

By: Duncan

S.B. No. 1691

A BILL TO BE ENTITLED

AN ACT

1
2 relating to certain retired school employees and the powers and
3 duties of the Teacher Retirement System of Texas; providing a
4 penalty.

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

6 SECTION 1. Subsection (b), Section 12.057, Education Code,
7 is amended to read as follows:

8 (b) An employee of an independent school district who is
9 employed on a campus or program granted a charter under this
10 subchapter and [~~Section 12.052, 12.0521(a)(1), or 12.053~~] who
11 qualifies for membership in the Teacher Retirement System of Texas
12 shall be covered under the system in the same manner and to the same
13 extent as a qualified employee of the independent school district
14 who is employed on a regularly operating campus or in a regularly
15 operating program [~~is covered~~].

16 SECTION 2. Subsection (a), Section 12.1057, Education Code,
17 is amended to read as follows:

18 (a) An employee of an open-enrollment charter school
19 operating under a charter granted by the State Board of Education
20 who qualifies for membership in the Teacher Retirement System of
21 Texas shall be covered under the system to the same extent a
22 qualified employee of a school district is covered.

23 SECTION 3. Subchapter D, Chapter 12, Education Code, is
24 amended by adding Section 12.1164 to read as follows:

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

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

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

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

14 SECTION 4. Subsections (a), (b), (c), (i), and (j), Section
15 22.004, Education Code, are amended to read as follows:

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

20 (b) A district that does not participate in the program
21 described by Subsection (a) shall make available to its employees
22 group health coverage provided by a risk pool established by one or
23 more school districts under Chapter 172, Local Government Code, or
24 under a policy of insurance or group contract issued by an insurer,
25 a company subject to Chapter 842, Insurance Code, or a health
26 maintenance organization under Chapter 843, Insurance Code. The
27 coverage must meet the substantive coverage requirements of Chapter

1 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366
2 [Article 3.51-6], Insurance Code, and any other law applicable to
3 group health insurance policies or contracts issued in this state.
4 The coverage must include major medical treatment but may exclude
5 experimental procedures. In this subsection, "major medical
6 treatment" means a medical, surgical, or diagnostic procedure for
7 illness or injury. The coverage may include managed care or
8 preventive care and must be comparable to the basic health coverage
9 provided under Chapter 1551, Insurance Code. The board of trustees
10 of the Teacher Retirement System of Texas shall adopt rules to
11 determine whether a school district's group health coverage is
12 comparable to the basic health coverage specified by this
13 subsection. The rules must provide for consideration of the
14 following factors concerning the district's coverage in
15 determining whether the district's coverage is comparable to the
16 basic health coverage specified by this subsection:

- 17 (1) the deductible amount for service provided inside
18 and outside of the network;
- 19 (2) the coinsurance percentages for service provided
20 inside and outside of the network;
- 21 (3) the maximum amount of coinsurance payments a
22 covered person is required to pay;
- 23 (4) the amount of the copayment for an office visit;
- 24 (5) the schedule of benefits and the scope of
25 coverage;
- 26 (6) the lifetime maximum benefit amount; and
- 27 (7) verification that the coverage is issued by a

1 provider licensed to do business in this state by the Texas
2 Department of Insurance or is provided by a risk pool authorized
3 under Chapter 172, Local Government Code, or that a district is
4 capable of covering the assumed liabilities in the case of coverage
5 provided through district self-insurance.

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

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

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

27 SECTION 5. Subchapter A, Chapter 22, Education Code, is

1 amended by adding Section 22.007 to read as follows:

2 Sec. 22.007. INCENTIVES FOR EARLY RETIREMENT. A district
3 may not offer or provide a financial or other incentive to an
4 employee of the district to encourage the employee to retire from
5 the Teacher Retirement System of Texas.

6 SECTION 6. Chapter 22, Education Code, is amended by adding
7 Subchapter D to read as follows:

8 SUBCHAPTER D. COMPENSATION SUPPLEMENTATION

9 Sec. 22.101. DEFINITIONS. In this subchapter:

10 (1) "Cafeteria plan" means a plan as defined and
11 authorized by Section 125, Internal Revenue Code of 1986.

12 (2) "Employee" means an active, contributing member of
13 the Teacher Retirement System of Texas who:

14 (A) is employed by a district, other educational
15 district whose employees are members of the Teacher Retirement
16 System of Texas, participating charter school, or regional
17 education service center;

18 (B) is not a retiree eligible for coverage under
19 the program established under Chapter 1575, Insurance Code;

20 (C) is not eligible for coverage by a group
21 insurance program under Chapter 1551 or 1601, Insurance Code; and

22 (D) is not an individual performing personal
23 services for a district, other educational district that is a
24 member of the Teacher Retirement System of Texas, participating
25 charter school, or regional education service center as an
26 independent contractor.

27 (3) "Participating charter school" means an

1 open-enrollment charter school established under Subchapter D,
2 Chapter 12, that participates in the program established under
3 Chapter 1579, Insurance Code.

4 (4) "Regional education service center" means a
5 regional education service center established under Chapter 8.

6 Sec. 22.102. AUTHORITY TO ADOPT RULES; OTHER AUTHORITY.

7 (a) The agency may adopt rules to implement this subchapter.

8 (b) The agency may enter into interagency contracts with any
9 other agency of this state for the purpose of assistance in
10 implementing this subchapter.

11 Sec. 22.103. DISTRIBUTION BY AGENCY. Subject to the
12 availability of funds, each month the agency shall deliver to each
13 district, including a district that is ineligible for state aid
14 under Chapter 42, each other educational district that is a member
15 of the Teacher Retirement System of Texas, each participating
16 charter school, and each regional education service center state
17 funds in an amount, as determined by the agency, equal to the
18 product of the number of employees employed by the district,
19 school, or service center multiplied by the amount specified in the
20 General Appropriations Act for purposes of this subchapter and
21 divided by 12. The agency shall distribute funding to only one
22 entity for employees who are employed by more than one entity listed
23 in this section.

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

1 the district, school, or service center received the funds.

2 Sec. 22.105. RECOVERY OF DISTRIBUTIONS. The agency is
3 entitled to recover from a district, other educational district,
4 participating charter school, or regional education service center
5 any amount distributed under this subchapter to which the district,
6 school, or service center was not entitled.

7 Sec. 22.106. DETERMINATION BY AGENCY FINAL. A
8 determination by the agency under this subchapter is final and may
9 not be appealed.

10 Sec. 22.107. DISTRIBUTION BY SCHOOL. Each month, each
11 district, other educational district that is a member of the
12 Teacher Retirement System of Texas, participating charter school,
13 and regional education service center must distribute to its
14 employees the funding received under this subchapter. To receive
15 the monthly distribution, an individual must meet the definition of
16 an employee under Section 22.101 for that month.

17 Sec. 22.108. USE OF SUPPLEMENTAL COMPENSATION. An employee
18 may use a monthly distribution received under this subchapter for
19 any employee benefit, including depositing the amount of the
20 distribution into a cafeteria plan, if the employee is enrolled in a
21 cafeteria plan, or using the amount of the distribution for health
22 care premiums through a premium conversion plan. The employee may
23 take the amount of the distribution as supplemental compensation.

