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H.B. No. 2427

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the continuation and functions of the Teacher
3 Retirement System of Texas; providing penalties.

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

5 SECTION 1. Section 824.302, Government Code, is amended to
6 read as follows:

7 Sec. 824.302. ELIGIBILITY FOR DISABILITY RETIREMENT.
8 Subject to Section 824.310, a [A] member is eligible to retire and
9 receive a disability retirement annuity if the member:

10 (1) is mentally or physically disabled from the
11 further performance of duty; and

12 (2) has a [~~the~~] disability that is probably permanent.

13 SECTION 2. Sections 824.304(a), (b), and (d), Government
14 Code, are amended to read as follows:

15 (a) Subject to Section 824.310, if [~~if~~] a member has a total
16 of less than 10 years of service credit in the retirement system on
17 the date of disability retirement, the retirement system shall pay
18 the person a disability retirement annuity of \$150 a month for the
19 shortest of the following periods:

20 (1) the duration of the disability;

21 (2) the number of months of creditable service the
22 person has at retirement; or

23 (3) the duration of the person's life.

24 (b) Subject to Section 824.310, if [~~if~~] a member has a total

1 of at least 10 years of service credit in the retirement system on
2 the date of disability retirement, the retirement system shall pay
3 the person for the duration of the disability a disability
4 retirement annuity in an amount equal to the greater of:

5 (1) a standard service retirement annuity computed
6 under Section 824.203; or

7 (2) \$150 a month.

8 (d) The minimum benefits provided by this section are
9 subject to reduction under rules adopted under Section 824.310 and
10 are also subject to reduction in the same manner as other benefits
11 because of the selection of an optional retirement annuity.

12 SECTION 3. Section 824.308(b), Government Code, is amended
13 to read as follows:

14 (b) An optional disability retirement annuity is an annuity
15 payable throughout the disability of the disability retiree and is
16 actuarially reduced from the annuity otherwise payable under
17 Section 824.304(b), after any reduction under rules adopted under
18 Section 824.310, to its actuarial equivalent under the option
19 selected under Subsection (c).

20 SECTION 4. Subchapter D, Chapter 824, Government Code, is
21 amended by adding Section 824.310 to read as follows:

22 Sec. 824.310. PURPOSE OF DISABILITY BENEFIT; LIMIT ON
23 SUPPLEMENTAL INCOME. (a) The purpose of a disability retirement
24 annuity paid under this subchapter is to lessen the financial
25 hardships faced by a member with a disability.

26 (b) The board of trustees shall adopt rules under which the
27 disability retirement annuity paid to a disability retiree under

1 this subchapter is reduced on a sliding-scale basis or is suspended
2 for a period in which the compensation earned by the retiree for
3 work performed in a 12-month period during the disability
4 retirement, as determined under the rules of the board of trustees,
5 exceeds the compensation earned by the retiree during the 12-month
6 period in which the retiree earned the highest compensation for
7 actual service as a member of the retirement system.

8 (c) The rules adopted under Subsection (b) must provide for
9 the partial or full reinstatement of a disability retirement
10 annuity that is reduced or suspended if the compensation earned by
11 the retiree for work performed during the disability retirement is
12 reduced or suspended.

13 (d) The board of trustees by rule shall require a disability
14 retiree to report to the board the amount of compensation earned by
15 the disability retiree that exceeds the amount established by the
16 board by rule for work performed during the disability.

17 SECTION 5. Sections 825.0032(c) and (e), Government Code,
18 are amended to read as follows:

19 (c) A person [~~paid officer, employee, or consultant of a~~
20 ~~Texas trade association in the field of investment or insurance]~~
21 may not be a trustee or an employee of the retirement system
22 employed in a "bona fide executive, administrative, or professional
23 capacity," as that phrase is used for purposes of establishing an
24 exemption to the overtime provisions of the federal Fair Labor
25 Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

26 (1) the person is a paid officer, employee, or
27 consultant of a Texas trade association in the field of investment

1 or insurance; or

2 (2) the person's spouse is a paid officer, employee, or
3 consultant of a Texas trade association in the field of investment
4 or insurance [~~who is exempt from the state's position~~
5 ~~classification plan or is compensated at or above the amount~~
6 ~~prescribed by the General Appropriations Act for step 1, salary~~
7 ~~group 17, of the position classification salary schedule].~~

8 (e) In [~~For the purposes of~~] this section, a Texas trade
9 association means [~~is~~] a [~~nonprofit,~~] cooperative[~~r~~] and
10 voluntarily joined association of business or professional
11 competitors in this state designed to assist its members and its
12 industry or profession in dealing with mutual business or
13 professional problems and in promoting their common interest.

