

By: Armbrister

S.B. No. 1243

Substitute the following for S.B. No. 1243:

By: Ritter

C.S.S.B. No. 1243

A BILL TO BE ENTITLED

AN ACT

1
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 associated with its investment
21 products that exceed the maximum amounts established by rules
22 adopted by the Teacher Retirement System of Texas; and

23 (3) provides the notice described by Section 11,
24 Chapter 22, Acts of the 57th Legislature, 3rd Called Session, 1962
25 (Article 6228a-5, Vernon's Texas Civil Statutes).

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

1 (c) Excluded from salary and wages are:

2 (1) expense payments;

3 (2) allowances;

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

5 (4) maintenance or other nonmonetary compensation;

6 (5) fringe benefits;

7 (6) deferred compensation other than as provided by
8 Subsection (b)(3);

9 (7) compensation that is not made pursuant to a valid
10 employment agreement;

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

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

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

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

19 SECTION 7. (a) Section 824.601, Government Code, is
20 amended to read as follows:

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

26 (b) Except as provided by Section 824.602, a retiree is not
27 entitled to service or disability retirement benefit payments, as

1 applicable, for any month in which the retiree is employed in any
2 position by a Texas public educational institution.

3 (c) A Texas public educational institution, for the
4 purposes of this subchapter, is any entity included in the
5 definition of "employer" or "public school" in Section 821.001 or
6 any entity in whose employment the retiree has earned credit as a
7 member of the retirement system.

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

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

15 (f) The retirement system may adopt rules necessary for
16 administering this subchapter.

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

21 (1) retired under Section 824.202, Government Code,
22 before January 1, 2003; and

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

25 SECTION 8. Subsection (a), Section 824.802, Government
26 Code, is amended to read as follows:

27 (a) A contributing member who is eligible under Section

1 824.202 to retire and receive a standard service retirement annuity
2 that is not reduced for retirement at an early age and who has at
3 least 25 years of service credit in the retirement system may, if
4 the member remains an employee, elect to participate in the
5 deferred retirement option plan. A member must make an election to
6 participate in the plan not later than December 31, 2003.

7 SECTION 9. Subsection (b), Section 824.805, Government
8 Code, is amended to read as follows:

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

21 SECTION 10. Section 825.002, Government Code, is amended by
22 amending Subsection (a) and adding Subsections (h) and (i) to read
23 as follows:

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

27 (h) The governor shall appoint one member of the board who

1 is:

2 (1) employed by a public school district as a
3 classroom teacher; or

4 (2) retired and receiving benefits from the retirement
5 system based on prior membership in the retirement system.

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

8 SECTION 11. Section 825.115, Government Code, is amended to
9 read as follows:

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

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

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

17 Sec. 825.316. CERTAIN PURCHASES BY RETIREMENT SYSTEM. (a)
18 The retirement system, in the exercise of its constitutional and
19 statutory discretion to manage the assets of the retirement system,
20 may exercise any purchasing function relating to the purchase of
21 goods or services from funds other than general revenue funds.

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

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

1 SECTION 13. The heading to Section 825.512, Government
2 Code, is amended to read as follows:

3 Sec. 825.512. ANNUAL INVESTMENT PERFORMANCE REPORT
4 ~~[AUDIT]~~.

5 SECTION 14. Subsection (e), Section 825.512, Government
6 Code, is amended to read as follows:

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

20 SECTION 15. Subchapter F, Chapter 825, Government Code, is
21 amended by adding Section 825.519 to read as follows:

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

27 SECTION 16. Subchapter F, Chapter 412, Labor Code, is

1 amended by adding Section 412.054 to read as follows:

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

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

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

11 (d) A contract under Subsection (c) may provide that the
12 retirement system reimburse the office for the cost of a claim paid
13 to an employee or former employee of the retirement system.

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

18 SECTION 17. Section 9, Article 3.50-7, Insurance Code, is
19 amended by adding Subsection (f) to read as follows:

20 (f) A premium or contribution on a policy, insurance
21 contract, or agreement authorized by this article is not subject to
22 any state tax, regulatory fee, or surcharge, including a premium or
23 maintenance tax or fee.

24 SECTION 18. Subsections (d) through (h), Section 3, Article
25 3.50-8, Insurance Code, are amended to read as follows:

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

1 ~~[(1) August 1 of the preceding state fiscal year; or~~
2 ~~[(2) the 31st day after the date the employee is hired.]~~

3 ~~[(e) The trustee shall prescribe and distribute to each~~
4 ~~school district, other educational district, participating charter~~
5 ~~school, and regional education service center.]~~

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

9 ~~[(2) an election form to be completed by active~~
10 ~~employees.]~~

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

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

23 ~~(e) [(g) The written explanation under Subsection (f) of~~
24 ~~this section must be accompanied by a copy of the election form~~
25 ~~prescribed under Subsection (e)(2) of this section.]~~

26 ~~[(h)]~~ Any unencumbered funds that are returned to the school
27 district from accounts established under Subsection (a) of this

1 section may be used only to provide employee compensation,
2 benefits, or both.