24 Sec. 22.109. SUPPLEMENTAL COMPENSATION. An amount
25 distributed to an employee under this subchapter must be in
26 addition to the rate of compensation that:

27 (1) the district, other educational district,

1 participating charter school, or regional education service center
2 paid the employee in the preceding school year; or

3 (2) the district, school, or service center would have
4 paid the employee in the preceding school year if the employee had
5 been employed by the district, school, or service center in the same
6 capacity in the preceding school year.

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

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

15 SECTION 8. Subsection (c), Section 822.201, Government
16 Code, is amended to read as follows:

- 17 (c) Excluded from salary and wages are:
- 18 (1) expense payments;
 - 19 (2) allowances;
 - 20 (3) payments for unused vacation or sick leave;
 - 21 (4) maintenance or other nonmonetary compensation;
 - 22 (5) fringe benefits;
 - 23 (6) deferred compensation other than as provided by
24 Subsection (b)(3);
 - 25 (7) compensation that is not made pursuant to a valid
26 employment agreement;
 - 27 (8) payments received by an employee in a school year

1 that exceed \$5,000 for teaching a driver education and traffic
2 safety course that is conducted outside regular classroom hours;

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

5 (10) any amount [~~contributions to a health~~
6 ~~reimbursement arrangement account~~] received by an employee under
7 Subchapter D, Chapter 22, Education Code, former Article 3.50-8,
8 Insurance Code, former Chapter 1580, Insurance Code, or Rider 9,
9 page III-39, Chapter 1330, Acts of the 78th Legislature, Regular
10 Session, 2003 (the General Appropriations Act); and

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

12 SECTION 9. Section 823.006, Government Code, is amended to
13 read as follows:

14 Sec. 823.006. LIMITS ON ANNUAL CONTRIBUTIONS FOR PURCHASE
15 OF [PERMISSIVE] SERVICE CREDIT [RESTRICTIONS]. Notwithstanding
16 any other provision of this subtitle, the retirement system may
17 limit the purchase of service credit to the extent required by
18 applicable limits on the amount of annual contributions a
19 participant may make to a qualified plan under Sections 401(a) and
20 415(c), Internal Revenue Code of 1986. [~~(a) In this section:~~

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

24 [~~(A) military service, and~~

25 [~~(B) service for any agency or instrumentality of~~
26 ~~this state, including a political subdivision of this state, or for~~
27 ~~any public school supported by the United States or a state or~~

1 ~~territory of the United States, if credit for the service would not~~
2 ~~cause a person to receive a retirement benefit for the same service~~
3 ~~from more than one retirement system or program.~~

4 ~~[(2) "Permissive service credit" means service~~
5 ~~credit.~~

6 ~~[(A) that is not membership credit authorized to~~
7 ~~be reinstated;~~

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

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

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

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

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

27 ~~[(d) Under a circumstance described by Subsection (b) or~~

1 ~~(c), a member may not purchase more than five years of permissive~~
2 ~~service credit for nonqualified service, and a member may not~~
3 ~~purchase service credit for nonqualified service before the member~~
4 ~~has at least five years of membership service credit.]~~

5 SECTION 10. Subsections (d) and (e), Section 823.401,
6 Government Code, are amended to read as follows:

7 (d) A member may establish credit under this section by
8 depositing with the retirement system for each year of service
9 credit the actuarial present value, at the time of deposit, of the
10 additional standard retirement annuity benefits that would be
11 attributable to the purchase of the service credit under this
12 section, based on rates and tables recommended by the retirement
13 system's actuary and adopted by the board of trustees ~~[claimed a~~
14 ~~contribution computed at the rate of:~~

15 [~~(1) 12 percent of the full-time rate of the member's~~
16 ~~annual compensation, plus any additional eligible compensation~~
17 ~~received, during the first year of service for which the member~~
18 ~~received membership credit in the retirement system that is both~~
19 ~~after the service for which credit is sought and after September 1,~~
20 ~~1956, or~~

21 [~~(2) 12 percent of the full-time rate of the member's~~
22 ~~annual compensation, plus any additional eligible compensation~~
23 ~~received, during the most recent year of service for which the~~
24 ~~member received membership credit that is after the service for~~
25 ~~which credit is sought, if the member has performed no service in~~
26 ~~Texas since September 1, 1956].~~

27 (e) ~~[In addition to the contribution required by Subsection~~

1 ~~(d), a member claiming credit under this section must pay a fee of~~
2 ~~eight percent, compounded annually, of the required contribution~~
3 ~~from the date of first eligibility to the date of deposit.] A~~
4 deposit for at least one year of credit~~[, including the fee,]~~ must
5 be made with an initial application for credit, and all payments for
6 service claimed under this section must be made before retirement.

7 SECTION 11. Section 824.202, Government Code, is amended by
8 amending Subsections (a), (b), and (d) and adding Subsections
9 (a-1), (b-1), and (d-1) to read as follows:

10 (a) Except as provided by Subsection (a-1), a [A] member is
11 eligible to retire and receive a standard service retirement
12 annuity if:

13 (1) the member is at least 65 years old and has at
14 least five years of service credit in the retirement system;

15 (2) the member is at least 60 years old and has at
16 least 20 years of service credit in the retirement system;

17 (3) the member is at least 50 years old and has at
18 least 30 years of service credit in the retirement system; or

19 (4) the sum of the member's age and amount of service
20 credit in the retirement system equals the number 80.

21 (a-1) This subsection applies only to a person who becomes a
22 member of the retirement system on or after September 1, 2006. A
23 member subject to this subsection is eligible to retire and receive
24 a standard service retirement annuity if:

25 (1) the member is at least 65 years old and has at
26 least five years of service credit in the retirement system; or

27 (2) the member is at least 60 years old and has at

1 least five years of service credit in the retirement system and the
2 sum of the member's age and amount of service credit in the
3 retirement system equals the number 80.

4 (b) This subsection applies only to a person who is not
5 subject to Subsection (b-1) or (d). If a member subject to this
6 subsection is at least 55 years old and has at least five years of
7 service credit in the retirement system, the member is eligible to
8 retire and receive a service retirement annuity reduced from the
9 standard service retirement annuity available under Subsection
10 (a)(1), to a percentage derived from the following table:

<u>[Years of Service]</u>	Age at Date of Retirement										
	55	56	57	58	59	60	61	62	63	64	65
<u>Percentage of</u>											
<u>Standard</u>											
<u>Annuity</u>											
<u>Receivable [at</u>											
<u>least 5 but</u>											
<u>less than 20]</u>	47%	51%	55%	59%	63%	67%	73%	80%	87%	93%	100%

19 (b-1) This subsection applies only to a person who becomes a
20 member of the retirement system on or after September 1, 2006. If a
21 member subject to this subsection is at least 55 years old and has
22 at least five years of service credit in the retirement system, but
23 does not meet the requirements under Subsection (d-1), the member
24 is eligible to retire and receive a service retirement annuity
25 reduced from the standard service retirement annuity available
26 under Subsection (a-1)(1), to a percentage derived from the
27 following table:

