

By: Duncan

S.B. No. 1691

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 Subchapter D [~~by Article~~  
20 ~~3.50-8, Insurance 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. Subchapter A, Chapter 22, Education Code, is  
7 amended by adding Section 22.007 to read as follows:

8 Sec. 22.007. INCENTIVES FOR EARLY RETIREMENT. A district  
9 may not offer or provide a financial or other incentive to an  
10 employee of the district to encourage the employee to retire.

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

13 SUBCHAPTER D. COMPENSATION SUPPLEMENTATION

14 Sec. 22.101. DEFINITIONS. In this subchapter:

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

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

19 (A) is employed by a district, other educational  
20 district whose employees are members of the Teacher Retirement  
21 System of Texas, participating charter school, or regional  
22 education service center;

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

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

27 (D) is not an individual performing personal

1 services for a district, other educational district that is a  
2 member of the Teacher Retirement System of Texas, participating  
3 charter school, or regional education service center as an  
4 independent contractor.

5 (3) "Participating charter school" means an  
6 open-enrollment charter school established under Subchapter D,  
7 Chapter 12, that participates in the program established under  
8 Chapter 1579, Insurance Code.

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

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

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

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

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

1 in this section.

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

7 Sec. 22.105. RECOVERY OF DISTRIBUTIONS. The agency is  
8 entitled to recover from a district, other educational district,  
9 participating charter school, or regional education service center  
10 any amount distributed under this subchapter to which the district,  
11 school, or service center was not entitled.

12 Sec. 22.106. DETERMINATION BY AGENCY FINAL. A  
13 determination by the agency under this subchapter is final and may  
14 not be appealed.

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

22 Sec. 22.108. USE OF SUPPLEMENTAL COMPENSATION. An employee  
23 may use a monthly distribution received under this subchapter for  
24 any employee benefit, including depositing the amount of the  
25 distribution into a cafeteria plan, if the employee is enrolled in a  
26 cafeteria plan, or using the amount of the distribution for health  
27 care premiums through a premium conversion plan. The employee may

1 take the amount of the distribution as supplemental compensation.

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

5 (1) the district, other educational district,  
6 participating charter school, or regional education service center  
7 paid the employee in the preceding school year; or

8 (2) the district, school, or service center would have  
9 paid the employee in the preceding school year if the employee had  
10 been employed by the district, school, or service center in the same  
11 capacity in the preceding school year.

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

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

20 SECTION 9. Section 822.201(c), Government Code, is amended  
21 to read as follows:

22 (c) Excluded from salary and wages are:

- 23 (1) expense payments;
- 24 (2) allowances;
- 25 (3) payments for unused vacation or sick leave;
- 26 (4) maintenance or other nonmonetary compensation;
- 27 (5) fringe benefits;



1 (6) deferred compensation other than as provided by  
2 Subsection (b)(3);

3 (7) compensation that is not made pursuant to a valid  
4 employment agreement;

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

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

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

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

17 SECTION 10. Section 823.006, Government Code, is amended to  
18 read as follows:

19 Sec. 823.006. LIMITS ON ANNUAL CONTRIBUTIONS FOR PURCHASE  
20 OF [PERMISSIVE] SERVICE CREDIT [RESTRICTIONS]. Notwithstanding  
21 any other provision of this subtitle, the retirement system may  
22 limit the purchase of service credit to the extent required by  
23 applicable limits on the amount of annual contributions a  
24 participant may make to a qualified plan under Sections 401(a) and  
25 415(c), Internal Revenue Code of 1986. [~~(a) In this section:~~

26 [~~(1) "Nonqualified service" means service for which~~  
27 ~~permissive service credit is authorized by this subtitle, other~~

1 ~~than:~~

2 ~~[(A) military service; and~~

3 ~~[(B) service for any agency or instrumentality of~~  
4 ~~this state, including a political subdivision of this state, or for~~  
5 ~~any public school supported by the United States or a state or~~  
6 ~~territory of the United States, if credit for the service would not~~  
7 ~~cause a person to receive a retirement benefit for the same service~~  
8 ~~from more than one retirement system or program.~~

