

BILL ANALYSIS

Senate Research Center

S.B. 1691
By: Duncan
State Affairs
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Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The Teacher Retirement System of Texas (TRS) was created in 1937 and is established by Section 67, Article XVI, Texas Constitution. Constitutional provisions include the establishment of a trust and a board of trustees to administer the system, a requirement that assets of the trust be held for the exclusive benefit of the members, and a requirement that financing of benefits be based on sound actuarial principles.

Although the payment of current benefits is not in jeopardy, the system currently has an “infinite” funding period according to the TRS outside consulting actuary. This refers to the necessary amortization period for assets to fund liabilities. Benefit increases, even if only for current retirees, cannot be passed until such time that the fund can amortize liabilities within a 31-year period. As such, it is estimated that an increase for retirees to adjust for cost of living is not expected within the next decade unless there are sufficient changes in contributions to the system or to the structure of future liabilities.

S.B. 1691 attempts to address actuarial soundness and lessen the escalating pressure on TRSC are by making changes that should encourage employees to retire later. It also includes a variety of provisions intended to improve efficiencies in system administration of TRS and clarify the board’s authority to manage and protect pension assets.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas Education Agency in SECTION 6 (Section 22.102, Education Code) of this bill.

Rulemaking authority is expressly granted to the board of trustees of the Teacher Retirement System in SECTION 24 (Section 825.115, Government Code) and SECTION 33 (Section 825.506, Government Code) of this bill.

Rulemaking previously granted to the board of trustees of the Teacher Retirement System is modified in SECTION 22 (Section 825.110, Government Code) of this bill.

Rulemaking authority previously granted to the Teacher Retirement System is modified in SECTION 46 (Section 1576.006, Insurance Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 12.057(b), Education Code, to require an employee of an independent school district who is employed on a campus or program granted a charter under this subchapter, rather than Section 12.052, 12.052(a)(1), or 12.053, and who qualifies for membership in the Teacher Retirement System of Texas (TRS) to be covered under TRS in the same manner and to the same extent as a qualified employee of the independent school district who is employed on a regularly operating campus or in a regularly operating program.

SECTION 2. Amends Section 12.1057(a), Education Code, to require an employee of an open-enrollment charter school operating under a charter granted by the State Board of Education who qualifies for membership in TRS to be covered under TRS to the same extent a qualified employee of a school district is covered.

SECTION 3. Amends Subchapter D, Chapter 12, Education Code, by adding Section 12.1164, as follows:

Sec. 12.1164. NOTICE TO TEACHER RETIREMENT SYSTEM OF TEXAS. (a) Requires the commissioner of education (commissioner) to notify TRS in writing of the revocation, denial of renewal, or surrender of a charter under this subchapter not later than the 10th business day after the date of the event.

(b) Requires the commissioner to notify TRS in writing that an open-enrollment charter school is no longer receiving state funding not later than the 10th business day after the date on which the funding ceases.

(c) Requires the commissioner to notify TRS in writing that an open-enrollment charter school has resumed receiving state funds not later than the 10th business day after the date on which funding resumes.

SECTION 4. Amends Sections 22.004(a), (b), (c), (i), and (j), Education Code, as follows:

(a) Requires a district to participate in the uniform group coverage program established under Chapter 1579 (Texas School Employees Uniform Group Health Coverage), rather than Article 3.50-7, Insurance Code, as provided by Subchapter D (Participating Entities), rather than Section 5, of that chapter, rather than article.

(b) Requires group health coverage provided by a district that does not participate in the program described by Subsection (a) to meet the substantive coverage requirements of Chapter 1251 (Group and Blanket Health Insurance), Subchapter A (Exclusion From or Denial of Coverage Prohibited), Chapter 1364, and Subchapter A (Coverage For In Vitro Fertilization Procedures), Chapter 1366, rather than Article 3.51-6, Insurance Code.

(c) Requires the cost of the coverage provided under the program described by Subsection (a) to be paid by the state, the district, and the employees in the manner provided by Subchapter F (Contributions), Chapter 1579, rather than Article 3.50-7, Insurance Code. Makes conforming changes.

(i) Makes conforming changes.

(j) Makes a conforming change.

SECTION 5. Amends Subchapter A, Chapter 22, Education Code, by adding Section 22.007, as follows:

Sec. 22.007. INCENTIVES FOR EARLY RETIREMENT. Prohibits a district from offering or providing a financial or other incentive to an employee of the district to encourage the employee to retire from TRS.

SECTION 6. Amends Chapter 22, Education Code, by adding Subchapter D, as follows:

SUBCHAPTER D. COMPENSATION SUPPLEMENTATION

Sec. 22.101. DEFINITIONS. Defines "cafeteria plan," "employee," "participating charter school," and "regional education service center."

Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY. (a) Authorizes the Texas Education Agency (TEA) to adopt rules to implement this subchapter.

(b) Authorizes TEA to enter into interagency contracts with any other agency of this state for the purpose of assistance in implementing this subchapter.

Sec. 22.103. DISTRIBUTION BY AGENCY. Requires TEA, subject to the availability of funds, to deliver each month to each district, including a district that is ineligible for

state aid under Chapter 42 (Foundation School Program), each other educational district that is a member of TRS, each participating charter school, and each regional education service center state funds in an amount, as determined by TEA, equal to the product of the number of employees employed by the district, school, or service center multiplied by the amount specified in the General Appropriations Act for purposes of this subchapter and divided by 12. Requires TEA to distribute funding to only one entity for employees who are employed by more than one entity listed in this section.

Sec. 22.104. FUNDS HELD IN TRUST. Provides that all funds received by a district, other educational district, participating charter school, or regional education service center under this subchapter are held in trust for the benefit of the employees on whose behalf the district, school, or service center received the funds.

Sec. 22.105. RECOVERY OF DISTRIBUTIONS. Entitles TEA to recover from a district, other educational district, participating charter school, or regional education service center any amount distributed under this subchapter to which the district, school, or service center was not entitled.

Sec. 22.106. DETERMINATION BY AGENCY FINAL. Provides that a determination by TEA under this subchapter is final and prohibits such a determination from being appealed.

Sec. 22.107. DISTRIBUTION BY SCHOOL. Requires each district, other educational district that is a member of TRS, participating charter school, and regional education service center to distribute to its employees the funding received under this subchapter each month. Requires an individual to meet the definition of an employee under Section 22.101 for that month to receive the monthly distribution.

Sec. 22.108. USE OF SUPPLEMENTAL COMPENSATION. Authorizes an employee to use a monthly distribution received under this subchapter for any employee benefit, including depositing the amount of the distribution into a cafeteria plan, if the employee is enrolled in a cafeteria plan, or using the amount of the distribution for health care premiums through a premium conversion plan. Authorizes the employee to take the amount of the distribution as supplemental compensation.

Sec. 22.109. SUPPLEMENTAL COMPENSATION. Requires an amount distributed to an employee under this subchapter to be in addition to the rate of compensation that the district, other educational district, participating charter school, or regional education service center paid the employee in the preceding school year or that the district, school, or service center would have paid the employee in the preceding school year if the employee had been employed by the district, school, or service center in the same capacity in the preceding school year.

SECTION 7. Amends Section 821.003, Government Code, to provide that TRS is a public entity, rather than an agency of the state.

SECTION 8. Amends Section 822.201(c), Government Code, to provide that any amount received by an employee under Subchapter D, Chapter 22, Education Code, former Article 3.50-8, Insurance Code, former Chapter 1580, Insurance Code, or Rider 9, page III-39, Chapter 1330, Acts of the 78th Legislature, Regular Session, 2003 (General Appropriations Act), is excluded from salary and wages.

SECTION 9. Amends Section 823.006, Government Code, as follows:

Sec. 823.006. New heading: LIMITS ON ANNUAL CONTRIBUTIONS FOR PURCHASE OF SERVICE CREDIT. Authorizes TRS, notwithstanding any other provision of this subtitle, to limit the purchase of service credit to the extent required by applicable limits on the amount of annual contributions a participant may make to a qualified plan under Sections 401(a) and 415(c), Internal Revenue Code of 1986. Deletes existing definitions of "nonqualified service" and "permissive service credit." Deletes existing text relating to the purchase of permissive service credit.

SECTION 10. Amends Sections 823.401(d) and (e), Government Code, as follows:

(d) Authorizes a member to establish credit under this section by depositing with TRS for each year of service credit the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by the TRS's actuary and adopted by the board of trustees of TRS (board of trustees). Deletes existing text relating to the computation of a member's contribution to TRS.

(e) Requires a deposit for at least one year of credit to be made with an initial application for credit, and all payments for service claimed under this section are required to be made before retirement. Deletes existing text relating to a fee that must be paid in addition to the contribution required by Subsection (d).

SECTION 11. Amends Section 824.202, Government Code, by amending Subsections (a), (b), and (d) and adding Subsections (a-1), (b-1), and (d-1), as follows:

(a) Makes a conforming change.

(a-1) Provides that this subsection applies only to a person who becomes a member of TRS on or after September 1, 2006. Provides that a member subject to this subsection is eligible to retire and receive a standard service annuity if the member meets certain requirements.

(b) Amends the table used to determine a service retirement annuity reduced from standard service retirement annuity. Makes conforming changes.

(b-1) Provides that this subsection applies only to a person who becomes a member of TRS on or after September 1, 2006. Provides that, if a member subject to this subsection is at least 55 years old and has at least five years of service credit in TRS, but does not meet the requirements under Subsection (d-1), the member is eligible to retire and receive a service retirement annuity reduced from the standard service retirement annuity available under Subsection (a-1)(1), to a percentage derived from a certain table.

