

By: Eiland

H.B. No. 2568

A BILL TO BE ENTITLED

AN ACT

relating to certain retired school employees and the powers and duties of the Teacher Retirement System of Texas.

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

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

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

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

(b) An employee of an independent school district who is employed on a campus or program granted a charter under this subchapter and [~~Section 12.052, 12.0521(a)(1), or 12.053~~] who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system 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 [~~is covered~~].

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

(a) An employee of an open-enrollment charter school

1 operating under a charter granted by the State Board of Education
2 who qualifies for membership in the Teacher Retirement System of
3 Texas shall be covered under the system to the same extent a
4 qualified employee of a school district is covered.

5 SECTION 4. Subchapter D, Chapter 12, Education Code, is
6 amended by adding Section 12.1164 to read as follows:

7 Sec. 12.1164. NOTICE TO TEACHER RETIREMENT SYSTEM OF TEXAS.

8 (a) The commissioner must notify the Teacher Retirement System of
9 Texas in writing of the revocation, denial of renewal, or surrender
10 of a charter under this subchapter not later than the 10th business
11 day after the date of the event.

12 (b) The commissioner must notify the Teacher Retirement
13 System of Texas in writing that an open-enrollment charter school
14 is no longer receiving state funding not later than the 10th
15 business day after the date on which the funding ceases.

16 (c) The commissioner must notify the Teacher Retirement
17 System of Texas in writing that an open-enrollment charter school
18 has resumed receiving state funds not later than the 10th business
19 day after the date on which funding resumes.

20 SECTION 5. Sections 22.004(a), (b), (c), (i), and (j),
21 Education Code, are amended to read as follows:

22 (a) A district shall participate in the uniform group
23 coverage program established under Chapter 1579 [~~Article 3.50-7~~],
24 Insurance Code, as provided by Subchapter D [~~Section 5~~] of that
25 chapter [~~article~~].

26 (b) A district that does not participate in the program
27 described by Subsection (a) shall make available to its employees

1 group health coverage provided by a risk pool established by one or
2 more school districts under Chapter 172, Local Government Code, or
3 under a policy of insurance or group contract issued by an insurer,
4 a company subject to Chapter 842, Insurance Code, or a health
5 maintenance organization under Chapter 843, Insurance Code. The
6 coverage must meet the substantive coverage requirements of Chapter
7 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366
8 ~~[Article 3.51-6]~~, Insurance Code, and any other law applicable to
9 group health insurance policies or contracts issued in this state.
10 The coverage must include major medical treatment but may exclude
11 experimental procedures. In this subsection, "major medical
12 treatment" means a medical, surgical, or diagnostic procedure for
13 illness or injury. The coverage may include managed care or
14 preventive care and must be comparable to the basic health coverage
15 provided under Chapter 1551, Insurance Code. ~~[The board of~~
16 ~~trustees of the Teacher Retirement System of Texas shall adopt~~
17 ~~rules to determine whether a school district's group health~~
18 ~~coverage is comparable to the basic health coverage specified by~~
19 ~~this subsection. The rules must provide for consideration of the~~
20 ~~following factors concerning the district's coverage in~~
21 ~~determining whether the district's coverage is comparable to the~~
22 ~~basic health coverage specified by this subsection.~~

23 ~~[(1) the deductible amount for service provided inside~~
24 ~~and outside of the network,~~

25 ~~[(2) the coinsurance percentages for service provided~~
26 ~~inside and outside of the network,~~

27 ~~[(3) the maximum amount of coinsurance payments a~~

1 ~~covered person is required to pay,~~

2 ~~[(4) the amount of the copayment for an office visit,~~

3 ~~[(5) the schedule of benefits and the scope of~~
4 ~~coverage,~~

5 ~~[(6) the lifetime maximum benefit amount, and~~

6 ~~[(7) verification that the coverage is issued by a~~
7 ~~provider licensed to do business in this state by the Texas~~
8 ~~Department of Insurance or is provided by a risk pool authorized~~
9 ~~under Chapter 172, Local Government Code, or that a district is~~
10 ~~capable of covering the assumed liabilities in the case of coverage~~
11 ~~provided through district self-insurance.]~~

