retirement system's  
16 discretion to manage the assets of the retirement system, all  
17 purchasing functions under Chapter 2155 relating to the purchase of  
18 goods or services from funds other than general revenue funds.

19 (b) The retirement system shall acquire goods or services by  
20 any procurement method approved by the retirement system.

21 (c) The Texas Building and Procurement Commission shall  
22 procure goods or services for the retirement system at the request  
23 of the retirement system, and the retirement system may use the  
24 services of the commission in procuring goods or services.

25 SECTION 14. The heading to Section 825.512, Government  
26 Code, is amended to read as follows:

27 Sec. 825.512. ANNUAL INVESTMENT PERFORMANCE AUDIT.

1 SECTION 15. Subsection (e), Section 825.512, Government  
2 Code, is amended to read as follows:

3 [~~(e)~~] The retirement system shall submit an annual  
4 investment performance report not later than the 45th day after the  
5 end of each fiscal year to the governor, the lieutenant governor,  
6 the speaker of the house of representatives, the executive director  
7 of the State Pension Review Board, the legislative audit committee,  
8 the committees of the senate and the house of representatives  
9 having jurisdiction over appropriations, the committees of the  
10 senate and the house of representatives having principal  
11 jurisdiction over legislation governing the retirement system, and  
12 the Legislative Budget Board. The report shall include a listing of  
13 all commissions and fees paid by the system during the reporting  
14 period for the sale, purchase, or management of system assets. The  
15 report shall be in a form recommended by the evaluating firm.

16 SECTION 16. Subchapter F, Chapter 825, Government Code, is  
17 amended by adding Section 825.519 to read as follows:

18 Sec. 825.519. INTERAGENCY CONTRACTS FOR CERTAIN SERVICES.  
19 The retirement system may enter into an interagency contract with  
20 the State Office of Risk Management for workers' compensation  
21 coverage, claims administration, and risk management services as  
22 provided by Section 412.054, Labor Code.

23 SECTION 17. Subchapter F, Chapter 412, Labor Code, is  
24 amended by adding Section 412.054 to read as follows:

25 Sec. 412.054. PROVISIONS APPLICABLE TO TEACHER RETIREMENT  
26 SYSTEM OF TEXAS. (a) In this section, "retirement system" means  
27 the Teacher Retirement System of Texas.



1       (b) Sections 412.011(c)(2) and (e) do not apply to the  
2 retirement system.

3       (c) Notwithstanding any other provision of this chapter,  
4 the retirement system may enter into an interagency contract with  
5 the office for workers' compensation coverage, claims  
6 administration, and risk management services.

7       (d) A contract under Subsection (c) may provide that the  
8 retirement system reimburse the office for the cost of a claim paid  
9 to an employee or former employee of the retirement system. Section  
10 506.002 does not apply to a reimbursement that the retirement  
11 system makes under this subsection.

12       (e) The office shall credit to the retirement system any  
13 money the office recovers from a third party through subrogation on  
14 a claim paid to an employee or former employee of the retirement  
15 system.

16       SECTION 18. Section 1575.154, Insurance Code, as effective  
17 June 1, 2003, is amended to read as follows:

18       Sec. 1575.154. ENROLLMENT IN BASIC PLAN BY RETIREES  
19 REQUIRED. A retiree must be enrolled in a basic plan offered under  
20 the group program unless[+]

21       ~~[(1) the retiree rejects enrollment in the group~~  
22 ~~program in writing on a form provided by the board of trustees, or~~

23       ~~[(2)]~~ the board of trustees finds under Subchapter K  
24 that the retiree defrauded or attempted to defraud the group  
25 program.