(d) Deletes existing text relating to a service retirement annuity consisting of the standard retirement annuity, derived from a table in Subsection (c). Makes conforming changes.

(d-1) Provides that this subsection applies only to a person who becomes a member of TRS on or after September 1, 2007. Provides that, if the sum of the member's age and amount of service credit in TRS equals the number 80, with at least five years of service credit, or if the member has at least 30 years of service credit in TRS, the member is eligible to retire regardless of age and receive a service retirement annuity, reduced from the standard service retirement annuity available under Subsection (a)(2), to a percentage derived from a certain table. Requires the standard service retirement annuity to be five percent less than the percentage for age 50 with 30 years of service credit for each year of age under 50 with 30 years of service credit.

SECTION 12. Amends Section 824.203(a), Government Code, to provide that, except as provided by Subsections (c) and (d), rather than (c), (d), and (e), the standard service retirement annuity is an amount computed on the basis of the member's average annual compensation for the five, rather than three, years of service, whether or not consecutive, in which the member received the highest annual compensation, times 2.3 percent for each year of service credit in TRS.

SECTION 13. Amends Sections 824.2045(a), (b), (c), and (d), Government Code, as follows:

(a) Authorizes a member to select a standard service retirement annuity or an optional service retirement annuity described by Section 824.204, reduced for early age as applicable under Section 824.202, together with a partial lump-sum distribution, if the

member meets certain requirements. Deletes existing text specifying that the subsection applies to a member who is eligible for an unreduced service retirement annuity and is not participating in the deferred retirement option plan under Subsection I.

(b) and (c) Make conforming changes.

(d) Requires the amount of the lump sum to be computed based on a standard service retirement annuity reduced for early age as applicable under Section 824.202.

SECTION 14. Amends Section 824.405, Government Code, to make conforming changes.

SECTION 15. Amends Section 824.503(d), Government Code, to provide that a benefit under Subsection (c) (relating to the death of a retiree's designated beneficiary) is payable to the person or persons designated as the beneficiary of the beneficiary and, if such person has not been designated or does not survive, then to the persons entitled to distribution of the deceased beneficiary's estate.

SECTION 16. Amends Section 824.602(a), Government Code, to make conforming changes.

SECTION 17. Amends Subchapter G, Chapter 824, Government Code, by adding Section 824.6022, as follows:

Section 824.6022. REQUIRED REPORTS; OFFENSE. (a) Requires an employer to file a monthly certified statement of employment of a retiree in the form and manner required by TRS.

(b) Provides that a person commits an offense if the person is an administrator of an employer, is responsible for filing a statement under Subsection (a), and knowingly fails to file the statement as required.

SECTION 18. Amends Subchapter I, Chapter 824, Government Code, by adding Section 824.8011, as follows:

Sec. 824.8011. DEADLINE TO ELECT TO PARTICIPATE. Requires a person to make an election to participate in the deferred retirement option plan (plan) not later than December 31, 2005.

SECTION 19. Amends Section 824.805(b), Government Code, to provide that this subsection applies only to a member participating in the plan on September 1, 2005, or to a member whose period of participation in the plan expired on or before September 1, 2005, but who has not retired on or before that date. Authorizes a member described by this subsection, before December 31, 2005, revoke the member's decision to participate in the plan in a form prescribed and filed with TRS. Requires TRS to make account transfers and change records for a member who revokes the member's decision to participate in the plan as if the member had never participated in the plan. Deletes existing text relating to participation in the plan before 2001.

SECTION 20. Amends Section 825.101, Government Code, to provide that, notwithstanding any other law, the board of trustees has exclusive control over all assets held in trust by TRS and all operations funded by trust assets. Requires the board of trustees to administer TRS for the sole and exclusive benefit of the members and participants.

SECTION 21. Amends Section 825.103, Government Code, by adding Subsections (c), (d), (e), (f), and (g), as follows:

(c) Provides that except as provided herein, Chapter 412 (State Office of Risk Management), Labor Code, does not apply to TRS,. Authorizes the board of trustees to acquire services described by that chapter in any manner or amount the board considers reasonable. Requires the State Office of Risk Management to provide services for TRS as requested by TRS, and authorizes TRS to use the services of the State Office of Risk Management to obtain insurance and perform risk management and workers' compensation claim services. Requires the retirement system, in accordance with terms

mutually agreed upon by both parties, to be subject to the relevant requirements of Chapter 412, Labor Code, only for the specific programs or services the board elects to obtain from or through the State Office of Risk Management. Requires the State Office of Risk Management to pay to TRS any amounts collected on behalf of TRS through subrogation of claims, regardless of the budget biennium in which the office receives the amounts. Requires the State Office of Risk Management to pay these amounts directly to TRS instead of to the general revenue fund.