14 SECTION 6. Section 825.0041, Government Code, is amended to
15 read as follows:

16 Sec. 825.0041. BOARD MEMBER TRAINING. (a) A person who is
17 appointed to and qualifies for office as a member of the board of
18 trustees may not vote, deliberate, or be counted as a member in
19 attendance at a meeting of the board until the person completes a
20 training program that complies with [~~Before a member of the board~~
21 ~~may assume the member's duties and, if applicable, before the~~
22 ~~member may be confirmed by the senate the member must complete at~~
23 ~~least one course of the training program established under]~~ this
24 section.

25 (b) A training program must [~~established under this section~~
26 ~~shall~~] provide the person with information [~~to the member~~]
27 regarding:

1 (1) the ~~[enabling]~~ legislation that created the
2 retirement system and the system's programs, functions, rules, and
3 budget ~~[and its policy-making body to which the member is appointed~~
4 ~~to serve];~~

5 (2) ~~[the programs operated by the system,~~
6 ~~[(3) the role and functions of the system,~~
7 ~~[(4) the rules of the system with an emphasis on the~~
8 ~~rules that relate to disciplinary and investigatory authority,~~
9 ~~[(5) the current budget for the system,~~
10 ~~[(6)] the results of the most recent formal audit of~~
11 the system;

12 (3) ~~[(7)]~~ the requirements of laws relating to ~~[the:~~
13 ~~[(A)] open meetings, public information, [law,~~
14 ~~Chapter 551,~~
15 ~~[(B)] open records law, Chapter 552, and~~
16 ~~[(C)] administrative procedure, and conflicts of~~
17 interest ~~[law, Chapter 2001];~~

18 ~~[(8) the requirements of the conflict of interest laws~~
19 ~~and other laws relating to public officials,] and~~

20 (4) ~~[(9)]~~ any applicable ethics policies adopted by
21 the system or the Texas Ethics Commission.

22 (c) A person appointed to the board of trustees is entitled
23 to reimbursement under Section 825.007 for the travel expenses
24 incurred in attending the training program regardless of whether
25 the attendance at the program occurs before or after the person
26 qualifies for office.

27 SECTION 7. Section 825.006, Government Code, is amended to

1 read as follows:

2 Sec. 825.006. SUNSET PROVISION. The board of trustees of
3 the Teacher Retirement System of Texas is subject to review under
4 Chapter 325 (Texas Sunset Act), but is not abolished under that
5 chapter. The board shall be reviewed during the period in which
6 state agencies abolished in 2019, and every 12th year after that
7 year, [2007] are reviewed [~~or, if the retirement system's operating~~
8 ~~expenses are not subject to the appropriations process on September~~
9 ~~1, 1995, the board shall be reviewed during the period in which~~
10 ~~state agencies abolished in 1997 are reviewed. This section~~
11 ~~expires September 1, 2007].~~

12 SECTION 8. Subchapter A, Chapter 825, Government Code, is
13 amended by adding Section 825.0061 to read as follows:

14 Sec. 825.0061. COMPLIANCE WITH SUNSET RECOMMENDATIONS. (a)
15 The board of trustees shall:

16 (1) comply with and implement the management action
17 recommendations regarding the board of trustees adopted by the
18 Sunset Advisory Commission on January 10, 2007, as a result of the
19 commission's review of the retirement system; and

20 (2) report to the Sunset Advisory Commission not later
21 than November 1, 2008, the information the Sunset Advisory
22 Commission requires regarding the board of trustees'
23 implementation of the recommendations under Subdivision (1).

24 (b) This section expires June 1, 2009.