9 ~~[(2) "Permissive service credit" means service~~  
10 ~~credit:~~

11 ~~[(A) that is not membership credit authorized to~~  
12 ~~be reinstated;~~

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

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

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

22 ~~[(b) The purchase of permissive service credit by a person~~  
23 ~~who first becomes a member of the retirement system after August 31,~~  
24 ~~2000, is subject to the restrictions and conditions of Subsection~~  
25 ~~(d) in addition to all other requirements of this subtitle~~  
26 ~~applicable to the purchase.~~

27 ~~[(c) The purchase by any person of permissive service credit~~

1 ~~that was first made available under the retirement system after~~  
2 ~~December 31, 1997, is subject to the restrictions and conditions of~~  
3 ~~Subsection (d) in addition to all other requirements of this~~  
4 ~~subtitle applicable to the purchase.~~

5 ~~[(d) Under a circumstance described by Subsection (b) or~~  
6 ~~(c), a member may not purchase more than five years of permissive~~  
7 ~~service credit for nonqualified service, and a member may not~~  
8 ~~purchase service credit for nonqualified service before the member~~  
9 ~~has at least five years of membership service credit.]~~

10 SECTION 11. Section 823.401(d), Government Code, is amended  
11 to read as follows:

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

20 ~~[(1) 12 percent of the full-time rate of the member's~~  
21 ~~annual compensation, plus any additional eligible compensation~~  
22 ~~received, during the first year of service for which the member~~  
23 ~~received membership credit in the retirement system that is both~~  
24 ~~after the service for which credit is sought and after September 1,~~  
25 ~~1956, or~~

26 ~~[(2) 12 percent of the full-time rate of the member's~~  
27 ~~annual compensation, plus any additional eligible compensation~~

1 ~~received, during the most recent year of service for which the~~  
2 ~~member received membership credit that is after the service for~~  
3 ~~which credit is sought, if the member has performed no service in~~  
4 ~~Texas since September 1, 1956].~~

5 SECTION 12. Section 824.503(d), Government Code, is amended  
6 to read as follows:

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

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

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

21 SECTION 14. Section 825.103, Government Code, is amended by  
22 adding Subsections (c), (d), and (e) to read as follows:

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

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

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

26 (e) Chapters 2054 and 2055 do not apply to the retirement  
27 system. The board of trustees shall control all aspects of

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

9 SECTION 15. Section 825.112, Government Code, is amended to  
10 read as follows:

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

22 SECTION 16. Section 825.208, Government Code, is amended to  
23 read as follows:

24 Sec. 825.208. COMPENSATION OF EMPLOYEES; PAYMENT OF  
25 EXPENSES. (a) Notwithstanding any other law, the [The] board of  
26 trustees shall approve the rate of compensation of all persons it  
27 employs and the amounts necessary for other expenses for operation

1 of the retirement system. If expenditures are paid from money  
2 appropriated from the general revenue fund rather than from trust  
3 funds, the [The] rates and amounts may not exceed those paid for  
4 similar services for the state.

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

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

16 SECTION 17. Section 825.308, Government Code, is amended to  
17 read as follows:

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

20 (1) all state contributions to the retirement system  
21 required by Section 825.404;

22 (2) amounts from the interest account as provided by  
23 Section 825.313(b)(2);

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

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

27 (5) fees and interest for reinstatement of service

1 credit or establishment of membership service credit as provided by  
2 Section 823.501;

3 (6) the portion of a deposit required by Section  
4 823.302 to establish military service credit that represents a fee;  
5 ~~[and]~~

6 (7) the portion of a deposit required by Section  
7 823.401(e) to establish out-of-state service credit that  
8 represents a fee; and

9 (8) employer contributions required under Section  
10 825.4092.

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

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

17 (l) The commissioner of education shall notify the  
18 retirement system in writing:

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

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

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



1 SECTION 19. Subchapter E, Chapter 825, Government Code, is  
2 amended by adding Section 825.4092 to read as follows:

3 Sec. 825.4092. EMPLOYER CONTRIBUTIONS FOR EMPLOYED  
4 RETIREES. (a) This section applies to an employer who employs a  
5 retiree.