(d) Provides that, notwithstanding any other law, TRS has exclusive authority over the purchase of goods and services using money other than money appropriated from the general revenue fund, including specifically money from trusts under the administration of TRS. Provides that Subtitle D (State Purchasing and General Services), Title 10, does not apply to TRS with respect to that money. Requires TRS to acquire goods or services by procurement methods approved by the board of trustees or the board's designee. Provides that, for purposes of this subsection, goods and services include all professional and consulting services and utilities as well as supplies, materials, equipment, skilled or unskilled labor, and insurance. Requires the Texas Building and Procurement Commission to procure goods or services for TRS at the request of TRS, and authorizes TRS to use the services of that commission in procuring goods or services.

(e) Provides that Chapters 2054 (Information Resources) and 2055 (Electronic Government Program Management) do not apply to TRS. Requires the board of trustees to control all aspects of information technology and associated resources relating to TRS, including computer data management, and telecommunications operations, procurement of hardware, software, and middleware, and telecommunication equipment and systems, location, operation, and replacement of computers, computer systems, and telecommunication systems, data processing, security, disaster recovery, and storage. Requires the Department of Information Resources to assist TRS at the request of TRS, and authorizes TRS to use any service that is available through that department.

(f) Provides that Subchapter C (Contested Case Hearing), Chapter 2260, does not apply to TRS. Provides that the acceptance of benefits by TRS under a contract does not waive immunity from suit or immunity from liability.

(g) Provides that, notwithstanding any other law, Chapters 2261 (State Contracting Service and Oversight) and 2262 (Statewide Contract Management) do not apply to TRS. Requires the Contract Advisory Team to assist TRS at the request of TRS. Authorizes TRS to use the training program for contract management provided under Chapter 2262.

SECTION 22. Amends Section 825.110, Government Code, to require, rather than authorize, the board of trustees, to adopt certain rules.

SECTION 23. Amends Section 825.112, Government Code, as follows:

Sec. 825.112. New heading: INSURANCE. Authorizes the board of trustees, notwithstanding any other law, to self-insure or purchase any insurance, rather than liability insurance, including fiduciary and liability coverage for trust assets or for the trustees, employees, and agents of the board of trustees, in amounts the board of trustees considers reasonable and prudent. Deletes existing text relating to intentional fraud of a policy of insurance purchased under this section.

SECTION 24. Amends Section 825.115, Government Code, as follows:

Sec. 825.115. APPLICABILITY OF CERTAIN LAWS. (a) Makes conforming changes.

(b) Authorizes the board of trustees in its sole discretion to make a final decision on a contested case. Authorizes the board of trustees, notwithstanding any other law and in its sole discretion, to modify, refuse to accept, or delete any proposed finding of fact or conclusion of law contained in a proposal for decision submitted by an administrative law judge or other hearing examiner, or make alternative

findings or fact and conclusions of law, in a proceeding considered to be a contested case under Chapter 2001 (Administrative Procedure). Requires the board of trustees to state in writing the specific reason for its determination. Authorizes the board of trustees to adopt rules for the implementation of this subsection. Authorizes the board of trustees to delegate its authority under this subsection to the executive director, and authorizes the executive director to delegate the authority to another employee of TRS.

(c) Authorizes the executive director or the executive director's designee under Subsection (b) to refer an appeal relating to the pension plan to the State Office of Administrative Hearings for a hearing or to employ, select, or contract for the services of an administrative law judge or hearing examiner not affiliated with the State Office of Administrative Hearings to conduct a hearing. Provides that this subsection prevails over any other law to the extent of any conflict.

SECTION 25. Amends Section 825.208, Government Code, as follows:

Sec. 825.208. COMPENSATION OF EMPLOYEES; PAYMENT OF EXPENSES. (a) Requires the board of trustees, notwithstanding any other law, to approve the rate of compensation of all persons it employs and the amounts necessary for other expenses for operation of the retirement system. Prohibits the rates and amounts from exceeding those paid for similar services for the state if expenditures are paid from money appropriated from the general revenue fund rather than from trust funds.

(b) Provides that TRS is exempt from Chapter 660 (Travel Expenses) and Subchapter K (Promotions, Reclassifications, and Other Adjustments to Salary), Chapter 659, to the extent the board of trustees determines an exemption is necessary for the performance of fiduciary duties.

(c) Authorizes the board of trustees to compensate employees of TRS, whether subject to or exempt from the overtime provisions of the Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), at the rate equal to the employees' regular rate of pay for work performed on a legal holiday or for other compensatory time accrued, when taking compensatory time off would be disruptive to TRS's normal business functions.