12 (c) The cost of the coverage provided under the program
13 described by Subsection (a) shall be paid by the state, the
14 district, and the employees in the manner provided by Subchapter F,
15 Chapter 1579 [~~Article 3.50-7~~], Insurance Code. The cost of
16 coverage provided under a plan adopted under Subsection (b) shall
17 be shared by the employees and the district using the contributions
18 by the state described by Subchapter F, Chapter 1579 [~~Section 9,~~
19 ~~Article 3.50-7~~], Insurance Code [~~, or by Article 3.50-8, Insurance~~
20 ~~Code~~].

21 (i) Notwithstanding any other provision of this section, a
22 district participating in the uniform group coverage program
23 established under Chapter 1579 [~~Article 3.50-7~~], Insurance Code,
24 may not make group health coverage available to its employees under
25 this section after the date on which the program of coverages
26 provided under Chapter 1579 [~~Article 3.50-7~~], Insurance Code, is
27 implemented.

1 (j) This section does not preclude a district that is
2 participating in the uniform group coverage program established
3 under Chapter 1579 [~~Article 3.50-7~~], Insurance Code, from entering
4 into contracts to provide optional insurance coverages for the
5 employees of the district.

6 SECTION 6. Section 821.003, Government Code, is amended to
7 read as follows:

8 Sec. 821.003. RETIREMENT SYSTEM. The retirement system is
9 a public entity [~~an agency of the state~~]. Except as provided by
10 Section 825.304, the Teacher Retirement System of Texas is the name
11 by which all business of the retirement system shall be transacted,
12 all its funds invested, and all its cash, securities, and other
13 property held.

14 SECTION 7. Section 822.201(c), Government Code, is amended
15 to read as follows:

16 (c) Excluded from salary and wages are:

- 17 (1) expense payments;
- 18 (2) allowances;
- 19 (3) payments for unused vacation or sick leave;
- 20 (4) maintenance or other nonmonetary compensation;
- 21 (5) fringe benefits;
- 22 (6) deferred compensation other than as provided by
23 Subsection (b)(3);
- 24 (7) compensation that is not made pursuant to a valid
25 employment agreement;
- 26 (8) payments received by an employee in a school year
27 that exceed \$5,000 for teaching a driver education and traffic

1 safety course that is conducted outside regular classroom hours;

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

4 (10) any amount [~~contributions to a health~~
5 ~~reimbursement arrangement account~~] received by an employee under
6 former Article 3.50-8, Insurance Code, Chapter 1580, Insurance
7 Code, or a rider or other provision of the General Appropriations
8 Act funding those provisions; and

9 (11) any compensation not described by Subsection (b).

10 SECTION 8. Section 823.006, Government Code, is amended to
11 read as follows:

12 Sec. 823.006. LIMITS ON ANNUAL CONTRIBUTIONS FOR PURCHASE
13 OF [PERMISSIVE] SERVICE CREDIT [RESTRICTIONS]. Notwithstanding
14 any other provision of this subtitle, the retirement system may
15 limit the purchase of service credit to the extent required by
16 applicable limits on the amount of annual contributions a
17 participant may make to a qualified plan under Sections 401(a) and
18 415(c), Internal Revenue Code of 1986. [(a) In this section:

19 [(1) "Nonqualified service" means service for which
20 permissive service credit is authorized by this subtitle, other
21 than:

22 [(A) military service; and

23 [(B) service for any agency or instrumentality of
24 this state, including a political subdivision of this state, or for
25 any public school supported by the United States or a state or
26 territory of the United States, if credit for the service would not
27 cause a person to receive a retirement benefit for the same service

1 ~~from more than one retirement system or program.~~

2 ~~[(2) "Permissive service credit" means service~~
3 ~~credit.~~

4 ~~[(A) that is not membership credit authorized to~~
5 ~~be reinstated;~~

6 ~~[(B) that is recognized under this subtitle for~~
7 ~~purposes of computing a member's benefit under the retirement~~
8 ~~system;~~

9 ~~[(C) for which the member has not received credit~~
10 ~~with the retirement system; and~~