<u>Age at date</u>	<u>of</u>	<u>retirement</u>	<u>55</u>	<u>56</u>	<u>57</u>	<u>58</u>	<u>59</u>	<u>60</u>	<u>61</u>	<u>62</u>	<u>63</u>	<u>64</u>	<u>65</u>	
<u>Percentage</u>	<u>of standard</u>	<u>annuity</u>	<u>receivable</u>	<u>47%</u>	<u>51%</u>	<u>55%</u>	<u>59%</u>	<u>63%</u>	<u>67%</u>	<u>73%</u>	<u>80%</u>	<u>87%</u>	<u>93%</u>	<u>100%</u>

(d) This subsection applies only to a person who is not subject to Subsection (d-1). If a member subject to this subsection has at least 30 years of service credit in the retirement system, the member is eligible to retire regardless of age and receive a service retirement annuity consisting of [~~a percentage of~~] the standard service retirement annuity available under Subsection (a) decreased [(a)(3), derived from the table in Subsection (c). The board of trustees shall extend the table in Subsection (c) to ages earlier than 50 years by decreasing the percentages] by two percent for each year of age under 50 years.

(d-1) This subsection applies only to a person who becomes a member of the retirement system on or after September 1, 2007. If the sum of the member's age and amount of service credit in the retirement system 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 the retirement system, 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 the following table:

1	<u>Age at</u>	<u>50</u>	<u>51</u>	<u>52</u>	<u>53</u>	<u>54</u>	<u>55</u>	<u>56</u>	<u>57</u>	<u>58</u>	<u>59</u>	<u>60</u>
2	<u>date of</u>											
3	<u>retirement</u>											
4	<u>Minimum</u>	<u>30</u>	<u>29</u>	<u>28</u>	<u>27</u>	<u>26</u>	<u>25</u>	<u>24</u>	<u>23</u>	<u>22</u>	<u>21</u>	<u>20</u>
5	<u>years of</u>											
6	<u>service</u>											
7	<u>credit</u>											
8	<u>required</u>											
9	<u>Percentage</u>	<u>50%</u>	<u>55%</u>	<u>60%</u>	<u>65%</u>	<u>70%</u>	<u>75%</u>	<u>80%</u>	<u>85%</u>	<u>90%</u>	<u>95%</u>	<u>100%</u>
10	<u>of</u>											
11	<u>standard</u>											
12	<u>annuity</u>											
13	<u>receivable</u>											

14 For each year of age under 50 years with 30 years of service
15 credit, the standard service retirement annuity shall be five
16 percent less than the percentage for age 50 with 30 years of service
17 credit.

18 SECTION 12. Subsection (a), Section 824.203, Government
19 Code, is amended to read as follows:

20 (a) Except as provided by Subsections (c) and [~~7~~] (d), [~~and~~
21 ~~(e), 7~~] the standard service retirement annuity is an amount computed
22 on the basis of the member's average annual compensation for the
23 five [~~three~~] years of service, whether or not consecutive, in which
24 the member received the highest annual compensation, times 2.3
25 percent for each year of service credit in the retirement system.

26 SECTION 13. Subsections (a) through (d), Section 824.2045,
27 Government Code, are amended to read as follows:

1 (a) A member [~~who is eligible for an unreduced service~~
2 ~~retirement annuity and is not participating in the deferred~~
3 ~~retirement option plan under Subchapter I~~] may select a standard
4 service retirement annuity or an optional service retirement
5 annuity described by Section 824.204, reduced for early age as
6 applicable under Section 824.202, together with a partial lump-sum
7 distribution, if:

8 (1) the member is eligible for a service retirement
9 annuity;

10 (2) the sum of the member's age and amount of service
11 credit in the retirement system equals the number 90; and

12 (3) the member is not participating in the deferred
13 retirement option plan under Subchapter I.

14 (b) The amount of the lump-sum distribution under this
15 section may not exceed the sum of 36 months of a standard service
16 retirement annuity reduced for early age as applicable under
17 Section 824.202 computed without regard to this section.

18 (c) The service retirement annuity selected by the member
19 shall be actuarially reduced to reflect the lump-sum option
20 selected by the member and shall be actuarially equivalent to a
21 standard or optional service retirement annuity, as applicable,
22 reduced for early age as applicable under Section 824.202, without
23 the partial lump-sum distribution. The annuity and lump sum shall
24 be computed to result in no actuarial loss to the retirement system.

25 (d) The retiring member may choose a lump sum equal to 12
26 months of a standard service retirement annuity and payable at the
27 same time that the first monthly payment of the annuity is paid, a

1 lump sum equal to 24 months of a standard annuity and payable in one
2 or two annual payments, or a lump sum equal to 36 months of a
3 standard annuity and payable in one, two, or three annual payments.
4 At the option of the member, a payment under this subsection may be
5 made as provided by Section 825.509. The amount of the lump sum
6 shall be computed based on a standard service retirement annuity
7 reduced for early age as applicable under Section 824.202.

8 SECTION 14. Section 824.405, Government Code, is amended to
9 read as follows:

10 Sec. 824.405. TABLES FOR DETERMINATION OF DEATH BENEFIT
11 ANNUITY. For the purpose of computing a death benefit annuity under
12 Subdivision (4), Subsection (a), Section 824.402 or Section
13 824.403, the board of trustees shall extend the tables:

14 (1) in Section 824.202(b) or (b-1), as applicable, to
15 ages earlier than 55 years by actuarially reducing the benefit
16 available at the age of 55 years to the actuarial equivalent at the
17 attained age of the beneficiary; and

18 (2) in Section 824.202(b) or (d-1), as applicable,
19 [~~824.202(c)~~] to ages earlier than the earliest retirement age by
20 actuarially reducing the benefit available at the earliest
21 retirement age to the actuarial equivalent at the attained age of
22 the beneficiary.

23 SECTION 15. Subsection (d), Section 824.503, Government
24 Code, is amended to read as follows:

25 (d) A benefit under Subsection (c) is payable to the person
26 or persons designated as the beneficiary of the beneficiary and, if
27 such person has not been designated or does not survive, then to the

1 persons entitled to distribution of the deceased beneficiary's
2 estate.

3 SECTION 16. Subsection (a), Section 824.602, Government
4 Code, is amended to read as follows:

5 (a) Subject to Section 825.506, the retirement system may
6 not, under Section 824.601, withhold a monthly benefit payment if
7 the retiree is employed in a Texas public educational institution:

8 (1) as a substitute only with pay not more than the
9 daily rate of substitute pay established by the employer and, if the
10 retiree is a disability retiree, the employment has not exceeded a
11 total of 90 days in the school year;

12 (2) in a position, other than as a substitute, on no
13 more than a one-half time basis for the month;

14 (3) in one or more positions on as much as a full-time
15 basis, if the work occurs in not more than six months of a school
16 year that begins after the retiree's effective date of retirement;

17 (4) in a position, other than as a substitute, on no
18 more than a one-half time basis for no more than 90 days in the
19 school year, if the retiree is a disability retiree;

20 (5) in a position as a classroom teacher on as much as
21 a full-time basis, if the retiree has retired under Section
22 824.202(a) or (a-1), is certified under Subchapter B, Chapter 21,
23 Education Code, to teach the subjects assigned, is teaching in an
24 acute shortage area as determined by the board of trustees of a
25 school district as provided by Subsection (m), and has been
26 separated from service with all public schools for at least 12
27 months;

1 (6) in a position as a principal, including as an
2 assistant principal, on as much as a full-time basis, if the retiree
3 has retired under Section 824.202(a) or (a-1) without reduction for
4 retirement at an early age, is certified under Subchapter B,
5 Chapter 21, Education Code, to serve as a principal, and has been
6 separated from service with all public schools for at least 12
7 months; or

8 (7) as a bus driver for a school district on as much as
9 a full-time basis, if the retiree has retired under Section
10 824.202(a) or (a-1), and the retiree's primary employment is as a
11 bus driver.