26       SECTION 19. Subchapter D, Chapter 1575, Insurance Code, as  
27 effective June 1, 2003, is amended by adding Section 1575.163 to

1 read as follows:

2 Sec. 1575.163. LIMITATIONS. In a county in which at least  
3 two and not more than four general hospitals are located, the  
4 system, as trustee, may not contract for or provide a health benefit  
5 plan that excludes from participation in the network any general  
6 hospital that is located within the geographical service area of  
7 the health benefit plan and that agrees to provide medical and  
8 health care services under the plan subject to the same terms and  
9 conditions as other hospital providers under the plan.

10 SECTION 20. Section 9, Article 3.50-7, Insurance Code, is  
11 amended by adding Subsection (f) to read as follows:

12 (f) A premium or contribution on a policy, insurance  
13 contract, or agreement authorized by this article is not subject to  
14 any state tax, regulatory fee, or surcharge, including a premium or  
15 maintenance tax or fee.

16 SECTION 21. Subchapter E, Chapter 3, Insurance Code, is  
17 amended by adding Article 3.50-7A to read as follows:

18 Art. 3.50-7A. LIMITATIONS APPLICABLE TO TEXAS SCHOOL  
19 EMPLOYEES UNIFORM GROUP COVERAGE PROGRAM. (a) This article  
20 applies to the uniform group coverage program established under  
21 Article 3.50-7 of this code. A term used in this article has the  
22 meaning assigned by Section 2, Article 3.50-7, of this code.

23 (b) In a county in which at least two and not more than four  
24 general hospitals are located, the Teacher Retirement System of  
25 Texas, as trustee, may not contract for or provide a health coverage  
26 plan that excludes from participation in the network any general  
27 hospital that is located within the geographical service area of

1 the health coverage plan and that agrees to provide medical and  
2 health care services under the plan subject to the same terms and  
3 conditions as other hospital providers under the plan.

4 SECTION 22. Subsections (d) through (h), Section 3, Article  
5 3.50-8, Insurance Code, are amended to read as follows:

6 (d) ~~[For each state fiscal year, an election under this~~  
7 ~~section must be made before the later of:~~

8 ~~[(1) August 1 of the preceding state fiscal year; or~~

9 ~~[(2) the 31st day after the date the employee is hired.~~

10 ~~[(e) The trustee shall prescribe and distribute to each~~  
11 ~~school district, other educational district, participating charter~~  
12 ~~school, and regional education service center:~~

13 ~~[(1) a model explanation written in English and~~  
14 ~~Spanish of the options active employees may elect under this~~  
15 ~~section and the effect of electing each option; and~~

16 ~~[(2) an election form to be completed by active~~  
17 ~~employees.~~

18 ~~[(f)]~~ Each state fiscal year, a school district, other  
19 educational district, participating charter school, or regional  
20 education service center shall prepare and distribute to each  
21 active employee a written explanation in English and Spanish, as  
22 appropriate, of the options the employee may elect under this  
23 section. The explanation ~~[must be based on the model explanation~~  
24 ~~prepared by the trustee under Subsection (e) of this section and]~~  
25 must reflect all available health coverage options available to the  
26 employee. The explanation must be distributed to an employee  
27 before the later of:

- 1 (1) July 1 of the preceding state fiscal year; or
- 2 (2) the fifth day after the date the employee is hired.

3 ~~(e) [(g) The written explanation under Subsection (f) of~~  
4 ~~this section must be accompanied by a copy of the election form~~  
5 ~~prescribed under Subsection (e)(2) of this section.~~

6 ~~[(h)]~~ Any unencumbered funds that are returned to the school  
7 district from accounts established under Subsection (a) of this  
8 section may be used only to provide employee compensation,  
9 benefits, or both.