11 ~~[(D) that a member may receive only by making a~~
12 ~~voluntary additional contribution in an amount determined as~~
13 ~~provided by this subtitle that does not exceed the amount necessary~~
14 ~~to fund the benefit attributable to the service credit.~~

15 ~~[(b) The purchase of permissive service credit by a person~~
16 ~~who first becomes a member of the retirement system after August 31,~~
17 ~~2000, is subject to the restrictions and conditions of Subsection~~
18 ~~(d) in addition to all other requirements of this subtitle~~
19 ~~applicable to the purchase.~~

20 ~~[(c) The purchase by any person of permissive service credit~~
21 ~~that was first made available under the retirement system after~~
22 ~~December 31, 1997, is subject to the restrictions and conditions of~~
23 ~~Subsection (d) in addition to all other requirements of this~~
24 ~~subtitle applicable to the purchase.~~

25 ~~[(d) Under a circumstance described by Subsection (b) or~~
26 ~~(c), a member may not purchase more than five years of permissive~~
27 ~~service credit for nonqualified service, and a member may not~~

1 ~~purchase service credit for nonqualified service before the member~~
2 ~~has at least five years of membership service credit.]~~

3 SECTION 9. Section 824.503(d), Government Code, is amended
4 to read as follows:

5 (d) A benefit under Subsection (c) is payable to the person
6 or persons designated as the beneficiary of the beneficiary and, if
7 such person has not been designated or does not survive, then to the
8 persons entitled to distribution of the deceased beneficiary's
9 estate.

10 SECTION 10. Section 825.101, Government Code, is amended to
11 read as follows:

12 Sec. 825.101. GENERAL ADMINISTRATION. The board of
13 trustees is responsible for the general administration and
14 operation of the retirement system. Notwithstanding any other law,
15 the board of trustees has exclusive control over all assets held in
16 trust by the retirement system and all operations funded by trust
17 assets and shall administer the retirement system for the sole and
18 exclusive benefit of the members and participants.

19 SECTION 11. Section 825.103, Government Code, is amended by
20 adding Subsections (c), (d), (e), and (f) to read as follows:

21 (c) Chapter 412, Labor Code, does not apply to the
22 retirement system. The board of trustees may acquire services
23 described by that chapter in any manner or amount the board
24 considers reasonable. The State Office of Risk Management shall
25 provide services for the retirement system as requested by the
26 retirement system, and the retirement system may use the services
27 of the State Office of Risk Management to obtain insurance and

1 perform risk management and workers compensation claim services.
2 The State Office of Risk Management shall pay to the retirement
3 system any amounts collected on behalf of the system through
4 subrogation of claims, regardless of the budget biennium in which
5 the office receives the amounts. The State Office of Risk
6 Management shall pay these amounts directly to the retirement
7 system instead of to the general revenue fund.

8 (d) Notwithstanding any other law, the retirement system
9 has exclusive authority over the purchase of goods and services
10 using money other than money appropriated from the general revenue
11 fund, including specifically, money from trusts under the
12 administration of the retirement system, and Subtitle D, Title 10,
13 Government Code, does not apply to the retirement system with
14 respect to that money. The retirement system shall acquire goods or
15 services by procurement methods approved by the board of trustees
16 or the board's designee. For purposes of this subsection, goods and
17 services include all professional and consulting services and
18 utilities as well as supplies, materials, equipment, skilled or
19 unskilled labor, and insurance. The Texas Building and Procurement
20 Commission shall procure goods or services for the retirement
21 system at the request of the retirement system, and the retirement
22 system may use the services of that commission in procuring goods or
23 services.

24 (e) Chapters 2054 and 2055 do not apply to the retirement
25 system. The board of trustees shall control all aspects of
26 information technology and associated resources relating to the
27 retirement system, including computer and data management

1 operations, procurement of hardware, software, and middleware,
2 location, and operation, and replacement of computers and systems,
3 data processing, security, and disaster recovery. The Department
4 of Information Resources shall assist the retirement system at the
5 request of the retirement system, and the retirement system may use
6 the services of that department in procuring goods and services.

