

1-1 By: Armbrister S.B. No. 1243
1-2 (In the Senate - Filed March 12, 2003; March 19, 2003, read
1-3 first time and referred to Committee on State Affairs;
1-4 May 14, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; May 14, 2003,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1243 By: Armbrister

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to systems and programs administered by the Teacher
1-11 Retirement System of Texas.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (b), Section 12.012, Education Code,
1-14 is amended to read as follows:

1-15 (b) An employee of a home-rule school district does not
1-16 qualify [~~who qualifies~~] for membership in the Teacher Retirement
1-17 System of Texas [~~shall be covered under the system in the same~~
1-18 ~~manner and to the same extent as a qualified employee employed by an~~
1-19 ~~independent school district is covered~~].

1-20 SECTION 2. Subsection (b), Section 12.057, Education Code,
1-21 is amended to read as follows:

1-22 (b) An employee of an independent school district who is
1-23 employed on a campus or program granted a charter under this
1-24 subchapter and who qualifies for membership in the Teacher
1-25 Retirement System of Texas shall be covered under the system in the
1-26 same manner and to the same extent as a qualified employee of the
1-27 independent school district who is employed on a regularly
1-28 operating campus or in a regularly operating program [~~is covered~~].

1-29 SECTION 3. Subsection (a), Section 12.1057, Education Code,
1-30 is amended to read as follows:

1-31 (a) An employee of an open-enrollment charter school
1-32 operating under a charter granted by the State Board of Education
1-33 who qualifies for membership in the Teacher Retirement System of
1-34 Texas shall be covered under the system to the same extent a
1-35 qualified employee of a school district is covered.

1-36 SECTION 4. Subsection (c), Section 822.201, Government
1-37 Code, is amended to read as follows:

1-38 (c) Excluded from salary and wages are:

1-39 (1) expense payments;
1-40 (2) allowances;
1-41 (3) payments for unused vacation or sick leave;
1-42 (4) maintenance or other nonmonetary compensation;
1-43 (5) fringe benefits;
1-44 (6) deferred compensation other than as provided by

1-45 Subsection (b)(3);

1-46 (7) compensation that is not made pursuant to a valid
1-47 employment agreement;

1-48 (8) payments received by an employee in a school year
1-49 that exceed \$5,000 for teaching a driver education and traffic
1-50 safety course that is conducted outside regular classroom hours;

1-51 (9) the benefit replacement pay a person earns as a
1-52 result of a payment made under Subchapter B or C, Chapter 661;

1-53 (10) any amount [~~supplemental compensation~~] received
1-54 by an employee under Article 3.50-8, Insurance Code; and

1-55 (11) any compensation not described in Subsection (b).

1-56 SECTION 5. (a) Effective September 1, 2003, Section
1-57 824.601, Government Code, is amended to read as follows:

1-58 Sec. 824.601. LOSS OF MONTHLY BENEFITS. (a) In this
1-59 section, "third-party entity" means an entity retained by a Texas
1-60 public educational institution to provide personnel to the
1-61 institution who perform duties or provide services that employees
1-62 of the institution would otherwise perform or provide.

1-63 (b) Except as provided by Section 824.602, a retiree is not

2-1 entitled to service or disability retirement benefit payments, as
2-2 applicable, for any month in which the retiree is employed in any
2-3 position by a Texas public educational institution.

2-4 (c) A Texas public educational institution, for the
2-5 purposes of this subchapter, is any entity included in the
2-6 definition of "employer" or "public school" in Section 821.001 or
2-7 any entity in whose employment the retiree has earned credit as a
2-8 member of the retirement system.

2-9 (d) A retiree who is an employee of a third-party entity is
2-10 considered to be employed by a Texas public educational institution
2-11 for purposes of this subchapter unless the retiree does not perform
2-12 duties or provide services on behalf of or for the benefit of the
2-13 institution.

