

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. Section 12.012(b), Education Code, is amended to
6 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. Section 12.057(b), Education Code, is amended to
13 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. Section 12.1057(a), Education Code, is amended
22 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. Subchapter A, Chapter 822, Government Code, is
5 amended by adding Section 822.0025 to read as follows:

6 Sec. 822.0025. OPTIONAL MEMBERSHIP. (a) Subject to
7 Subsection (d), a person actively participating in the optional
8 retirement program under Chapter 830 may make a one-time election
9 to cease active participation in the program and become a member of
10 the retirement system if the person is otherwise eligible to
11 participate in the retirement system at the time of the election.
12 The person must make the election on a date and in the manner
13 prescribed by the retirement system.

14 (b) The retirement system shall prescribe the form and
15 details of an election under this section. The election must be
16 filed with the retirement system and the institution of higher
17 education that employs the person.

18 (c) The retirement system may adopt rules for the
19 implementation of the election, including rules to prevent the
20 receipt of credit under the retirement system and the optional
21 retirement program for the same service.

22 (d) This section may take effect only on receipt by the
23 retirement system of a favorable private letter ruling from the
24 Internal Revenue Service regarding the federal tax consequences of
25 the one-time election provided by this section, including the
26 effect of the election on:

27 (1) the qualified status of the retirement system

1 pension trust;

2 (2) the contribution limits applicable to
3 participants in the optional retirement program and participants in
4 the retirement system; and

5 (3) the employer pick-up of contributions to the
6 retirement system.

7 (e) If the retirement system does not receive the favorable
8 private letter ruling described by Subsection (d), this section has
9 no effect.

10 SECTION 5. Section 822.201(c), Government Code, is amended
11 to read as follows:

12 (c) Excluded from salary and wages are:

13 (1) expense payments;

14 (2) allowances;

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

16 (4) maintenance or other nonmonetary compensation;

17 (5) fringe benefits;

18 (6) deferred compensation other than as provided by
19 Subsection (b)(3);

20 (7) compensation that is not made pursuant to a valid
21 employment agreement;

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

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

27 (10) any amount [~~supplemental compensation~~] received

1 by an employee under Article 3.50-8, Insurance Code; and

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

3 SECTION 6. (a) Section 824.601, Government Code, is
4 amended to read as follows:

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

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

14 (c) A Texas public educational institution, for the purposes
15 of this subchapter, is any entity included in the definition of
16 "employer" or "public school" in Section 821.001 or any entity in
17 whose employment the retiree has earned credit as a member of the
18 retirement system.

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

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

26 (f) The retirement system may adopt rules necessary for
27 administering this subchapter.

1 (b) Notwithstanding Section 824.601, Government Code, as
2 amended by this section, the Teacher Retirement System of Texas may
3 not withhold a monthly benefit payment from a retiree who:

4 (1) retired under Section 824.202, Government Code,
5 before January 1, 2003; and

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

8 SECTION 7. Section 824.802(a), Government Code, is amended
9 to read as follows:

10 (a) A contributing member who is eligible under Section
11 824.202 to retire and receive a standard service retirement annuity
12 that is not reduced for retirement at an early age and who has at
13 least 25 years of service credit in the retirement system may, if
14 the member remains an employee, elect to participate in the
15 deferred retirement option plan. A member must make an election to
16 participate in the plan not later than December 31, 2003.

17 SECTION 8. Section 824.805(b), Government Code, is amended
18 to read as follows:

19 (b) A member participating in the plan on September 1, 2003
20 [~~2001~~], may, before December 31, 2003 [~~2001~~], elect to discontinue
21 participation in the plan on a form prescribed by and filed with the
22 retirement system. The retirement system shall make account
23 transfers and change records for a member who elects under this
24 subsection to discontinue participation in the plan as if the
25 member had never participated in the plan.

26 SECTION 9. Section 825.002, Government Code, is amended by
27 amending Subsection (a) and adding Subsections (h) and (i) to read

1 as follows:

2 (a) The governor shall appoint, with the advice and consent
3 of the senate and as provided by this section, the [~~seven~~] members
4 of the board of trustees.