SECTION 26. Amends Section 825.307(a), Government Code, by deleting existing text requiring TRS to deposit in a member's individual account in the member savings account the portion of a deposit to establish equivalent membership service credit required by Section 823.405 or 823.3021(f)(1). Makes nonsubstantive changes.

SECTION 27. Amends Section 825.308, Government Code, to include employer contributions under Section 825.4092 amongst the amounts TRS is required to deposit in the state contribution account. Deletes existing text requiring TRS to deposit the portion of a deposit required by Section 823.401(e) to establish out-of-state service credit that represents a fee in the state contribution account.

SECTION 28. Amends Section 825.403, Government Code, by adding Subsections (k) and (l), as follows:

(k) Requires reporting entities and the commissioner to inform TRS of changes in status of a school district or charter school that affect the reporting responsibilities of the entity.

(l) Requires the commissioner to notify TRS in writing of changes in charter and funding status of certain open-enrollment charter schools.

SECTION 29. Amends Subchapter E, Chapter 825, Government Code, by adding Section 825.4041, as follows:

Sec. 825.4041. EMPLOYER PAYMENTS. (a) Provides that, for the purposes of this section, a new member is a person first employed on or after September 1, 2005,

including a former member who withdrew retirement contributions under Section 822.003 and is reemployed on or after September 1, 2005.

(b) Requires an employer, during each fiscal year, to pay an amount equal to the state contribution rate, as established by the General Appropriations Act for the fiscal year, applied to the aggregate compensation of new members of TRS, as described by Subsection (a), during their first 90 days of employment.

(c) Sets forth monthly reporting requirements to be met by an employer.

(d) Provides that a person who was hired before September 1, 2005, and was subject to a 90-day waiting period for membership in TRS becomes eligible to participate in TRS as a member starting September 1, 2005. Requires the member to be treated as a new member for the remainder of the waiting period for the purpose of this section.

(e) Requires the employer to remit the amount required under this section to TRS at the same time the employer remits the member's contribution. Requires the employer, in computing the amount required to be remitted, to include compensation paid to an employee for the entire pay period that contains the 90th calendar day of new employment.

(f) Requires TRS, at the end of each school year, to certify certain information to the commissioner of education (commissioner) and to the state auditor.

(g) Requires the commissioner or the state auditor, if the commissioner or the state auditor receives a certification under Subsection (f), to direct the comptroller of public accounts to withhold the amount certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the employer. Requires the amount withheld to be deposited to the credit of the appropriate accounts of TRS.

(h) Requires the board of trustees to take this section into consideration in adopting the biennial estimate of the amount necessary to pay the state's contributions to TRS.

SECTION 30. Amends Subchapter E, Chapter 825, Government Code, by adding Section 825.4092, as follows:

Sec. 825.4092. EMPLOYER CONTRIBUTIONS FOR EMPLOYED RETIREES. (a) Provides that this section applies to an employer who reports the employment of a retiree to TRS.

(b) Requires the employer, except as provided by Subsection (e), during each payroll period in which a retiree is employed, to contribute a certain amount based on the retiree's salary to TRS for each retiree reported.

(c) Requires the employer who reports the employment of a retiree, except as provided by Subsection (e), each payroll period, for each retiree who is enrolled in the Texas Public School Employees Group Benefits Program under Chapter 1575 (Texas Public School Employees Group Benefits Program), Insurance Code, to contribute to the trust fund established under that chapter any difference between the amount the retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program, as determined by TRS. Requires the amount of the required payment to be prorated among the employers if more than one employer reports the retiree to TRS.

(d) Provides that contributions under this section are subject to the requirements of Section 825.408 (Interest in Contributions and Fees; Deposits in Trust).

- (e) Provides that the amounts required to be paid under Subsections (b) and (c) are not required to be paid by a reporting employer for a retiree who was reported by that employer under TRS rules in effect for the report month of January 2005.

SECTION 31. Amends Section 2254.102, Government Code, by adding Subsection (d), to provide that this subchapter does not apply to a contract for legal services entered into by TRS if the services are paid for from money that is not appropriated from the general revenue fund, including funds of a trust administered by TRS.

SECTION 32. Amends Sections 825.410(a) and (h), Government Code, as follows:

- (a) Authorizes payments to establish special service credit as authorized under this subtitle, other than service credit that is authorized to only be determined and paid for at the time of retirement such as unused leave as authorized by Section 823.403, to be made in a lump sum by a monthly payroll deduction of a certain amount. Deletes existing text relating to payments to establish special service credit as authorized by certain sections.

- (h) Makes a conforming change.

SECTION 33. Amends Section 825.506, Government Code, by adding Subsection (c), to provide that it is intended that TRS administer the benefit plan in a manner that satisfies the required minimum distribution provisions of Section 401(a)(9), Internal Revenue Code of 1986. Authorizes the board of trustees to adopt rules to administer the distribution requirements, including distribution when a participant dies before the entire interest is distributed.