6 (b) During each payroll period in which a retiree is  
7 employed, the employer shall contribute to the retirement system  
8 for each retiree an amount based on the retiree's salary equal to  
9 the sum of:

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

13 (2) the state's current contribution amount authorized  
14 by the General Appropriations Act.

15 (c) The employer may not deduct any part of the amount  
16 required to be paid under Subsection (b) from the compensation of  
17 the employed retiree.

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

1 among the employers.

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

4 SECTION 20. Sections 825.410(a) and (h), Government Code,  
5 are amended to read as follows:

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

1 method of payment or the payroll deduction method, as applicable,  
2 for the same service for three years after the date of the refund. A  
3 member who requests and receives a refund of installment or payroll  
4 deduction payments also is not permitted to use the same method of  
5 payment for the same service for three years after the date of the  
6 refund.

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

11 SECTION 21. Section 825.506, Government Code, is amended by  
12 adding Subsection (c) to read as follows:

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

19 SECTION 22. Section 825.507(b), Government Code, is amended  
20 to read as follows:

21 (b) The retirement system may release records of a  
22 participant, including a participant to which Chapter 803 applies,  
23 to:

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

27 (2) the executor or administrator of the deceased

1 participant's estate, including information relating to the  
2 deceased participant's beneficiary;

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

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

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

13 (6) a person authorized by the participant in writing  
14 to receive the information;

15 (7) a federal, ~~or~~ state, or local criminal law  
16 enforcement agency that requests a record for a law enforcement  
17 purpose;

18 (8) the attorney general to the extent necessary to  
19 enforce child support; or

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

24 SECTION 23. The heading to Section 825.512, Government  
25 Code, is amended to read as follows:

26 Sec. 825.512. INVESTMENT PRACTICES AND PERFORMANCE REPORTS  
27 [~~AUDIT~~].

1 SECTION 24. Section 825.512(e), Government Code, is amended  
2 to read as follows:

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

16 SECTION 25. Subchapter F, Chapter 825, Government Code, is  
17 amended by adding Sections 825.519 and 825.520 to read as follows:

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

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

6       SECTION 26. Section 1575.004, Insurance Code, is amended  
7 by amending Subsection (a) and adding Subsections (d) and (e) to  
8 read as follows:

9       (a) In this chapter, "retiree" means:

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

12           (A) is at least 65 years of age and has taken a  
13 service retirement under the Teacher Retirement System of Texas  
14 with at least 10 years of service credit in the system, which may  
15 include up to five years of military service credit, but which may  
16 not include any other service credit purchased for equivalent or  
17 special service credit;

18           (B) was employed in actual service in public  
19 schools in this state during or before the 2003-2004 school year and  
20 at the time of retirement meets the requirements for eligibility as  
21 a retiree as those requirements existed on August 31, 2004;

22           (C) purchased equivalent or special service  
23 credit, and:

24           (i) had that service credited on or before  
25 August 31, 2003;

26           (ii) retires on or before August 31, 2009;

27           (iii) at the time of retirement, meets the

1 requirements for eligibility for the group program for coverage as  
2 a retiree as those requirements existed on August 31, 2004,  
3 including using up to five years of out-of-state service toward  
4 retiree eligibility; and

5 (iv) has taken a service retirement under  
6 the Teacher Retirement System of Texas without reduction for early  
7 age;

8 (D) has taken a service retirement under the  
9 Teacher Retirement System of Texas and who has at least 10 years of  
10 service credit in the system, which may include up to five years of  
11 military service credit but which may not include any other service  
12 credit purchased for equivalent or special service credit, and the  
13 sum of the individual's age and amount of service credit for actual  
14 service in public education in this state, for military service,  
15 and for out-of-state service [~~described by this paragraph~~] equals  
16 or exceeds the number 80; or

17 (E) has taken a service retirement under the  
18 Teacher Retirement System of Texas on or before August 31, 2004, and  
19 who is enrolled in the group program on August 31, 2004; or

20 (2) an individual who:

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

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

25 (d) An individual who qualifies as a retiree under  
26 Subsection (a)(1)(B) only at the time of retirement, but does not  
27 enroll in the group program at that time, or who ceases

1 participation in the group program before qualifying as a retiree  
2 under another provision of this section, may choose on qualifying  
3 as a retiree under another provision of this section to participate  
4 in the group program. An election under this subsection must be made  
5 in accordance with rules adopted by the trustee.