12 SECTION 17. Subchapter G, Chapter 824, Government Code, is
13 amended by adding Section 824.6022 to read as follows:

14 Sec. 824.6022. REQUIRED REPORTS; OFFENSE. (a) An employer
15 shall file a monthly certified statement of employment of a retiree
16 in the form and manner required by the retirement system.

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

21 SECTION 18. Subchapter I, Chapter 824, Government Code, is
22 amended by adding Section 824.8011 to read as follows:

23 Sec. 824.8011. DEADLINE TO ELECT TO PARTICIPATE. A person
24 must make an election to participate in the plan not later than
25 December 31, 2005.

26 SECTION 19. Subsection (b), Section 824.805, Government
27 Code, is amended to read as follows:

1 (b) This subsection applies only to a [A] member
2 participating in the plan on September 1, 2005, or to a member whose
3 period of participation in the plan expired on or before September
4 1, 2005, but who has not retired on or before that date. A member
5 described by this subsection [2001,] may, before December 31, 2005,
6 revoke the member's decision to participate [2001, ~~elect to~~
7 ~~discontinue participation~~] in the plan on a form prescribed by and
8 filed with the retirement system. The retirement system shall make
9 account transfers and change records for a member who revokes the
10 member's decision to participate [~~elects under this subsection to~~
11 ~~discontinue participation~~] in the plan as if the member had never
12 participated in the plan.

13 SECTION 20. Section 825.101, Government Code, is amended to
14 read as follows:

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

22 SECTION 21. Section 825.103, Government Code, is amended by
23 adding Subsections (c) through (g) to read as follows:

24 (c) Chapter 412, Labor Code, does not apply to the
25 retirement system. The board of trustees may acquire services
26 described by that chapter in any manner or amount the board
27 considers reasonable. The State Office of Risk Management shall

1 provide services for the retirement system as requested by the
2 retirement system, and the retirement system may use the services
3 of the State Office of Risk Management to obtain insurance and
4 perform risk management and workers' compensation claim services.
5 The State Office of Risk Management shall pay to the retirement
6 system any amounts collected on behalf of the system through
7 subrogation of claims, regardless of the budget biennium in which
8 the office receives the amounts. The State Office of Risk
9 Management shall pay these amounts directly to the retirement
10 system instead of to the general revenue fund.

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

27 (e) Chapters 2054 and 2055 do not apply to the retirement

1 system. The board of trustees shall control all aspects of
 2 information technology and associated resources relating to the
 3 retirement system, including computer, data management, and
 4 telecommunication operations, procurement of hardware, software,
 5 and middleware, and telecommunication equipment and systems,
 6 location, operation, and replacement of computers, computer
 7 systems, and telecommunication systems, data processing, security,
 8 disaster recovery, and storage. The Department of Information
 9 Resources shall assist the retirement system at the request of the
 10 retirement system, and the retirement system may use any service
 11 that is available through that department.

12 (f) Subchapter C, Chapter 2260, does not apply to the
 13 retirement system. The acceptance of benefits by the retirement
 14 system under a contract does not waive immunity from suit or
 15 immunity from liability.

16 (g) Notwithstanding any other law, Chapters 2261 and 2262 do
 17 not apply to the retirement system. The Contract Advisory Team
 18 shall assist the retirement system at the request of the retirement
 19 system. The retirement system may use the training program for
 20 contract management provided under Chapter 2262.

21 SECTION 22. Section 825.112, Government Code, is amended to
 22 read as follows:

23 Sec. 825.112. [~~FIDUCIARY~~] INSURANCE. Notwithstanding any
 24 other law, the [The] board of trustees may self-insure or purchase
 25 any [~~liability~~] insurance, including fiduciary and liability [~~for~~
 26 the] coverage for trust assets or for [~~of~~] the trustees, employees,
 27 and agents of the board of trustees, [~~from an insurer licensed to do~~

1 ~~business in this state]~~ in [~~the~~] amounts the board of trustees
2 considers reasonable and prudent [~~necessary. A policy of insurance~~
3 ~~purchased under this section may not provide reimbursement for~~
4 ~~liability imposed or expenses incurred because of a trustee's,~~
5 ~~employee's, or agent's intentional fraud or intentional failure to~~
6 ~~act prudently]~~.

7 SECTION 23. Section 825.115, Government Code, is amended to
8 read as follows:

9 Sec. 825.115. APPLICABILITY OF CERTAIN LAWS. (a) Except
10 as provided by this section, the [~~The~~] board of trustees is subject
11 to the open meetings law, Chapter 551, and the administrative
12 procedure law, Chapter 2001.

13 (b) The board of trustees may in its sole discretion make a
14 final decision on a contested case. Notwithstanding any other law,
15 the board of trustees may in its sole discretion modify, refuse to
16 accept, or delete any proposed finding of fact or conclusion of law
17 contained in a proposal for decision submitted by an administrative
18 law judge or other hearing examiner, or make alternative findings
19 of fact and conclusions of law, in a proceeding considered to be a
20 contested case under Chapter 2001. The board of trustees shall
21 state in writing the specific reason for its determination and may
22 adopt rules for the implementation of this subsection. The board of
23 trustees may delegate its authority under this subsection to the
24 executive director, and the executive director may delegate the
25 authority to another employee of the retirement system.

26 (c) The executive director or the executive director's
27 designee under Subsection (b) may refer an appeal relating to the

1 pension plan to the State Office of Administrative Hearings for a
2 hearing or may employ, select, or contract for the services of an
3 administrative law judge or hearing examiner not affiliated with
4 the State Office of Administrative Hearings to conduct a hearing.
5 This subsection prevails over any other law to the extent of any
6 conflict.

7 SECTION 24. Section 825.208, Government Code, is amended to
8 read as follows:

9 Sec. 825.208. COMPENSATION OF EMPLOYEES; PAYMENT OF
10 EXPENSES. (a) Notwithstanding any other law, the [The] board of
11 trustees shall approve the rate of compensation of all persons it
12 employs and the amounts necessary for other expenses for operation
13 of the retirement system. If expenditures are paid from money
14 appropriated from the general revenue fund rather than from trust
15 funds, the [The] rates and amounts may not exceed those paid for
16 similar services for the state.