3 SECTION 19. Section 9, Chapter 22, Acts of the 57th
4 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
5 Texas Civil Statutes), is amended to read as follows:

6 Sec. 9. An educational institution may not:

7 (1) refuse to enter into a salary reduction agreement
8 with an employee if the qualified investment product that is the
9 subject of the salary reduction is an eligible qualified
10 investment;

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

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

16 (4) grant exclusive access to an employee by
17 discriminating against or imposing barriers to any agent, broker,
18 or company that provides qualified investment products under this
19 Act;

20 (5) grant exclusive access to information about an
21 employee's financial information, including information about an
22 employee's qualified investment products, to a company or agent
23 offering qualified investment products unless the employee
24 consents in writing to the access;

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

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

3 (B) marketing material, such as pens, bags, or
4 hats, valued at \$10 or less per employee receiving the material;
5 ~~[or]~~

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

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

14 SECTION 20. Subsection (c), Section 11, Chapter 22, Acts of
15 the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5,
16 Vernon's Texas Civil Statutes), is amended to read as follows:

17 (c) The notice required under this section must be uniform
18 and:

19 (1) be in at least 14-point type;

20 (2) contain spaces for:

21 (A) the name, address, and telephone number of
22 the agent and company offering the annuity contract for sale;

23 (B) the name, address, and telephone number of
24 the company underwriting the annuity;

25 (C) the license number of the person offering to
26 sell the product;

27 (D) the name of the state agency that issued the

1 person's license;

2 (E) the name of the company account
3 representative who has the authority to respond to inquiries or
4 complaints; and

5 (F) with respect to fixed annuity products:

6 (i) the current interest rate or the
7 formula used to calculate the current rate of interest;

8 (ii) the guaranteed rate of interest and
9 the percentage of the premium to which the interest rate applies;

10 (iii) how interest is compounded;

11 (iv) the amount of any up-front, surrender,
12 withdrawal, deferred sales, and market value adjustment charges or
13 any other contract restriction that exceeds 10 years;

14 (v) the time, if any, the annuity is
15 required to be in force before the purchaser is entitled to the full
16 bonus accumulation value;

17 (vi) the manner in which the amount of the
18 guaranteed benefit under the annuity is computed;

19 (vii) whether loans are guaranteed to be
20 available under the annuity;

21 (viii) what restrictions, if any, apply to
22 the availability of money attributable to the value of the annuity
23 once the purchaser is retired or separated from the employment of
24 the employer;

25 (ix) the amount of any other fees, costs, or
26 penalties;

27 (x) whether the annuity guarantees the

1 participant the right to surrender a percentage of the surrender
2 value each year, and the percentage, if any; ~~and~~

3 (xi) whether the annuity guarantees the
4 interest rate associated with any settlement option; and

5 (xii) the current renewal interest rate, if
6 any, and the current interest rate, if any, on deposits made before
7 the current year; and

8 (3) state, in plain language:

9 (A) that the company offering the annuity must
10 comply with Section 5 of this Act;

11 (B) that the potential purchaser may contact the
12 retirement system or access its Internet website to determine which
13 companies are in compliance with Section 5 of this Act;

14 (C) the civil remedies available to the employee;

15 (D) that the employee may purchase any eligible
16 qualified investment through a salary reduction agreement;

17 (E) the name and telephone number of the Texas
18 Department of Insurance division that specializes in consumer
19 protection; and

20 (F) the name and telephone number of the attorney
21 general's division that specializes in consumer protection.

22 SECTION 21. Chapter 22, Acts of the 57th Legislature, 3rd
23 Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
24 Statutes), is amended by adding Section 13 to read as follows:

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

27 (1) the entity is:

1 (A) a reinsurance company;

2 (B) a third-party administrator;

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

5 (D) a broker, dealer, or licensed or registered
6 agent; and

7 (2) the entity does not have primary responsibility
8 for performance of the obligations in the investment product
9 contract that the entity offers.

10 SECTION 22. (a) Section 825.003, Government Code, is
11 repealed.

12 (b) Subsections (a) through (d), Section 825.512,
13 Government Code, are repealed.

14 (c) Section 1575.154, Insurance Code, as effective June 1,
15 2003, is repealed.

16 SECTION 23. (a) On September 1, 2003, the governor shall
17 appoint the member of the board of trustees of the Teacher
18 Retirement System of Texas described by Subsection (h), Section
19 825.002, Government Code, as added by this Act.

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

24 (c) A member of the board of trustees of the Teacher
25 Retirement System of Texas appointed under Section 825.003,
26 Government Code, as that section existed before its repeal by this
27 Act, is entitled to serve the remainder of the trustee's unexpired

1 term.

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

7 SECTION 24. An employee of a home-rule school district that
8 operates under a charter under Subchapter B, Chapter 12, Education
9 Code, may not receive service credit in the Teacher Retirement
10 System of Texas for services performed for the home-rule school
11 district after August 31, 2003.

12 SECTION 25. To the extent of any conflict, this Act prevails
13 over another Act of the 78th Legislature, Regular Session, 2003,
14 relating to nonsubstantive additions to and corrections in enacted
15 codes.

16 SECTION 26. This Act takes effect September 1, 2003.