2-14 (e) Subsection (d) does not apply to a retiree if:

2-15 (1) the retiree is employed by a third-party entity to
2-16 perform duties or provide services for a public school district
2-17 with fewer than 6,800 students; and

2-18 (2) the sum of the retiree's age and amount of service
2-19 credit in the retirement system is equal to or greater than the
2-20 number 90.

2-21 (f) A retiree described by Subsection (e) who is an employee
2-22 of a third-party entity is not eligible for group coverage under
2-23 Chapter 1575, Insurance Code. The retiree becomes eligible for
2-24 group coverage under that chapter on termination of employment with
2-25 the third-party entity.

2-26 (g) A third-party entity that employs a retiree described by
2-27 Subsection (e) shall provide employee liability insurance for the
2-28 retiree.

2-29 (h) Loss of benefits under this section does not extend any
2-30 period of guaranteed benefits elected pursuant to Section 824.204.

2-31 (i) The retirement system may adopt rules necessary for
2-32 administering this subchapter.

2-33 (b) Notwithstanding Section 824.601, Government Code, as
2-34 amended by this section, the Teacher Retirement System of Texas may
2-35 not withhold a monthly benefit payment from a retiree who:

2-36 (1) retired under Section 824.202, Government Code,
2-37 before January 1, 2003; and

2-38 (2) is employed by a school district or an
2-39 open-enrollment charter school.

2-40 SECTION 6. Effective September 1, 2005, Section 824.601,
2-41 Government Code, is amended to read as follows:

2-42 Sec. 824.601. LOSS OF MONTHLY BENEFITS. (a) In this
2-43 section, "third-party entity" means an entity retained by a Texas
2-44 public educational institution to provide personnel to the
2-45 institution who perform duties or provide services that employees
2-46 of the institution would otherwise perform or provide.

2-47 (b) Except as provided by Section 824.602, a retiree is not
2-48 entitled to service or disability retirement benefit payments, as
2-49 applicable, for any month in which the retiree is employed in any
2-50 position by a Texas public educational institution.

2-51 (c) A Texas public educational institution, for the
2-52 purposes of this subchapter, is any entity included in the
2-53 definition of "employer" or "public school" in Section 821.001 or
2-54 any entity in whose employment the retiree has earned credit as a
2-55 member of the retirement system.

2-56 (d) A retiree who is an employee of a third-party entity is
2-57 considered to be employed by a Texas public educational institution
2-58 for purposes of this subchapter unless the retiree does not perform
2-59 duties or provide services on behalf of or for the benefit of the
2-60 institution.

2-61 (e) Loss of benefits under this section does not extend any
2-62 period of guaranteed benefits elected pursuant to Section 824.204.

2-63 (f) The retirement system may adopt rules necessary for
2-64 administering this subchapter.

2-65 SECTION 7. Subsection (a), Section 824.802, Government
2-66 Code, is amended to read as follows:

2-67 (a) A contributing member who is eligible under Section
2-68 824.202 to retire and receive a standard service retirement annuity
2-69 that is not reduced for retirement at an early age and who has at

3-1 least 25 years of service credit in the retirement system may, if
3-2 the member remains an employee, elect to participate in the
3-3 deferred retirement option plan. A member must make an election to
3-4 participate in the plan not later than December 31, 2003.

3-5 SECTION 8. Subsection (b), Section 824.805, Government
3-6 Code, is amended to read as follows:

3-7 (b) This subsection applies only to a [A] member
3-8 participating in the plan on September 1, 2003, or to a member whose
3-9 period of participation in the plan has expired on or before
3-10 September 1, 2003, but who has not retired on or before that date. A
3-11 member described by this subsection [2001,] may, before December
3-12 31, 2003, revoke the member's decision to participate [2001, elect
3-13 to discontinue participation] in the plan on a form prescribed by
3-14 and filed with the retirement system. The retirement system shall
3-15 make account transfers and change records for a member who revokes
3-16 the member's decision to participate [elects under this subsection
3-17 to discontinue participation] in the plan as if the member had never
3-18 participated in the plan.