SECTION 34. Amends Section 825.507(a) and (b), Government Code, as follows:

- (a) Provides that, because the records described by this subsection are exempt from the public access provisions of Chapter 552 (Public Information), TRS is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, except as otherwise provided by this section.

- (b) Includes a local criminal law enforcement agency that requests a record for a law enforcement purpose amongst the entities to whom TRS is authorized to release records of a participant. Makes nonsubstantive changes.

SECTION 35. Amends the heading to Section 825.512, Government Code, to read as follows:

Sec. 825.512. INVESTMENT PRACTICES AND PERFORMANCE REPORTS.

SECTION 36. Amends Section 825.512(e), Government Code, to delete the requirement that TRS's annual investment performance report be in a form recommended by the evaluating firm.

SECTION 37. Amends Subchapter F, Chapter 825, Government Code, by adding Sections 825.519 and 825.520, as follows:

Sec. 825.519. ELECTRONIC INFORMATION. Authorizes TRS to provide confidential information electronically to members or other participants or employers and receive information electronically from those persons, including by use of an electronic signature or certification in a form acceptable to TRS. Provides that an unintentional disclosure to, or unauthorized access by, a third party related to the transmission or receipt of information under this section is not a violation by TRS of any law, including a rule relating to the protection of confidential information.

Sec. 825.520. IMMUNITY FROM LIABILITY. Provides that the trustees, executive director, and employees of TRS are not liable for any action taken or omission made or suffered by them in good faith in the performance of any duty in connection with any program or system administered by TRS.

SECTION 38. Amends Section 1575.004, Insurance Code, as follows:

Sec. 1575.004. DEFINITION OF RETIREE. (a) Redefines "retiree."

(b) Redesignates text from existing Subsection (c). Deletes existing text of Subsection (b) relating to establishing service credit in the deferred retirement option plan.

(c) Requires an individual, for the purposes of this section, in order to meet the requirements for eligibility for a service retiree that existed on August 31, 2004, to not have been eligible to be covered by a plan provided under Chapter 1551 (Texas Employee Group Benefits Act) or 1601 (Uniform Insurance Benefits Act for Employees of the University of Texas System and the Texas A&M University System) and to have taken a service retirement under TRS with a certain number of service credits.

SECTION 39. Amends Subchapter A, Chapter 1575, Insurance Code, by adding Section 1575.008, as follows:

Sec. 1575.008. COVERAGE EXEMPT FROM INSURANCE LAW. Provides that a coverage plan provided under this chapter is exempt from any other insurance law, including common law, that does not expressly apply to the plan or this chapter.

SECTION 40. Amends Section 1575.052(b), Insurance Code, to make nonsubstantive changes.

SECTION 41. Amends Section 1575.203(a), Insurance Code, to require each active employee, each state fiscal year, as a condition of employment, to contribute to the fund an amount equal to 0.65, rather than 0.5, percent of the employee's salary.

SECTION 42. Amends Section 1575.204, Insurance Code, as follows:

Sec. 1575.204. PUBLIC SCHOOL CONTRIBUTION. (a) Creates this subsection from existing text.

(b) Requires each employer who reports to TRS under Section 824.6022, Government Code, the employment of a retiree who is enrolled in the group program to contribute to the fund the difference, if any, between the contribution amount that the reported retiree is required to pay for the retiree and any enrolled dependents' participation in the group program, as determined by TRS. Provides that the amounts required to be paid under this subsection are not required to be paid by a reporting employer for a retiree who was reported by that employer under TRS rules in effect for the report month of January 2005.

SECTION 43. Amends Section 1575.303, Insurance Code, by adding Subsection (c), to provide that the retired school employees group insurance fund is held in trust for the benefit of participants of the program and is prohibited from being diverted.

SECTION 44. Amends Sections 1576.003 and 1576.004, Insurance Code, as follows:

Sec. 1576.003. New heading: CONTRACTS TO PROVIDE COVERAGES. Authorizes TRS to contract with one or more carriers authorized to provide long-term care insurance to provide that coverage. Deletes existing text relating to an administering firm.

Sec. 1576.004. PREMIUMS. (a) Creates subsection from existing text. Requires TRS to determine the procedures by which each program participant pays premiums and any other program costs. Provides that each participant is responsible for required payments. Deletes existing text relating to an administering firm.

(b) Authorizes TRS to authorize any payment method appropriate for the program.

SECTION 45. Amends Section 1576.005(a), Insurance Code, to provide that the group long-term care insurance program is not part of the group coverages offered under Chapter 1575 (Texas Public School Employees Group Benefit Program) or 1579 (Texas School Employees Uniform Group Health Coverage).