7 (f) Subchapter C, Chapter 2260, does not apply to the
8 retirement system. The acceptance of benefits by the retirement
9 system under a contract does not waive immunity from suit or
10 immunity from liability.

11 SECTION 12. Section 825.112, Government Code, is amended to
12 read as follows:

13 Sec. 825.112. [~~FIDUCIARY~~] INSURANCE. Notwithstanding any
14 other law, the [The] board of trustees may self-insure or purchase
15 any [liability] insurance, including fiduciary and liability [for
16 the] coverage for trust assets or for [of] the trustees, employees,
17 and agents of the board of trustees, [from an insurer licensed to do
18 business in this state] in [the] amounts the board of trustees
19 considers reasonable and prudent [necessary. A policy of insurance
20 purchased under this section may not provide reimbursement for
21 liability imposed or expenses incurred because of a trustee's,
22 employee's, or agent's intentional fraud or intentional failure to
23 act prudently].

24 SECTION 13. Section 825.115, Government Code, is amended to
25 read as follows:

26 Sec. 825.115. APPLICABILITY OF CERTAIN LAWS. (a) Except as
27 provided by this section, the [The] board of trustees is subject to

1 the open meetings law, Chapter 551, and the administrative
2 procedure law, Chapter 2001.

3 (b) The board of trustees may in its sole discretion make a
4 final decision on a contested case. Notwithstanding any other law,
5 the board of trustees may in its sole discretion modify, refuse to
6 accept, or delete any proposed finding of fact or conclusion of law
7 contained in a proposal for decision submitted by an administrative
8 law judge or other hearing examiner, or make alternative findings
9 of fact and conclusions of law, in a proceeding considered to be a
10 contested case under Chapter 2001. The board of trustees shall
11 state in writing the specific reason for its determination and may
12 adopt rules for the implementation of this subsection. The board of
13 trustees may delegate its authority under this subsection to the
14 executive director, and the executive director may delegate the
15 authority to another employee of the retirement system.

16 (c) The executive director or the executive director's
17 designee under Subsection (b) may refer an appeal relating to the
18 pension plan to the State Office of Administrative Hearings for a
19 hearing or may employ, select, or contract for the services of an
20 administrative law judge or hearing examiner not affiliated with
21 the State Office of Administrative Hearings to conduct a hearing.
22 This subsection prevails over any other law to the extent of any
23 conflict.

24 SECTION 14. Section 825.208, Government Code, is amended to
25 read as follows:

26 Sec. 825.208. COMPENSATION OF EMPLOYEES; PAYMENT OF
27 EXPENSES. (a) Notwithstanding any other law, the [The] board of

1 trustees shall approve the rate of compensation of all persons it
2 employs and the amounts necessary for other expenses for operation
3 of the retirement system. If expenditures are paid from money
4 appropriated from the general revenue fund rather than from trust
5 funds, the [The] rates and amounts may not exceed those paid for
6 similar services for the state.

7 (b) The retirement system is exempt from Chapter 660 and
8 Subchapter K, Chapter 659, to the extent the board of trustees
9 determines an exemption is necessary for the performance of
10 fiduciary duties.

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

18 SECTION 15. Section 825.403, Government Code, is amended by
19 adding Subsections (k) and (l) to read as follows:

20 (k) Reporting entities and the commissioner of education
21 shall inform the retirement system of changes in status of a school
22 district or charter school that affect the reporting
23 responsibilities of the entity.

24 (l) The commissioner of education shall notify the
25 retirement system in writing:

26 (1) of the revocation, denial of renewal, or surrender
27 of a charter issued by the State Board of Education, within 10

1 business days of the date of the event;

2 (2) that an open-enrollment charter school or other
3 reporting entity no longer is receiving state funds, within 10
4 business days of the date on which funding ceases; and

5 (3) when an open-enrollment charter school or other
6 reporting entity resumes receiving state funds, within 10 business
7 days of the date on which funding resumes.