3-19 SECTION 9. Section 825.002, Government Code, is amended by
3-20 amending Subsection (a) and adding Subsections (h) and (i) to read
3-21 as follows:

3-22 (a) The governor shall appoint, with the advice and consent
3-23 of the senate and as provided by this section, the [seven] members
3-24 of the board of trustees.

3-25 (h) The governor shall appoint one member of the board who
3-26 is:

3-27 (1) employed by a public school district as a
3-28 classroom teacher; or

3-29 (2) retired and receiving benefits from the retirement
3-30 system based on prior membership in the retirement system.

3-31 (i) The governor shall appoint one member of the board who
3-32 is a representative of the public.

3-33 SECTION 10. Section 825.115, Government Code, is amended to
3-34 read as follows:

3-35 Sec. 825.115. APPLICABILITY OF CERTAIN LAWS. (a) The
3-36 board is subject to the open meetings law, Chapter 551, and the
3-37 administrative procedure law, Chapter 2001.

3-38 (b) Subchapter C, Chapter 2260, does not apply to the
3-39 retirement system.

3-40 SECTION 11. The heading to Section 825.512, Government
3-41 Code, is amended to read as follows:

3-42 Sec. 825.512. ANNUAL INVESTMENT PERFORMANCE AUDIT.

3-43 SECTION 12. Subsection (e), Section 825.512, Government
3-44 Code, is amended to read as follows:

3-45 [~~e~~] The retirement system shall submit an annual
3-46 investment performance report not later than the 45th day after the
3-47 end of each fiscal year to the governor, the lieutenant governor,
3-48 the speaker of the house of representatives, the executive director
3-49 of the State Pension Review Board, the legislative audit committee,
3-50 the committees of the senate and the house of representatives
3-51 having jurisdiction over appropriations, the committees of the
3-52 senate and the house of representatives having principal
3-53 jurisdiction over legislation governing the retirement system, and
3-54 the Legislative Budget Board. The report shall include a listing of
3-55 all commissions and fees paid by the system during the reporting
3-56 period for the sale, purchase, or management of system assets. The
3-57 report shall be in a form recommended by the evaluating firm.

3-58 SECTION 13. Section 1575.154, Insurance Code, as effective
3-59 June 1, 2003, is amended to read as follows:

3-60 Sec. 1575.154. ENROLLMENT IN BASIC PLAN BY RETIREES
3-61 REQUIRED. A retiree must be enrolled in a basic plan offered under
3-62 the group program unless[+]

3-63 [~~1~~] the retiree rejects enrollment in the group
3-64 program in writing on a form provided by the board of trustees, or

3-65 [~~2~~] the board of trustees finds under Subchapter K
3-66 that the retiree defrauded or attempted to defraud the group
3-67 program.

3-68 SECTION 14. Subchapter D, Chapter 1575, Insurance Code, as
3-69 effective June 1, 2003, is amended by adding Section 1575.163 to

4-1 read as follows:

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

4-10 SECTION 15. Section 9, Article 3.50-7, Insurance Code, is
4-11 amended by adding Subsection (f) to read as follows:

4-12 (f) A premium or contribution on a policy, insurance
4-13 contract, or agreement authorized by this article is not subject to
4-14 any state tax, regulatory fee, or surcharge, including a premium or
4-15 maintenance tax or fee.

4-16 SECTION 16. Subchapter E, Chapter 3, Insurance Code, is
4-17 amended by adding Article 3.50-7A to read as follows:

4-18 Art. 3.50-7A. LIMITATIONS APPLICABLE TO TEXAS SCHOOL
4-19 EMPLOYEES UNIFORM GROUP COVERAGE PROGRAM. (a) This article
4-20 applies to the uniform group coverage program established under
4-21 Article 3.50-7 of this code. A term used in this article has the
4-22 meaning assigned by Section 2, Article 3.50-7, of this code.