6 (e) For purposes of this section, to meet the requirements  
7 for eligibility that existed on August 31, 2004, an individual:

8 (1) must not have been eligible to be covered by a plan  
9 provided under Chapter 1551 or 1601 and must have taken a service  
10 retirement under the Teacher Retirement System of Texas with  
11 either:

12 (A) at least 10 years of service credit in the  
13 retirement system for actual service in public schools in this  
14 state; or

15 (B) at least five years of service credit for  
16 actual public service in the public schools in this state and five  
17 years of out-of-state service credit in the Teacher Retirement  
18 System of Texas; or

19 (2) must have taken a disability retirement under the  
20 Teacher Retirement System of Texas and have been entitled to  
21 receive monthly benefits from the Teacher Retirement System of  
22 Texas.

23 SECTION 27. Section 1575.052(b), Insurance Code, is amended  
24 to read as follows:

25 (b) The trustee may:

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



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

5           SECTION 28. Section 1575.204, Insurance Code, is amended to  
6 read as follows:

7           Sec. 1575.204. PUBLIC SCHOOL CONTRIBUTION. (a) Each state  
8 fiscal year, each public school shall contribute to the fund the  
9 amount prescribed by the General Appropriations Act, which may not  
10 be less than 0.25 percent or greater than 0.75 percent of the salary  
11 of each active employee of the public school. The public school  
12 shall make the contributions on a monthly basis and as otherwise  
13 prescribed by the trustee.

14           (b) Each state fiscal year, each public school that employs  
15 a retiree who is enrolled in the group program shall contribute to  
16 the fund the difference, if any, between the contribution amount  
17 that the retiree is required to pay for the retiree and any enrolled  
18 dependents to participate in the group program and the full cost of  
19 the retiree's and enrolled dependents' participation in the group  
20 program, as determined by the trustee.

21           SECTION 29. Section 1575.211(c), Insurance Code, is amended  
22 to read as follows:

23           (c) A retiree who is eligible to participate under Section  
24 1575.004(a)(1)(B) only and who elects to participate is, except as  
25 provided by this subsection, required to pay during the period of  
26 participation the total cost, as determined by the trustee,  
27 attributable to the participation of that individual and the

1 dependents of that individual until the date the individual is  
2 otherwise eligible under Section 1575.004. The General  
3 Appropriations Act or other similar legislation may specify a  
4 different allocation of total costs for retirees eligible to  
5 participate under Section 1575.004(a)(1)(B) and the dependents of  
6 those retirees. This subsection applies only to an individual who  
7 is eligible to participate as an annuitant under Section  
8 1575.004(a)(1)(B) and who is not otherwise eligible to participate  
9 under another provision of Section 1575.004 at the time of  
10 retirement.

11 SECTION 30. Section 1579.253(b), Insurance Code, is amended  
12 to read as follows:

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

16 SECTION 31. Section 1575.303, Insurance Code, is amended by  
17 adding Subsection (c) to read as follows:

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

20 SECTION 32. Subchapter A, Chapter 1579, Insurance Code, is  
21 amended by adding Sections 1579.005-1579.007 to read as follows:

22 Sec. 1579.005. CONFIDENTIALITY. (a) Section 825.507,  
23 Government Code, applies to records relating to an employee or  
24 dependent under the program and in the custody of the Teacher  
25 Retirement System of Texas or in the custody of an administrator,  
26 carrier, agent, attorney, consultant, or governmental body acting  
27 in cooperation with or on behalf of the system.