8 SECTION 16. Sections 825.410(a) and (h), Government Code,
9 are amended to read as follows:

10 (a) Payments to establish special service credit as
11 authorized under this subtitle, other than service credit that may
12 only be determined and paid for at the time of retirement such as
13 unused leave as authorized by Section 823.403, [~~in Sections~~
14 ~~805.002, 823.302, 823.304, 823.401, 823.501, and 825.403]~~ may be
15 made in a lump sum by a monthly payroll deduction in an amount not
16 less than one-twelfth of the contribution required to establish at
17 least one year of service credit, or in equal monthly installments
18 over a period not to exceed the lesser of the number of years of
19 credit to be purchased or 60 months. Installment and payroll
20 deduction payments are due on the first day of each calendar month
21 in the payment period. If an installment or payroll deduction
22 payment is not made in full within 60 days after the due date, the
23 retirement system may refund all installment or payroll deduction
24 payments less fees paid on the lump sum due when installment or
25 payroll deduction payments began. Partial payment of an
26 installment or payroll deduction payment may be treated as
27 nonpayment. A check returned for insufficient funds or a closed

1 account shall be treated as nonpayment. When two or more
2 consecutive monthly payments have a returned check, a refund may be
3 made. If the retirement system refunds payments pursuant to this
4 subsection, the member is not permitted to use the installment
5 method of payment or the payroll deduction method, as applicable,
6 for the same service for three years after the date of the refund. A
7 member who requests and receives a refund of installment or payroll
8 deduction payments also is not permitted to use the same method of
9 payment for the same service for three years after the date of the
10 refund.

11 (h) The board of trustees has authority to adopt rules to
12 implement this section, including rules establishing a minimum
13 amount for monthly installment or payroll deduction payments and
14 rules establishing payment under Section 823.004(b).

15 SECTION 17. Section 825.506, Government Code, is amended by
16 adding Subsection (c) to read as follows:

17 (c) It is intended that the retirement system administer the
18 plan in a manner that satisfies the required minimum distribution
19 provisions of Section 401(a)(9), Internal Revenue Code of 1986.
20 The board of trustees may adopt rules to administer the
21 distribution requirements, including distribution when a
22 participant dies before the entire interest is distributed.

23 SECTION 18. Section 825.507(b), Government Code, is amended
24 to read as follows:

25 (b) The retirement system may release records of a
26 participant, including a participant to which Chapter 803 applies,
27 to:

1 (1) the participant or the participant's attorney or
2 guardian or another person who the executive director determines is
3 acting on behalf of the participant;

4 (2) the executor or administrator of the deceased
5 participant's estate, including information relating to the
6 deceased participant's beneficiary;

7 (3) a spouse or former spouse of the participant if the
8 executive director determines that the information is relevant to
9 the spouse's or former spouse's interest in member accounts,
10 benefits, or other amounts payable by the retirement system;

11 (4) an administrator, carrier, consultant, attorney,
12 or agent acting on behalf of the retirement system;

13 (5) a governmental entity, an employer, or the
14 designated agent of an employer, only to the extent the retirement
15 system needs to share the information to perform the purposes of the
16 retirement system, as determined by the executive director;

17 (6) a person authorized by the participant in writing
18 to receive the information;

19 (7) a federal, ~~or~~ state, or local criminal law
20 enforcement agency that requests a record for a law enforcement
21 purpose;

22 (8) the attorney general to the extent necessary to
23 enforce child support; or

24 (9) a party in response to a subpoena issued under
25 applicable law if the executive director determines that the
26 participant will have a reasonable opportunity to contest the
27 subpoena.

1 SECTION 19. The heading to Section 825.512, Government
2 Code, is amended to read as follows:

3 Sec. 825.512. INVESTMENT PRACTICES AND PERFORMANCE REPORTS
4 ~~[AUDIT]~~.

5 SECTION 20. Section 825.512(e), Government Code, is amended
6 to read as follows:

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

20 SECTION 21. Subchapter F, Chapter 825, Government Code, is
21 amended by adding Sections 825.519 and 825.520 to read as follows:

22 Sec. 825.519. ELECTRONIC INFORMATION. The retirement
23 system may provide confidential information electronically to
24 members or other participants or employers and receive information
25 electronically from those persons, including by use of an
26 electronic signature or certification in a form acceptable to the
27 retirement system. An unintentional disclosure to, or unauthorized

1 access by, a third party related to the transmission or receipt of
2 information under this section is not a violation by the retirement
3 system of any law, including a rule relating to the protection of
4 confidential information.