4-23 (b) In a county in which at least two and not more than four
4-24 general hospitals are located, the Teacher Retirement System of
4-25 Texas, as trustee, may not contract for or provide a health coverage
4-26 plan that excludes from participation in the network any general
4-27 hospital that is located within the geographical service area of
4-28 the health coverage plan and that agrees to provide medical and
4-29 health care services under the plan subject to the same terms and
4-30 conditions as other hospital providers under the plan.

4-31 SECTION 17. Subsections (d) through (h), Section 3, Article
4-32 3.50-8, Insurance Code, are amended to read as follows:

4-33 ~~(d) [For each state fiscal year, an election under this~~
4-34 ~~section must be made before the later of:~~

- 4-35 ~~[(1) August 1 of the preceding state fiscal year; or~~
- 4-36 ~~[(2) the 31st day after the date the employee is hired.~~

4-37 ~~[(e) The trustee shall prescribe and distribute to each~~
4-38 ~~school district, other educational district, participating charter~~
4-39 ~~school, and regional education service center:~~

- 4-40 ~~[(1) a model explanation written in English and~~
4-41 ~~Spanish of the options active employees may elect under this~~
4-42 ~~section and the effect of electing each option; and~~
- 4-43 ~~[(2) an election form to be completed by active~~

4-44 ~~employees.~~

4-45 ~~[(f)] Each state fiscal year, a school district, other~~
4-46 ~~educational district, participating charter school, or regional~~
4-47 ~~education service center shall prepare and distribute to each~~
4-48 ~~active employee a written explanation in English and Spanish, as~~
4-49 ~~appropriate, of the options the employee may elect under this~~
4-50 ~~section. The explanation [must be based on the model explanation~~
4-51 ~~prepared by the trustee under Subsection (e) of this section and]~~
4-52 ~~must reflect all available health coverage options available to the~~
4-53 ~~employee. The explanation must be distributed to an employee~~
4-54 ~~before the later of:~~

- 4-55 ~~(1) July 1 of the preceding state fiscal year; or~~
- 4-56 ~~(2) the fifth day after the date the employee is hired.~~

4-57 ~~(e) [(g) The written explanation under Subsection (f) of~~
4-58 ~~this section must be accompanied by a copy of the election form~~
4-59 ~~prescribed under Subsection (e)(2) of this section.~~

4-60 ~~[(h)] Any unencumbered funds that are returned to the school~~
4-61 ~~district from accounts established under Subsection (a) of this~~
4-62 ~~section may be used only to provide employee compensation,~~
4-63 ~~benefits, or both.~~

4-64 SECTION 18. Section 9, Chapter 22, Acts of the 57th
4-65 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
4-66 Texas Civil Statutes), is amended to read as follows:

4-67 Sec. 9. (a) An educational institution may not:

- 4-68 (1) refuse to enter into a salary reduction agreement
- 4-69 with an employee if the qualified investment product that is the

5-1 subject of the salary reduction is an eligible qualified
5-2 investment;

5-3 (2) require or coerce an employee's attendance at any
5-4 meeting at which qualified investment products are marketed;

5-5 (3) limit the ability of an employee to initiate,
5-6 change, or terminate a qualified investment product at any time the
5-7 employee chooses;

5-8 (4) grant exclusive access to an employee by
5-9 discriminating against or imposing barriers to any agent, broker,
5-10 or company that provides qualified investment products under this
5-11 Act;

5-12 (5) grant exclusive access to information about an
5-13 employee's financial information, including information about an
5-14 employee's qualified investment products, to a company or agent
5-15 offering qualified investment products unless the employee
5-16 consents in writing to the access;

5-17 (6) accept any benefit from a company or from an agent
5-18 or affiliate of a company that offers qualified investment products
5-19 under this Act, other than benefits in the form of:

5-20 (A) a meal or entertainment valued at \$50 or less
5-21 per employee receiving the meal or entertainment; or

5-22 (B) marketing material, such as pens, bags, or
5-23 hats, valued at \$10 or less per employee receiving the material; or

5-24 (7) use public funds to recommend a qualified
5-25 investment product offered by a company or an agent of a company
5-26 that offers a qualified investment product.