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

5       Sec. 1579.006. EXEMPTION FROM PROCESS. (a) The following  
6 are exempt from execution, attachment, garnishment, or any other  
7 process:

8           (1) benefit payments, including optional benefit  
9 payments, active employee and state contributions, and retiree,  
10 surviving spouse, and surviving dependent child contributions;

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

13           (3) any money in the fund.

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

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

22       SECTION 33. Section 1579.052, Insurance Code, is amended by  
23 amending Subsection (c) and adding Subsection (e) to read as  
24 follows:

25       (c) The trustee may contract with [~~an~~] independent and  
26 experienced group insurance consultants and actuaries [~~consultant~~  
27 ~~or~~ ~~actuary~~] for advice and counsel in implementing and

1 administering the program.

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

4 SECTION 34. Section 1579.102, Insurance Code, is amended to  
5 read as follows:

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

11 SECTION 35. Subchapter F, Chapter 1579, Insurance Code, is  
12 amended by adding Sections 1579.254 and 1579.255 to read as  
13 follows:

14 Sec. 1579.254. CONTRIBUTIONS HELD IN TRUST FOR FUND. A  
15 participating entity:

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

18 (2) may not divert the contributions for any other  
19 purpose.

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

25 (1) the contributions; and

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

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

4        SECTION 36. Section 1581.702, Insurance Code, is amended  
5 to read as follows:

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

11        SECTION 37. The following laws are repealed:

- 12            (1) Sections 22.004(d) and (e), Education Code;
- 13            (2) Section 823.401(i), Government Code;
- 14            (3) Section 824.202(c), Government Code;
- 15            (4) Chapters 1577 and 1580, Insurance Code;
- 16            (5) Section 57, Chapter 201, Acts of the 78th  
17 Legislature, Regular Session, 2003;
- 18            (6) Chapter 313, Acts of the 78th Legislature, Regular  
19 Session, 2003; and
- 20            (7) Section 1.01, Chapter 366, Acts of the 78th  
21 Legislature, Regular Session, 2003.

22        SECTION 38. The functions and duties of the Teacher  
23 Retirement System of Texas with respect to the compensation  
24 supplementation program established under Chapter 1580, Insurance  
25 Code, and other applicable law, and any appropriation relating to  
26 that program is transferred to the Texas Education Agency. A  
27 reference in law to the Teacher Retirement System of Texas with

1 respect to the compensation supplementation program means the Texas  
2 Education Agency.

3 SECTION 39. After September 1, 2005, a member of the Teacher  
4 Retirement System of Texas entering into an agreement with the  
5 retirement system for the purchase in installments of out-of-state  
6 service credit must pay the actuarial present value, at the time of  
7 deposit, of the additional benefits. Unless terminated before all  
8 payments are made, an agreement existing as of September 1, 2005,  
9 between an individual and the retirement system for the purchase in  
10 installments of out-of-state service credit, is unaffected by this  
11 Act.

12 SECTION 40. The change in law made by the repeal of Section  
13 824.202(c), Government Code, applies only to a person who retires  
14 under the Teacher Retirement System of Texas on or after September  
15 1, 2005. A person who retires under the Teacher Retirement System of  
16 Texas before September 1, 2005, is governed by the law as it existed  
17 immediately before that date, and that law is continued in effect  
18 for that purpose.

19 SECTION 41. The changes in law made by this Act to the laws  
20 that affect employer contributions apply to any retiree of the  
21 Teacher Retirement System of Texas employed by an employer as  
22 defined by Section 821.001, Government Code, during any month after  
23 the effective date of this Act.

24 SECTION 42. An individual who retired after August 31,  
25 2004, and before September 1, 2005, and qualified as a retiree under  
26 Section 1575.004(a)(1)(B), Insurance Code, whether or not the  
27 retiree enrolled in the group program at that time, or ceased to

1 participate in the group program before qualifying as a retiree  
2 under another provision of Section 1575.004, Insurance Code, shall,  
3 as of September 1, 2005, be eligible under Section  
4 1575.004(a)(1)(D), Insurance Code, as amended by this Act, if the  
5 individual satisfies the requirements of that paragraph as amended  
6 by this Act.

7 SECTION 43. This Act takes effect September 1, 2005.