10 SECTION 23. Section 9, Chapter 22, Acts of the 57th  
11 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's  
12 Texas Civil Statutes), is amended to read as follows:

13 Sec. 9. (a) An educational institution may not:

14 (1) refuse to enter into a salary reduction agreement  
15 with an employee if the qualified investment product that is the  
16 subject of the salary reduction is an eligible qualified  
17 investment;

18 (2) require or coerce an employee's attendance at any  
19 meeting at which qualified investment products are marketed;

20 (3) limit the ability of an employee to initiate,  
21 change, or terminate a qualified investment product at any time the  
22 employee chooses;

23 (4) grant exclusive access to an employee by  
24 discriminating against or imposing barriers to any agent, broker,  
25 or company that provides qualified investment products under this  
26 Act;

27 (5) grant exclusive access to information about an

1 employee's financial information, including information about an  
2 employee's qualified investment products, to a company or agent  
3 offering qualified investment products unless the employee  
4 consents in writing to the access;

5 (6) accept any benefit from a company or from an agent  
6 or affiliate of a company that offers qualified investment products  
7 under this Act, other than benefits in the form of:

8 (A) a meal or entertainment valued at \$50 or less  
9 per employee receiving the meal or entertainment; or

10 (B) marketing material, such as pens, bags, or  
11 hats, valued at \$10 or less per employee receiving the material;

12 [~~or~~]

13 (7) use public funds to recommend a qualified  
14 investment product offered by a company or an agent of a company  
15 that offers a qualified investment product; or

16 (8) accept a bid or award a contract for a qualified  
17 investment product under this Act or Chapter 609, Government Code,  
18 that includes proposed financial participation by a company or  
19 person that participated to any extent in preparing a specification  
20 or request for proposal on which the bid or contract is based.

21 (b) This section does not prohibit a company from offering a  
22 qualified investment product under this Act, under Chapter 609,  
23 Government Code, or under another retirement plan, subject to  
24 Section 14 of this Act.

25 SECTION 24. Chapter 22, Acts of the 57th Legislature, 3rd  
26 Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil  
27 Statutes), is amended by adding Section 13 to read as follows:

1       Sec. 13. An entity is not eligible to certify to the  
2 retirement system under Section 5 of this Act if:

3           (1) the entity is:

4                   (A) a reinsurance company;

5                   (B) a third-party administrator;

6                   (C) an entity performing duties under a contract  
7 for administrative services only; or

8                   (D) a broker, dealer, or licensed or registered  
9 agent; and

10           (2) the entity does not have primary responsibility  
11 for performance of the obligations in the investment product  
12 contract that the entity offers.

13       SECTION 25. (a) Section 825.003, Government Code, is  
14 repealed.

15       (b) Subsections (a) through (d), Section 825.512,  
16 Government Code, are repealed.

17       SECTION 26. (a) On September 1, 2003, the governor shall  
18 appoint the member of the board of trustees of the Teacher  
19 Retirement System of Texas described by Subsection (h), Section  
20 825.002, Government Code, as added by this Act.

21       (b) On September 1, 2007, the governor shall appoint the  
22 member of the board of trustees of the Teacher Retirement System of  
23 Texas described by Subsection (i), Section 825.002, Government  
24 Code, as added by this Act.

25       (c) A member of the board of trustees of the Teacher  
26 Retirement System of Texas appointed under Section 825.003,  
27 Government Code, as that section existed before its repeal by this

1 Act, is entitled to serve the remainder of the trustee's unexpired  
2 term.

3 (d) A vacancy in the office of a trustee appointed under  
4 Section 825.003, Government Code, as that section existed before  
5 its repeal by this Act, shall be filled in the manner provided by  
6 Subsection (i), Section 825.002, Government Code, as added by this  
7 Act.

8 SECTION 27. An employee of a home-rule school district that  
9 operates under a charter under Subchapter B, Chapter 12, Education  
10 Code, may not receive service credit in the Teacher Retirement  
11 System of Texas for services performed for the home-rule school  
12 district after August 31, 2003.

13 SECTION 28. To the extent of any conflict, this Act prevails  
14 over another Act of the 78th Legislature, Regular Session, 2003,  
15 relating to nonsubstantive additions to and corrections in enacted  
16 codes.

17 SECTION 29. This Act takes effect September 1, 2003.