5 Sec. 825.520. IMMUNITY FROM LIABILITY. The trustees,
6 executive director, and employees of the retirement system are not
7 liable for any action taken or omission made or suffered by them in
8 good faith in the performance of any duty in connection with any
9 program or system administered by the retirement system.

10 SECTION 22. Section 2254.102, Government Code, is amended
11 by adding Subsection (d) to read as follows:

12 (d) This subchapter does not apply to a contract for legal
13 services entered into by the Teacher Retirement System of Texas if
14 the services are paid for from money that is not appropriated from
15 the general revenue fund, including funds of a trust administered
16 by the retirement system.

17 SECTION 23. Section 1575.052(b), Insurance Code, is amended
18 to read as follows:

19 (b) The trustee may:

20 (1) study the operation of all group coverage provided
21 under this chapter; and

22 (2) contract for advice and counsel in implementing
23 and administering the group program with [~~an~~] independent and
24 experienced group insurance consultants and actuaries [~~consultant~~
25 ~~or actuary~~].

26 SECTION 24. Section 1575.303, Insurance Code, is amended by
27 adding Subsection (c) to read as follows:

1 (c) The fund is held in trust for the benefit of
2 participants of the program and may not be diverted.

3 SECTION 25. Sections 1576.003 and 1576.004, Insurance Code,
4 are amended to read as follows:

5 Sec. 1576.003. CONTRACTS TO PROVIDE COVERAGES
6 [ADMINISTERING FIRM]. The trustee may contract with one or more
7 carriers authorized to provide [~~select an administering firm to~~
8 ~~administer the group~~] long-term care insurance to provide that
9 coverage [~~program under contract with the trustee~~].

10 Sec. 1576.004. PREMIUMS. A carrier with which the trustee
11 has contracted under Section 1576.003 [~~The administering firm~~]
12 shall bill each program participant directly for premiums and any
13 other program costs. Each participant is responsible for required
14 payments.

15 SECTION 26. Section 1576.005(a), Insurance Code, is
16 amended to read as follows:

17 (a) The group long-term care insurance program is not part
18 of the group coverages offered under Chapter 1575 or 1579.

19 SECTION 27. Section 1576.006, Insurance Code, is amended
20 to read as follows:

21 Sec. 1576.006. RULES. The trustee may adopt rules as
22 necessary to administer [~~implement~~] this chapter [~~, including rules~~
23 ~~specifying the coverage to be offered under the group long-term~~
24 ~~care insurance program~~].

25 SECTION 28. Subchapter A, Chapter 1576, Insurance Code, is
26 amended by adding Sections 1576.008, 1576.009, 1576.010, 1576.011,
27 and 1576.012 to read as follows:

1 Sec. 1576.008. COMPETITIVE BIDDING REQUIREMENTS; RULES.

2 (a) A contract to provide benefits under this chapter may be
3 awarded only through competitive bidding under rules adopted by the
4 trustee.

5 (b) The rules may provide criteria for determining whether a
6 carrier is qualified.

7 Sec. 1576.009. CONTRACT AWARD; CONSIDERATIONS. (a) In
8 awarding a contract under this chapter, the trustee is not required
9 to select the lowest bid and may consider any relevant criteria,
10 including a bidder's:

11 (1) ability to service contracts;

12 (2) experience; and

13 (3) financial stability.

14 (b) If the trustee awards a contract to a bidder whose bid
15 deviates from that advertised, the trustee shall record the
16 deviation and fully justify the reason for the deviation in the
17 minutes of the next meeting of the trustee.

18 Sec. 1576.010. GROUP LONG-TERM CARE INSURANCE PROGRAM FUND.

19 (a) The group long-term care insurance program fund is a trust fund
20 with the comptroller.

21 (b) The trustee shall administer the fund on behalf of the
22 participants in the plan of insurance coverage provided under this
23 chapter.

24 (c) The following shall be credited to the fund:

25 (1) money recovered under contracts for providing
26 insurance coverage under this chapter; and

27 (2) investment and depository income.