17 (b) The retirement system is exempt from Chapter 660 and
18 Subchapter K, Chapter 659, to the extent the board of trustees
19 determines an exemption is necessary for the performance of
20 fiduciary duties.

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

1 SECTION 25. Subsection (a), Section 825.307, Government
2 Code, is amended to read as follows:

3 (a) The retirement system shall deposit in a member's
4 individual account in the member savings account:

5 (1) the amount of contributions to the retirement
6 system that is deducted from the member's compensation;

7 (2) the portion of a deposit made on or after
8 resumption of membership that represents the amount of retirement
9 benefits received;

10 (3) the portion of a deposit to reinstate service
11 credit previously canceled that represents the amount withdrawn or
12 refunded;

13 (4) the portion of a deposit to establish military
14 service credit required by Section 823.302(c);

15 (5) the portion of a deposit to establish equivalent
16 membership service credit required by Section 823.401(d),
17 823.402(e)(1) or (e)(2), or 823.404(c) [~~, 823.405, or~~
18 ~~823.3021(f)(1)~~]; and

19 (6) interest earned on money in the account as
20 provided by Subsections (b) and (c) and Section 825.313(c).

21 SECTION 26. Section 825.308, Government Code, is amended to
22 read as follows:

23 Sec. 825.308. STATE CONTRIBUTION ACCOUNT. The retirement
24 system shall deposit in the state contribution account:

25 (1) all state contributions to the retirement system
26 required by Section 825.404;

27 (2) amounts from the interest account as provided by

1 Section 825.313(b)(2);

2 (3) retirement annuities waived or forfeited in
3 accordance with Section 824.601 or 824.004;

4 (4) fees collected under Section 825.403(h);

5 (5) fees and interest for reinstatement of service
6 credit or establishment of membership service credit as provided by
7 Section 823.501;

8 (6) the portion of a deposit required by Section
9 823.302 to establish military service credit that represents a fee;
10 and

11 (7) employer contributions required under Section
12 825.4092 [~~the portion of a deposit required by Section 823.401(e)~~
13 ~~to establish out-of-state service credit that represents a fee~~].

14 SECTION 27. Section 825.403, Government Code, is amended by
15 adding Subsections (k) and (l) to read as follows:

16 (k) Reporting entities and the commissioner of education
17 shall inform the retirement system of changes in status of a school
18 district or charter school that affect the reporting
19 responsibilities of the entity.

20 (l) The commissioner of education shall notify the
21 retirement system in writing:

22 (1) of the revocation, denial of renewal, or surrender
23 of a charter issued by the State Board of Education, within 10
24 business days of the date of the event;

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

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

4 SECTION 28. Subchapter E, Chapter 825, Government Code, is
5 amended by adding Section 825.4041 to read as follows:

6 Sec. 825.4041. EMPLOYER PAYMENTS. (a) For purposes of
7 this section, a new member is a person first employed on or after
8 September 1, 2005, including a former member who withdrew
9 retirement contributions under Section 822.003 and is reemployed on
10 or after September 1, 2005.

11 (b) During each fiscal year, an employer shall pay an amount
12 equal to the state contribution rate, as established by the General
13 Appropriations Act for the fiscal year, applied to the aggregate
14 compensation of new members of the retirement system, as described
15 by Subsection (a), during their first 90 days of employment.

16 (c) On a monthly basis an employer shall:

17 (1) report to the retirement system, in a form
18 prescribed by the system, a certification of the total amount of
19 salary paid during the first 90 days of employment of a new member
20 and the total amount of employer payments due under this section for
21 the payroll periods; and

22 (2) retain information, as determined by the
23 retirement system, sufficient to allow administration of this
24 section, including information for each employee showing the
25 applicable salary as well as aggregate compensation for the first
26 90 days of employment for new employees.

27 (d) A person who was hired before September 1, 2005, and was

1 subject to a 90-day waiting period for membership in the retirement
2 system becomes eligible to participate in the retirement system as
3 a member starting September 1, 2005. For the purpose of this
4 section, the member shall be treated as a new member for the
5 remainder of the waiting period.

6 (e) The employer must remit the amount required under this
7 section to the retirement system at the same time the employer
8 remits the member's contribution. In computing the amount required
9 to be remitted, the employer shall include compensation paid to an
10 employee for the entire pay period that contains the 90th calendar
11 day of new employment.

12 (f) At the end of each school year, the retirement system
13 shall certify to the commissioner of education and to the state
14 auditor:

15 (1) the name of each employer that has failed to remit,
16 within the period required by Section 825.408, all payments
17 required under this section for the school year; and

18 (2) the amounts of the unpaid required payments.

19 (g) If the commissioner of education or the state auditor
20 receives a certification under Subsection (f), the commissioner or
21 the state auditor shall direct the comptroller to withhold the
22 amount certified, plus interest computed at the rate and in the
23 manner provided by Section 825.408, from the first state money
24 payable to the employer. The amount withheld shall be deposited to
25 the credit of the appropriate accounts of the retirement system.

26 (h) The board of trustees shall take this section into
27 consideration in adopting the biennial estimate of the amount

1 necessary to pay the state's contributions to the retirement
2 system.

3 SECTION 29. Subchapter E, Chapter 825, Government Code, is
4 amended by adding Section 825.4092 to read as follows:

5 Sec. 825.4092. EMPLOYER CONTRIBUTIONS FOR EMPLOYED
6 RETIREES. (a) This section applies to an employer who reports to
7 the retirement system the employment of a retiree.

8 (b) Except as provided by Subsection (e), during each
9 payroll period for which a retiree is reported, the employer shall
10 contribute to the retirement system for each retiree reported an
11 amount based on the retiree's salary equal to the sum of:

12 (1) the current contribution amount that would be
13 contributed by the retiree if the retiree were an active,
14 contributing member; and

15 (2) the current contribution amount authorized by the
16 General Appropriations Act that the state would contribute for that
17 retiree if the retiree were an active, contributing member.

18 (c) Except as provided by Subsection (e), each payroll
19 period, for each retiree who is enrolled in the Texas Public School
20 Employees Group Insurance Program under Chapter 1575, Insurance
21 Code, the employer who reports the employment of a retiree shall
22 contribute to the trust fund established under that chapter any
23 difference between the amount the retiree is required to pay for the
24 retiree and any enrolled dependents to participate in the group
25 program and the full cost of the retiree's and enrolled dependents'
26 participation in the group program, as determined by the retirement
27 system. If more than one employer reports the retiree to the

1 retirement system during a month, the amount of the required
2 payment shall be prorated among the employers.

3 (d) Contributions under this section are subject to the
4 requirements of Section 825.408.

5 (e) The amounts required to be paid under Subsections (b)
6 and (c) are not required to be paid by a reporting employer for a
7 retiree who was reported by that employer under retirement system
8 rules in effect for the report month of January 2005.