SECTION 46. Amends Section 1576.006, Insurance Code, to authorize TRS to adopt rules as necessary to administer, rather than implement, this subchapter. Deletes existing text specifying rules TRS is authorized to adopt.

SECTION 47. Amends Chapter 1576, Insurance Code, by adding Sections 1576.008, 1576.009, 1576.010, 1576.011, 1576.012, and 1576.013, as follows:

Sec. 1576.008. COMPETITIVE BIDDING REQUIREMENTS; RULES. (a) Authorizes a contract to provide benefits under this chapter to be awarded only through competitive bidding under rules adopted by TRS.

(b) Authorizes the rules to provide criteria for determining whether a carrier is qualified.

Sec. 1576.009. CONTRACT AWARD; CONSIDERATIONS. (a) Provides that, in awarding a contract under this chapter, TRS is not required to select the lowest bid and authorizes TRS to consider any relevant criteria, including certain information relating to a bidder.

(b) Requires TRS, if TRS awards a contract to a bidder whose bid deviates from that advertised, to record the deviation and fully justify the reason for the deviation in the minutes of the next meeting of TRS.

Sec. 1576.010. GROUP LONG-TERM CARE INSURANCE PROGRAM FUND. (a) Provides that the group long-term care insurance program fund is a trust fund with the comptroller.

(b) Requires TRS to administer the fund on behalf of the participants in the plan of insurance coverage provided under this chapter.

(c) Requires certain monies be credited to the fund.

Sec. 1576.011. INVESTMENT OF FUND. Authorizes TRS to invest the fund in the manner provided by Section 67(a)(3), Article XVI, Texas Constitution.

Sec. 1576.012. PAYMENTS FROM FUND. Authorizes money in the fund to be used only to cover the cost of administering the program and to provide coverage under this chapter.

Sec. 1576.013. COVERAGE EXEMPT FROM INSURANCE LAW. Provides that a coverage plan provided under this chapter is exempt from any other insurance law, including common law, that does not expressly apply to the plan or this chapter.

SECTION 48. Amends Subchapter A, Chapter 1579, Insurance Code, by adding Sections 1579.005-1579.008, as follows:

Sec. 1579.005. CONFIDENTIALITY. (a) Provides that Section 825.507 (Record Confidentiality), Government Code, applies to records relating to an employee or dependent under the program and in the custody of TRS or in the custody of an administrator, carrier, agent, attorney, consultant, or governmental body acting in cooperation with or on behalf of TRS.

(b) Authorizes TRS to disclose to a health care provider, benefit provider, or claims administrator information in the records of an individual that the system determines is necessary to administer the program.

Sec. 1579.006. EXEMPTION FROM PROCESS. (a) Sets forth certain rights, benefits, and payments that are exempt from execution, attachment, garnishment or any other process.

(b) Prohibits the items listed in Subsection (a) from being assigned except for direct payment to benefit providers as authorized by the trustee by contract, rule, or otherwise.

Sec. 1579.007. EXEMPTION FROM STATE TAXES AND FEES. Provides that a premium or contribution on a policy, insurance contract, or agreement authorized by this chapter is not subject to any state tax, regulatory fee, or surcharge, including a premium or maintenance tax or fee.

Sec. 1579.008. COVERAGE EXEMPT FROM INSURANCE LAW. Provides that a coverage plan provided under this chapter is exempt from any other insurance law, including common law, that does not expressly apply to the plan or this chapter.

SECTION 49. Amends Section 1579.052, Insurance Code, by amending Subsection (c) and adding Subsection (e), as follows:

(c) Makes conforming changes.

(e) Requires TRS to take the actions it considers necessary to devise, implement, and administer the uniform group coverage program.

SECTION 50. Amends Section 1579.102, Insurance Code, to require the coverage provided under the catastrophic care coverage plan to be prescribed by TRS by rule and provide coverage at least as extensive as the coverage provided under the TRS-Care 1, rather than TRS-Care 2, plan operated under Chapter 1575.

SECTION 51. (a) Reenacts and amends Section 1579.104, Insurance Code, to prohibit TRS from offering optional coverages, other than optional permanent life insurance, optional long-term care insurance, and optional disability insurance, rather than those coverages required by Chapter 1577.

(b) Provides that, in accordance with Section 311.031(c), Government Code, which gives effect to a substantive amendment enacted by the same legislature that codifies the amended statute, the text of Section 1579.104, Insurance Code, as set out in Subsection (a) of this section, gives effect to changes made by Section 1, Chapter 354, Acts of the 78th Legislature, Regular Session, 2003.

(c) Repealer: Section 1 (prohibiting TRS from offering optional coverages), Chapter 354, Acts of the 78th Legislature, Regular Session, 2003.

SECTION 52. Amends Section 1579.253(b), Insurance Code, to authorize the employee to pay the employee's contribution under this subsection from the amount distributed to the employee under Subchapter D, Chapter 22, Education Code, rather than Chapter 1580.