1 Sec. 1576.011. INVESTMENT OF FUND. The trustee may invest
2 the fund in the manner provided by Section 67(a)(3), Article XVI,
3 Texas Constitution.

4 Sec. 1576.012. PAYMENTS FROM FUND. Money in the fund may be
5 used only to cover the cost of administering the program and to
6 provide coverage under this chapter.

7 SECTION 29. Subchapter A, Chapter 1579, Insurance Code, is
8 amended by adding Sections 1579.005-1579.007 to read as follows:

9 Sec. 1579.005. CONFIDENTIALITY. (a) Section 825.507,
10 Government Code, applies to records relating to an employee or
11 dependent under the program and in the custody of the Teacher
12 Retirement System of Texas or in the custody of an administrator,
13 carrier, agent, attorney, consultant, or governmental body acting
14 in cooperation with or on behalf of the system.

15 (b) The Teacher Retirement System of Texas may disclose to a
16 health coverage or benefit provider information in the records of
17 an individual that the system determines is necessary to administer
18 the program.

19 Sec. 1579.006. EXEMPTION FROM PROCESS. (a) The following
20 are exempt from execution, attachment, garnishment, or any other
21 process:

22 (1) benefit payments, including optional benefit
23 payments, active employee and state contributions, and retiree,
24 surviving spouse, and surviving dependent child contributions;

25 (2) any rights, benefits, or payments accruing to any
26 person under this chapter; and

27 (3) any money in the fund.

1 (b) The items listed in Subsection (a) may not be assigned
2 except for direct payment to benefit providers as authorized by the
3 trustee by contract, rule, or otherwise.

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

9 SECTION 30. Section 1579.052, Insurance Code, is amended by
10 amending Subsection (c) and adding Subsection (e) to read as
11 follows:

12 (c) The trustee may contract with [~~an~~] independent and
13 experienced group insurance consultants and actuaries [~~consultant~~
14 ~~or actuary~~] for advice and counsel in implementing and
15 administering the program.

16 (e) The trustee shall take the actions it considers
17 necessary to devise, implement, and administer the group program.

18 SECTION 31. Section 1579.102, Insurance Code, is amended to
19 read as follows:

20 Sec. 1579.102. CATASTROPHIC CARE COVERAGE PLAN. The
21 coverage provided under the catastrophic care coverage plan shall
22 be prescribed by the trustee by rule and must provide coverage at
23 least as extensive as the coverage provided under the TRS-Care 1 [~~2~~]
24 plan operated under Chapter 1575.

25 SECTION 32. Subchapter F, Chapter 1579, Insurance Code, is
26 amended by adding Sections 1579.254 and 1579.255 to read as
27 follows:

1 Sec. 1579.254. CONTRIBUTIONS HELD IN TRUST FOR FUND. A
2 participating entity:

3 (1) shall hold contributions required by this
4 subchapter in trust for the fund and its participants; and

5 (2) may not divert the contributions for any other
6 purpose.

7 Sec. 1579.255. INTEREST ASSESSED ON LATE PAYMENT OF
8 CONTRIBUTIONS BY PARTICIPATING ENTITIES. (a) A participating
9 entity that does not remit to the trustee all contributions
10 required by this subchapter before the seventh day after the last
11 day of the month shall pay to the fund:

12 (1) the contributions; and

13 (2) interest on the unpaid amounts at the annual rate
14 of six percent compounded monthly.

15 (b) On request, the trustee may grant a waiver of the
16 deadline imposed by this section based on a participating entity's
17 financial or technological resources.

18 SECTION 33. The following laws are repealed:

19 (1) Sections 22.004(d) and (e), Education Code; and

20 (2) Chapter 1577, Insurance Code.

21 SECTION 34. Effective September 1, 2005, any money in the
22 school district employees and retirees optional insurance trust
23 fund created under Chapter 1577, Insurance Code, as that chapter
24 existed before being repealed by this Act, is transferred to the
25 group long-term care insurance program fund established under
26 Chapter 1576, Insurance Code.

27 SECTION 35. This Act takes effect September 1, 2005.