9 SECTION 30. Section 2254.102, Government Code, is amended
10 by adding Subsection (d) to read as follows:

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

16 SECTION 31. Subsections (a) and (h), Section 825.410,
17 Government Code, are amended to read as follows:

18 (a) Payments to establish special service credit as
19 authorized under this subtitle, other than service credit that may
20 only be determined and paid for at the time of retirement such as
21 unused leave as authorized by Section 823.403, [~~in Sections~~
22 ~~805.002, 823.302, 823.304, 823.401, 823.501, and 825.403]~~ may be
23 made in a lump sum by a monthly payroll deduction in an amount not
24 less than one-twelfth of the contribution required to establish at
25 least one year of service credit, or in equal monthly installments
26 over a period not to exceed the lesser of the number of years of
27 credit to be purchased or 60 months. Installment and payroll

1 deduction payments are due on the first day of each calendar month
2 in the payment period. If an installment or payroll deduction
3 payment is not made in full within 60 days after the due date, the
4 retirement system may refund all installment or payroll deduction
5 payments less fees paid on the lump sum due when installment or
6 payroll deduction payments began. Partial payment of an
7 installment or payroll deduction payment may be treated as
8 nonpayment. A check returned for insufficient funds or a closed
9 account shall be treated as nonpayment. When two or more
10 consecutive monthly payments have a returned check, a refund may be
11 made. If the retirement system refunds payments pursuant to this
12 subsection, the member is not permitted to use the installment
13 method of payment or the payroll deduction method, as applicable,
14 for the same service for three years after the date of the refund. A
15 member who requests and receives a refund of installment or payroll
16 deduction payments also is not permitted to use the same method of
17 payment for the same service for three years after the date of the
18 refund.

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

23 SECTION 32. Section 825.506, Government Code, is amended by
24 adding Subsection (c) to read as follows:

25 (c) It is intended that the retirement system administer the
26 plan in a manner that satisfies the required minimum distribution
27 provisions of Section 401(a)(9), Internal Revenue Code of 1986.

1 The board of trustees may adopt rules to administer the
2 distribution requirements, including distribution when a
3 participant dies before the entire interest is distributed.

4 SECTION 33. Subsections (a) and (b), Section 825.507,
5 Government Code, are amended to read as follows:

6 (a) Records of a participant that are in the custody of the
7 retirement system or of an administrator, carrier, attorney,
8 consultant, or governmental agency acting in cooperation with or on
9 behalf of the retirement system are confidential and not subject to
10 public disclosure in a form that would identify an individual and
11 are exempt from the public access provisions of Chapter 552, except
12 as otherwise provided by this section. Because the records
13 described by this subsection are exempt from the public access
14 provisions of Chapter 552, the retirement system is not required to
15 accept or comply with a request for a record or information about a
16 record or to seek an opinion from the attorney general, except as
17 otherwise provided by this section.

18 (b) The retirement system may release records of a
19 participant, including a participant to which Chapter 803 applies,
20 to:

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

24 (2) the executor or administrator of the deceased
25 participant's estate, including information relating to the
26 deceased participant's beneficiary;

27 (3) a spouse or former spouse of the participant if the

1 executive director determines that the information is relevant to
2 the spouse's or former spouse's interest in member accounts,
3 benefits, or other amounts payable by the retirement system;

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

6 (5) a governmental entity, an employer, or the
7 designated agent of an employer, only to the extent the retirement
8 system needs to share the information to perform the purposes of the
9 retirement system, as determined by the executive director;

10 (6) a person authorized by the participant in writing
11 to receive the information;

12 (7) a federal, ~~or~~ state, or local criminal law
13 enforcement agency that requests a record for a law enforcement
14 purpose;

15 (8) the attorney general to the extent necessary to
16 enforce child support; or

17 (9) a party in response to a subpoena issued under
18 applicable law if the executive director determines that the
19 participant will have a reasonable opportunity to contest the
20 subpoena.

21 SECTION 34. The heading to Section 825.512, Government
22 Code, is amended to read as follows:

23 Sec. 825.512. INVESTMENT PRACTICES AND PERFORMANCE REPORTS
24 [~~AUDIT~~].

25 SECTION 35. Subsection (e), Section 825.512, Government
26 Code, is amended to read as follows:

27 (e) The retirement system shall submit an annual investment

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

13 SECTION 36. Subchapter F, Chapter 825, Government Code, is
14 amended by adding Sections 825.519 and 825.520 to read as follows:

15 Sec. 825.519. ELECTRONIC INFORMATION. The retirement
16 system may provide confidential information electronically to
17 members or other participants or employers and receive information
18 electronically from those persons, including by use of an
19 electronic signature or certification in a form acceptable to the
20 retirement system. An unintentional disclosure to, or unauthorized
21 access by, a third party related to the transmission or receipt of
22 information under this section is not a violation by the retirement
23 system of any law, including a rule relating to the protection of
24 confidential information.

25 Sec. 825.520. IMMUNITY FROM LIABILITY. The trustees,
26 executive director, and employees of the retirement system are not
27 liable for any action taken or omission made or suffered by them in

1 good faith in the performance of any duty in connection with any
2 program or system administered by the retirement system.

3 SECTION 37. Section 1575.004, Insurance Code, is amended to
4 read as follows:

5 Sec. 1575.004. DEFINITION OF RETIREE. (a) In this
6 chapter, "retiree" means:

7 (1) an individual not eligible for coverage under a
8 plan provided under Chapter 1551 or 1601 who:

9 (A) ~~[is at least 65 years of age and]~~ has taken a
10 service retirement under the Teacher Retirement System of Texas
11 after September 1, 2005, with at least 10 years of service credit in
12 the system, which may include up to five years of military service
13 credit, but which may not include any other service credit
14 purchased for equivalent or special service credit, and either:

15 (i) the sum of the retiree's age and years
16 of service credit in the retirement system equals or exceeds 80 at
17 the time of retirement, regardless of whether the retiree had a
18 reduction in the retirement annuity for early age; or

19 (ii) the retiree has 30 or more years of
20 service credit in the retirement system at the time of retirement;

21 (B) has taken a service retirement under the
22 Teacher Retirement System of Texas after September 1, 2004, but on
23 or before August 31, 2005, and on September 1, 2005, either:

24 (i) [was employed in actual service in
25 public schools in this state during or before the 2003-2004 school
26 year and at the time of retirement] meets the requirements for
27 eligibility for the group program for coverage as a retiree as those

1 requirements existed on August 31, 2004;

2 (ii) meets the requirements of Paragraph
3 (A); or

4 (iii) is enrolled in the group program and
5 was enrolled in the group program on August 31, 2005; or

6 (C) [~~purchased equivalent or special service~~
7 ~~credit, and;~~

8 [~~(i) had that service credited on or before~~
9 ~~August 31, 2003;~~

10 [~~(ii) retires on or before August 31, 2009;~~

11 [~~(iii) at the time of retirement, meets the~~
12 ~~requirements for eligibility for the group program for coverage as~~
13 ~~a retiree as those requirements existed on August 31, 2004,~~
14 ~~including using up to five years of out-of-state service toward~~
15 ~~retiree eligibility; and~~

16 [~~(iv) has taken a service retirement under~~
17 ~~the Teacher Retirement System of Texas without reduction for early~~
18 ~~age;~~

19 [~~(D) has taken a service retirement under the~~
20 ~~Teacher Retirement System of Texas and who has at least 10 years of~~
21 ~~service credit in the system, which may include up to five years of~~
22 ~~military service credit but which may not include any other service~~
23 ~~credit purchased for equivalent or special service credit, and the~~
24 ~~sum of the individual's age and amount of service credit described~~
25 ~~by this paragraph equals or exceeds the number 80; or~~

26 [~~(E)] has taken a service retirement under the~~

27 Teacher Retirement System of Texas on or before August 31, 2004, and

1 who is enrolled in the group program on August 31, 2005 [~~2004~~]; or

2 (2) an individual who:

3 (A) has taken a disability retirement under the
4 Teacher Retirement System of Texas; and

5 (B) is entitled to receive monthly benefits from
6 the Teacher Retirement System of Texas.