5-27 (b) This section does not prohibit a company from offering a
5-28 qualified investment product under this Act, under Chapter 609,
5-29 Government Code, or under another retirement plan, subject to
5-30 Section 14 of this Act.

5-31 SECTION 19. Chapter 22, Acts of the 57th Legislature, 3rd
5-32 Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
5-33 Statutes), is amended by adding Section 13 to read as follows:

5-34 Sec. 13. An entity is not eligible to certify to the
5-35 retirement system under Section 5 of this Act if:

5-36 (1) the entity is:

5-37 (A) a reinsurance company;

5-38 (B) a third-party administrator;

5-39 (C) an entity performing duties under a contract
5-40 for administrative services only; or

5-41 (D) a broker, dealer, or licensed or registered
5-42 agent; and

5-43 (2) the entity does not have primary responsibility
5-44 for performance of the obligations in the investment product
5-45 contract that the entity offers.

5-46 SECTION 20. Chapter 22, Acts of the 57th Legislature, 3rd
5-47 Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
5-48 Statutes), is amended by adding Section 14 to read as follows:

5-49 Sec. 14. (a) In this section, "affiliate" means a company
5-50 or person that offers a qualified investment product and that
5-51 directly or indirectly controls, is controlled by, or is under
5-52 common control with another company or person.

5-53 (b) An educational institution may accept a bid or award a
5-54 contract for a qualified investment product under this Act or
5-55 Chapter 609, Government Code, that includes proposed financial
5-56 participation by a company or person that participated, to any
5-57 extent, in preparing a specification or request for proposal on
5-58 which the bid or contract is based only if:

5-59 (1) three or more companies or persons participated in
5-60 preparing the specification or request for proposal; and

5-61 (2) a company or person described by Subdivision (1)
5-62 of this subsection is not an affiliate of another company or person
5-63 described by that subdivision.

5-64 SECTION 21. (a) Section 825.003, Government Code, is
5-65 repealed.

5-66 (b) Subsections (a) through (d), Section 825.512,
5-67 Government Code, are repealed.

5-68 SECTION 22. (a) On September 1, 2003, the governor shall
5-69 appoint the member of the board of trustees of the Teacher

6-1 Retirement System of Texas described by Subsection (h), Section
6-2 825.002, Government Code, as added by this Act.

6-3 (b) On September 1, 2007, the governor shall appoint the
6-4 member of the board of trustees of the Teacher Retirement System of
6-5 Texas described by Subsection (i), Section 825.002, Government
6-6 Code, as added by this Act.

6-7 (c) A member of the board of trustees of the Teacher
6-8 Retirement System of Texas appointed under Section 825.003,
6-9 Government Code, as that section existed before its repeal by this
6-10 Act, is entitled to serve the remainder of the trustee's unexpired
6-11 term.

6-12 (d) A vacancy in the office of a trustee appointed under
6-13 Section 825.003, Government Code, as that section existed before
6-14 its repeal by this Act, shall be filled in the manner provided by
6-15 Subsection (i), Section 825.002, Government Code, as added by this
6-16 Act.

6-17 SECTION 23. An employee of a home-rule school district that
6-18 operates under a charter under Subchapter B, Chapter 12, Education
6-19 Code, may not receive service credit in the Teacher Retirement
6-20 System of Texas for services performed for the home-rule school
6-21 district after August 31, 2003.

6-22 SECTION 24. To the extent of any conflict, this Act prevails
6-23 over another Act of the 78th Legislature, Regular Session, 2003,
6-24 relating to nonsubstantive additions to and corrections in enacted
6-25 codes.

6-26 SECTION 25. This Act takes effect September 1, 2003.

6-27 * * * * *