5 (h) The governor shall appoint one member of the board who
6 is:

7 (1) employed by a public school district as a
8 classroom teacher; or

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

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

13 SECTION 10. The heading to Section 825.512, Government
14 Code, is amended to read as follows:

15 Sec. 825.512. ANNUAL INVESTMENT PERFORMANCE AUDIT.

16 SECTION 11. Section 825.512(e), Government Code, is amended
17 to read as follows:

18 [~~(e)~~] The retirement system shall submit an annual
19 investment performance report not later than the 45th day after the
20 end of each fiscal year to the governor, the lieutenant governor,
21 the speaker of the house of representatives, the executive director
22 of the State Pension Review Board, the legislative audit committee,
23 the committees of the senate and the house of representatives
24 having jurisdiction over appropriations, the committees of the
25 senate and the house of representatives having principal
26 jurisdiction over legislation governing the retirement system, and
27 the Legislative Budget Board. The report shall include a listing of

1 all commissions and fees paid by the system during the reporting
2 period for the sale, purchase, or management of system assets. The
3 report shall be in a form recommended by the evaluating firm.

4 SECTION 12. Section 1575.154, Insurance Code, as effective
5 June 1, 2003, is amended to read as follows:

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

9 ~~[(1) the retiree rejects enrollment in the group~~
10 ~~program in writing on a form provided by the board of trustees; or~~
11 ~~[(2)] the board of trustees finds under Subchapter K~~
12 ~~that the retiree defrauded or attempted to defraud the group~~
13 ~~program.~~

14 SECTION 13. Section 9, Article 3.50-7, Insurance Code, is
15 amended by adding Subsection (f) to read as follows:

16 (f) A premium or contribution on a policy, insurance
17 contract, or agreement authorized by this article is not subject to
18 any state tax, regulatory fee, or surcharge, including a premium or
19 maintenance tax or fee.

20 SECTION 14. Sections 3(d)-(h), Article 3.50-8, Insurance
21 Code, are amended to read as follows:

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

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

26 ~~[(e) The trustee shall prescribe and distribute to each~~
27 ~~school district, other educational district, participating charter~~

1 ~~school, and regional education service center.~~

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

5 ~~[(2) an election form to be completed by active~~
6 ~~employees.~~

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

17 (1) July 1 of the preceding state fiscal year; or

18 (2) the fifth day after the date the employee is hired.

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

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

26 SECTION 15. Section 5, Chapter 22, Acts of the 57th
27 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's

1 Texas Civil Statutes), is amended by adding Subsection (g) to read
2 as follows:

3 (g) An educational institution may send an employee
4 contribution made under a salary reduction agreement only to a
5 company that has certified to the retirement system under this
6 section.

7 SECTION 16. Section 9, Chapter 22, Acts of the 57th
8 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
9 Texas Civil Statutes), is amended to read as follows:

10 Sec. 9. An educational institution may not:

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

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

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

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

24 (5) grant exclusive access to information about an
25 employee's financial information, including information about an
26 employee's qualified investment products, to a company or agent
27 offering qualified investment products unless the employee

1 consents in writing to the access;

2 (6) accept any benefit from a company or from an agent
3 or affiliate of a company that offers qualified investment
4 products, other than benefits in the form of:

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

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

9 [~~or~~]

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

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

18 SECTION 17. Chapter 22, Acts of the 57th Legislature, 3rd
19 Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
20 Statutes), is amended by adding Section 13 to read as follows:

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

23 (1) the entity is:

24 (A) a reinsurance company;

25 (B) a third-party administrator;

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

1 (D) a broker, dealer, or licensed or registered
2 agent; and

3 (2) the entity does not have primary liability for
4 performance of the obligations in the investment product that the
5 entity offers.

6 SECTION 18. (a) Section 825.003, Government Code, is
7 repealed.

8 (b) Sections 825.512(a), (b), (c), and (d), Government
9 Code, are repealed.

10 SECTION 19. (a) On September 1, 2003, the governor shall
11 appoint the member of the board of trustees of the Teacher
12 Retirement System of Texas described by Section 825.002(h),
13 Government Code, as added by this Act.

14 (b) On September 1, 2007, the governor shall appoint the
15 member of the board of trustees of the Teacher Retirement System of
16 Texas described by Section 825.002(i), Government Code, as added by
17 this Act.

18 (c) A member of the board of trustees of the Teacher
19 Retirement System of Texas appointed under Section 825.003,
20 Government Code, as that section existed before its repeal by this
21 Act, is entitled to serve the remainder of the trustee's unexpired
22 term.

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

27 SECTION 20. An employee of a home-rule school district that

1 operates under a charter under Subchapter B, Chapter 12, Education
2 Code, may not receive service credit in the Teacher Retirement
3 System of Texas for services performed for the home-rule school
4 district after August 31, 2003.

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

9 SECTION 22. This Act takes effect September 1, 2003.