7 (b) ~~[Each year of service credit in the system that an
8 individual would have received but for the individual's
9 participation in the deferred retirement option plan under
10 Subchapter I, Chapter 824, Government Code, is considered a year of
11 service credit solely for the purpose of meeting the definition of
12 "retiree" under Subsection (a)(1)(A) or (D).]~~

13 [~~(c)~~] In this section, "public school" has the meaning
14 assigned by Section 821.001, Government Code.

15 (c) For purposes of this section, to meet the requirements
16 for eligibility that existed on August 31, 2004, for a service
17 retiree, an individual must not have been eligible to be covered by
18 a plan provided under Chapter 1551 or 1601 and must have taken a
19 service retirement under the Teacher Retirement System of Texas
20 with either:

21 (1) at least 10 years of service credit in the
22 retirement system for actual service in public schools in this
23 state; or

24 (2) at least five years of service credit for actual
25 service in the public schools in this state and five years of
26 out-of-state service credit in the Teacher Retirement System of
27 Texas.

1 SECTION 38. Subchapter A, Chapter 1575, Insurance Code, is
2 amended by adding Section 1575.008 to read as follows:

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

7 SECTION 39. Subsection (b), Section 1575.052, Insurance
8 Code, is amended to read as follows:

9 (b) The trustee may:

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

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

16 SECTION 40. Subsection (a), Section 1575.203, Insurance
17 Code, is amended to read as follows:

18 (a) Each state fiscal year, each active employee shall, as a
19 condition of employment, contribute to the fund an amount equal to
20 0.65 ~~[0.5]~~ percent of the employee's salary.

21 SECTION 41. Section 1575.204, Insurance Code, is amended to
22 read as follows:

23 Sec. 1575.204. PUBLIC SCHOOL CONTRIBUTION. (a) Each state
24 fiscal year, each public school shall contribute to the fund the
25 amount prescribed by the General Appropriations Act, which may not
26 be less than 0.25 percent or greater than 0.75 percent of the salary
27 of each active employee of the public school. The public school

1 shall make the contributions on a monthly basis and as otherwise
2 prescribed by the trustee.

3 (b) Each state fiscal year, each employer who reports to the
4 retirement system under Section 824.6022, Government Code, the
5 employment of a retiree who is enrolled in the group program shall
6 contribute to the fund the difference, if any, between the
7 contribution amount that the reported retiree is required to pay
8 for the retiree and any enrolled dependents to participate in the
9 group program and the full cost of the retiree's and enrolled
10 dependents' participation in the group program, as determined by
11 the trustee. The amounts required to be paid under this subsection
12 are not required to be paid by a reporting employer for a retiree
13 who was reported by that employer under retirement system rules in
14 effect for the report month of January 2005.

15 SECTION 42. Section 1575.303, Insurance Code, is amended by
16 adding Subsection (c) to read as follows:

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

19 SECTION 43. Sections 1576.003 and 1576.004, Insurance Code,
20 are amended to read as follows:

21 Sec. 1576.003. CONTRACTS TO PROVIDE COVERAGES
22 [ADMINISTERING FIRM]. The trustee may contract with one or more
23 carriers authorized to provide [select an administering firm to
24 administer the group] long-term care insurance to provide that
25 coverage [program under contract with the trustee].

26 Sec. 1576.004. PREMIUMS. (a) The trustee shall determine
27 the procedures by which each program participant pays

1 ~~[administering firm shall bill each program participant directly~~
2 ~~for]~~ premiums and any other program costs. Each participant is
3 responsible for required payments.

4 (b) The trustee may authorize any payment method
5 appropriate for the program, including a payment method under
6 which:

7 (1) a participating employee is required to pay
8 premiums by payroll deduction remitted by the employee's employer
9 at the times and in the manner determined by the trustee;

10 (2) a participating retiree is required to pay
11 premiums by deduction from the retiree's monthly annuity; or

12 (3) a carrier with which the trustee has contracted
13 under Section 1576.003 bills a program participant directly.

14 SECTION 44. Subsection (a), Section 1576.005, Insurance
15 Code, is amended to read as follows:

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

18 SECTION 45. Section 1576.006, Insurance Code, is amended to
19 read as follows:

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

24 SECTION 46. Chapter 1576, Insurance Code, is amended by
25 adding Sections 1576.008 through 1576.013 to read as follows:

26 Sec. 1576.008. COMPETITIVE BIDDING REQUIREMENTS; RULES.

27 (a) A contract to provide benefits under this chapter may be

1 awarded only through competitive bidding under rules adopted by the
2 trustee.

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

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

9 (1) ability to service contracts;

10 (2) past experience; and

11 (3) financial stability.

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

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

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

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

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

23 (1) money recovered under contracts for providing
24 insurance coverage under this chapter; and

25 (2) investment and depository income.

26 Sec. 1576.011. INVESTMENT OF FUND. The trustee may invest
27 the group long-term care insurance program fund in the manner

1 provided by Section 67(a)(3), Article XVI, Texas Constitution.

2 Sec. 1576.012. PAYMENTS FROM FUND. Money in the group
3 long-term care insurance program fund may be used only to cover the
4 cost of administering the program and to provide coverage under
5 this chapter.

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

10 SECTION 47. Subchapter A, Chapter 1579, Insurance Code, is
11 amended by adding Sections 1579.005 through 1579.008 to read as
12 follows:

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

19 (b) The Teacher Retirement System of Texas may disclose to a
20 health care provider, benefit provider, or claims administrator
21 information in the records of an individual that the system
22 determines is necessary to administer the program.

23 Sec. 1579.006. EXEMPTION FROM PROCESS. (a) The following
24 are exempt from execution, attachment, garnishment, or any other
25 process:

26 (1) benefit payments, including optional benefit
27 payments;

1 (2) contributions of active employees, the state, and
2 a participating entity, and any other contributions;

3 (3) any rights, benefits, or payments accruing to any
4 person under this chapter; and

5 (4) any money in the Texas school employees uniform
6 group coverage trust fund.

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

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

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

19 SECTION 48. Section 1579.052, Insurance Code, is amended by
20 amending Subsection (c) and adding Subsection (e) to read as
21 follows:

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

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

1 SECTION 49. Section 1579.102, Insurance Code, is amended to
2 read as follows:

3 Sec. 1579.102. CATASTROPHIC CARE COVERAGE PLAN. The
4 coverage provided under the catastrophic care coverage plan shall
5 be prescribed by the trustee by rule and must provide coverage at
6 least as extensive as the coverage provided under the TRS-Care 1 [~~2~~]
7 plan operated under Chapter 1575.