SECTION 53. Amends Subchapter F, Chapter 1579, Insurance Code, by adding Sections 1579.254 and 1579.255, as follows:

Sec. 1579.254. CONTRIBUTIONS HELD IN TRUST FOR FUND. Requires a participating entity to hold contributions required by this subchapter in trust for the Texas school employees uniform group coverage trust fund and its participants. Prohibits a participating entity from diverting the contributions for any other purpose.

Sec. 1579.255. INTEREST ASSESSED ON LATE PAYMENT OF CONTRIBUTIONS BY PARTICIPATING ENTITIES. (a) Requires a participating entity that does not remit to TRS all contributions required by this subchapter before the seventh day after the last day of the month to pay to the Texas school employees uniform group coverage trust

fund the contributions and interest on the unpaid amounts at the annual rate of six percent compounded monthly.

(b) Authorizes TRS, on request, to grant a waiver of the deadline imposed by this section based on a participating entity's financial or technological resources.

SECTION 54. Amends Section 1581.702, Insurance Code, to make a conforming change.

SECTION 55. (a) Repealer:

(1) Section 824.202(c) (relating to determining eligibility for service retirement), Government Code;

(2) Section 1575.211(c) (relating to cost sharing), Insurance Code;

(3) Chapters 1577 (Required Availability of Insurance for School District Employees and Retirees) and 1580 (Active Employee Health Coverage or Compensation Supplementation), Insurance Code;

(4) Section 57 (relating to certain state funds appropriated for each school district by TRS), Chapter 201, Acts of the 78th Legislature, Regular Session, 2003;

(5) Chapter 313 (relating to a health reimbursement arrangement program for active school employees), Acts of the 78th Legislature, Regular Session, 2003; and

(6) Section 1.01 (relating to certain state funds appropriated for each school district by TRS), Chapter 366, Acts of the 78th Legislature, Regular Session, 2003.

(b) Repealer: Section 823.405 (Credit Purchase Option), Government Code.

SECTION 56. Transfers the functions and duties of TRS with respect to the compensation supplementation program established under Chapter 1580, Insurance Code, and other applicable law, and any appropriation relating to that program to TEA. Provides that a reference in law to TRS with respect to the compensation supplementation program means TEA.

SECTION 57. (a) Authorizes a member of TRS, notwithstanding Sections 823.401(d) and (e), Government Code, as amended by this Act, to establish out-of-state service credit by making the contribution required under Section 823.401, Government Code, as it existed before amendment by this Act, if the person was a member of the system on December 31, 2005, and the out-of-state service was performed before January 1, 2006.

(b) Requires TRS to deposit in the state contribution account under Section 825.308, Government Code, the portion of a deposit required under Section 823.401, Government Code, as it existed before amendment by this Act, to establish out-of-state service that represents a fee.

SECTION 58. (a) Makes application of the changes in law made by this Act to Sections 824.203 and 824.2045, Government Code, and the change in law made by the repeal of Section 824.202(c), Government Code, by this Act, prospective to September 1, 2005.

(b) Provides that a person who retires under TRS on or after September 1, 2005, and who meets certain requirements on or before August 31, 2005, is governed by the law as it existed immediately before September 1, 2005, and that law is continued in effect for that purpose.

(c) Authorizes service actually credited in the retirement system on or before August 31, 2005, to only be used to determine eligibility under Subsections (b)(2) and (3) of this section. Prohibits service credit that will be established only after completion of additional payments under an installment agreement after August 31, 2005, from being

considered to be actually credited for the purpose of Subsections (b)(2) and (3) of this section.

SECTION 59. Makes application of Section 824.602, Government Code, as amended by this Act, prospective.

SECTION 60. Provides that the changes in law made by this Act by the addition of Section 825.4092, Government Code, and the amendment of Section 1575.204, Insurance Code, apply to a reporting entity that reports a retiree of TRS during any month after the effective date of this Act.

SECTION 61. Provides that, effective September 1, 2005, any money in the school district employees and retirees optional insurance trust fund created under Chapter 1577, Insurance Code, as that chapter existed before being repealed by this Act, is transferred to the group long-term care insurance program fund established under Chapter 1576, Insurance Code.

SECTION 62. Provides that, unless the agreement is terminated before all payments are made, the change in law made by this Act does not apply to an agreement that existed immediately before January 1, 2006, between an individual and TRS for the purchase in installments of service credit under Section 823.405, Government Code.

SECTION 63. (a) Effective date: September 1, 2005, except as provided by Subsections (b) and (c) of this section.

(b) Provides that the change in law made by this Act to Section 825.307(a), Government Code, takes effect January 1, 2009.

(c) Provides that Section 54(b) of this Act takes effect January 1, 2006.