8 SECTION 50. (a) Section 1579.104, Insurance Code, is
9 reenacted and amended to read as follows:

10 Sec. 1579.104. OPTIONAL COVERAGES. The trustee may not
11 offer optional coverages, other than optional permanent life
12 insurance, optional long-term care insurance, and optional
13 disability insurance [~~those required by Chapter 1577~~], to employees
14 participating in the program. This section does not affect the
15 right of a participating entity to offer optional coverages to its
16 employees under terms and conditions established by the
17 participating entity.

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

25 (c) Section 1, Chapter 354, Acts of the 78th Legislature,
26 Regular Session, 2003, is repealed.

27 SECTION 51. Subsection (b), Section 1579.253, Insurance

1 Code, is amended to read as follows:

2 (b) The employee may pay the employee's contribution under
3 this subsection from the amount distributed to the employee under
4 Subchapter D, Chapter 22, Education Code [1580].

5 SECTION 52. Subchapter F, Chapter 1579, Insurance Code, is
6 amended by adding Sections 1579.254 and 1579.255 to read as
7 follows:

8 Sec. 1579.254. CONTRIBUTIONS HELD IN TRUST FOR FUND. A
9 participating entity:

10 (1) shall hold contributions required by this
11 subchapter in trust for the Texas school employees uniform group
12 coverage trust fund and its participants; and

13 (2) may not divert the contributions for any other
14 purpose.

15 Sec. 1579.255. INTEREST ASSESSED ON LATE PAYMENT OF
16 CONTRIBUTIONS BY PARTICIPATING ENTITIES. (a) A participating
17 entity that does not remit to the trustee all contributions
18 required by this subchapter before the seventh day after the last
19 day of the month shall pay to the Texas school employees uniform
20 group coverage trust fund:

21 (1) the contributions; and

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

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

27 SECTION 53. Section 1581.702, Insurance Code, is amended to

1 read as follows:

2 Sec. 1581.702. ADDITIONAL SUPPORT. The state shall provide
3 additional support for a school district to which this section
4 applies in an amount computed by multiplying the total amount of
5 supplemental compensation received by district employees under
6 Subchapter D, Chapter 22, Education Code, [1580] by 0.062.

7 SECTION 54. (a) The following laws are repealed:

8 (1) Subsection (c), Section 824.202, Government Code;

9 (2) Subsection (c), Section 1575.211, Insurance Code;

10 (3) Chapters 1577 and 1580, Insurance Code;

11 (4) Section 57, Chapter 201, Acts of the 78th
12 Legislature, Regular Session, 2003;

13 (5) Chapter 313, Acts of the 78th Legislature, Regular
14 Session, 2003; and

15 (6) Section 1.01, Chapter 366, Acts of the 78th
16 Legislature, Regular Session, 2003.

17 (b) Section 823.405, Government Code, is repealed.

18 SECTION 55. The functions and duties of the Teacher
19 Retirement System of Texas with respect to the compensation
20 supplementation program established under Chapter 1580, Insurance
21 Code, and other applicable law, and any appropriation relating to
22 that program are transferred to the Texas Education Agency. A
23 reference in law to the Teacher Retirement System of Texas with
24 respect to the compensation supplementation program means the Texas
25 Education Agency.

26 SECTION 56. (a) Notwithstanding Subsections (d) and (e),
27 Section 823.401, Government Code, as amended by this Act, a member

1 of the Teacher Retirement System of Texas may establish
2 out-of-state service credit by making the contribution required
3 under Section 823.401, Government Code, as it existed before
4 amendment by this Act, if the person was a member of the system on
5 December 31, 2005, and the out-of-state service was performed
6 before January 1, 2006.

7 (b) The Teacher Retirement System of Texas shall deposit in
8 the state contribution account under Section 825.308, Government
9 Code, the portion of a deposit required under Section 823.401,
10 Government Code, as it existed before amendment by this Act, to
11 establish out-of-state service that represents a fee.

12 SECTION 57. (a) The changes in law made by this Act to
13 Sections 824.203 and 824.2045, Government Code, and the change in
14 law made by the repeal of Subsection (c), Section 824.202,
15 Government Code, by this Act, apply only to a person who retires
16 under the Teacher Retirement System of Texas on or after September
17 1, 2005, unless the person meets one of the requirements of
18 Subsection (b) of this section. A person who retires under the
19 Teacher Retirement System of Texas before September 1, 2005, is
20 governed by the law as it existed immediately before that date, and
21 that law is continued in effect for that purpose.

22 (b) A person who retires under the Teacher Retirement System
23 of Texas on or after September 1, 2005, and who meets one or more of
24 the following requirements on or before August 31, 2005, is
25 governed by the law as it existed immediately before September 1,
26 2005, and that law is continued in effect for that purpose:

- 27 (1) the person has attained age 50;

1 (2) the sum of the person's age and amount of service
2 credit in the retirement system equals 70 or greater; or

3 (3) the person has at least 25 years of service credit
4 in the retirement system.

5 (c) Only service actually credited in the Teacher
6 Retirement System of Texas on or before August 31, 2005, may be used
7 to determine eligibility under Subdivisions (2) and (3), Subsection
8 (b) of this section. Service credit that will be established only
9 after completion of additional payments under an installment
10 agreement after August 31, 2005, may not be considered to be
11 actually credited for the purpose of Subdivisions (2) and (3),
12 Subsection (b) of this section.

13 SECTION 58. Section 824.602, Government Code, as amended by
14 this Act, applies only to a person who retires from the Teacher
15 Retirement System of Texas on or after the effective date of this
16 Act. A person who retires from the Teacher Retirement System of
17 Texas before the effective date of this Act is governed by the law
18 as it existed immediately before the effective date of this Act, and
19 that law is continued in effect for that purpose.

20 SECTION 59. The changes in law made by this Act by the
21 addition of Section 825.4092, Government Code, and the amendment of
22 Section 1575.204, Insurance Code, apply to a reporting entity that
23 reports a retiree of the Teacher Retirement System of Texas during
24 any month after the effective date of this Act.

25 SECTION 60. Effective September 1, 2005, any money in the
26 school district employees and retirees optional insurance trust
27 fund created under Chapter 1577, Insurance Code, as that chapter

1 existed before being repealed by this Act, is transferred to the
2 group long-term care insurance program fund established under
3 Chapter 1576, Insurance Code.

4 SECTION 61. Unless the agreement is terminated before all
5 payments are made, the change in law made by this Act does not apply
6 to an agreement that existed immediately before January 1, 2006,
7 between an individual and the Teacher Retirement System of Texas
8 for the purchase in installments of service credit under Section
9 823.405, Government Code.

10 SECTION 62. (a) Except as provided by Subsections (b) and
11 (c) of this section, this Act takes effect September 1, 2005.

12 (b) The change in law made by this Act to Subsection (a),
13 Section 825.307, Government Code, takes effect January 1, 2009.

14 (c) Subsection (b), Section 54 of this Act, takes effect
15 January 1, 2006.