25 SECTION 9. Section 825.010(a), Government Code, is amended
26 to read as follows:

27 (a) It is a ground for removal from the board that [~~if~~] a

1 trustee:

2 (1) does not have at the time of taking office
3 [~~appointment~~] the qualifications required for the trustee's
4 position;

5 (2) does not maintain during service on the board the
6 qualifications required for the trustee's position;

7 (3) violates a prohibition established by Section
8 825.002(b) or 825.0032;

9 (4) cannot because of illness or disability discharge
10 the trustee's duties for a substantial part of the term for which
11 the trustee is appointed; or

12 (5) is absent from more than half [~~one-third~~] of the
13 regularly scheduled board meetings that the person is eligible to
14 attend during a calendar year without an excuse approved [~~unless~~
15 ~~the absence is excused~~] by a majority vote of the board.

16 SECTION 10. Subchapter B, Chapter 825, Government Code, is
17 amended by adding Section 825.1025 to read as follows:

18 Sec. 825.1025. NEGOTIATED RULEMAKING; ALTERNATIVE DISPUTE
19 RESOLUTION. (a) The board of trustees shall develop and implement
20 a policy to encourage the use of:

21 (1) negotiated rulemaking procedures under Chapter
22 2008 for the adoption of the retirement system's rules; and

23 (2) appropriate alternative dispute resolution
24 procedures under Chapter 2009 to assist in the resolution of
25 internal and external disputes under the retirement system's
26 jurisdiction.

27 (b) Subject to Subsection (d), the retirement system's

1 procedures relating to alternative dispute resolution must
2 conform, to the extent possible, to any model guidelines issued by
3 the State Office of Administrative Hearings for the use of
4 alternative dispute resolution by state agencies.

5 (c) The board of trustees shall designate a trained person
6 to:

7 (1) coordinate the implementation of the policy
8 adopted under Subsection (a);

9 (2) serve as a resource for any training needed to
10 implement the procedures for negotiated rulemaking or alternative
11 dispute resolution; and

12 (3) collect data concerning the effectiveness of those
13 procedures, as implemented by the retirement system.

14 (d) The board of trustees shall ensure that the
15 implementation of this section and the negotiated rulemaking
16 procedures and alternative dispute resolution procedures adopted
17 under this section are consistent with the fiduciary responsibility
18 imposed on the board by law.

19 SECTION 11. Section 825.113, Government Code, is amended by
20 adding Subsection (g) to read as follows:

21 (g) The board of trustees shall implement a policy requiring
22 the retirement system to use appropriate technological solutions to
23 improve the retirement system's ability to perform its functions.
24 The policy must ensure that the public is able to interact with the
25 retirement system on the Internet.

26 SECTION 12. Section 825.511, Government Code, is amended to
27 read as follows:

1 Sec. 825.511. COMPLAINT FILES. (a) The retirement system
2 shall maintain a system to promptly and efficiently act on
3 complaints [~~keep an information file about each complaint~~] filed
4 with the system that the system has authority to resolve. The
5 system shall maintain information about parties to the complaint,
6 the subject matter of the complaint, a summary of the results of the
7 review or investigation of the complaint, and its disposition
8 [~~provide to the person filing the complaint and the persons or~~
9 ~~entities complained about the system's policies and procedures~~
10 ~~pertaining to complaint investigation and resolution. The system,~~
11 ~~at least quarterly and until final disposition of the complaint,~~
12 ~~shall notify the person filing the complaint and the persons or~~
13 ~~entities complained about of the status of the complaint unless the~~
14 ~~notice would jeopardize an undercover investigation].~~

15 (b) The retirement system shall make information available
16 describing its procedures for complaint investigation and
17 resolution [~~keep information about each complaint filed with the~~
18 ~~system. The information shall include:~~

19 ~~[(1) the date the complaint is received,~~
20 ~~[(2) the name of the complainant,~~
21 ~~[(3) the subject matter of the complaint,~~
22 ~~[(4) a record of all persons contacted in relation to~~
23 ~~the complaint,~~

24 ~~[(5) a summary of the results of the review or~~
25 ~~investigation of the complaint, and~~

26 ~~[(6) for complaints for which the system took no~~
27 ~~action, an explanation of the reason the complaint was closed~~

1 ~~without action].~~

2 (c) The retirement system shall periodically notify the
3 complaint parties of the status of the complaint until final
4 disposition.

5 SECTION 13. Chapter 825, Government Code, is amended by
6 adding Subchapter G to read as follows:

7 SUBCHAPTER G. MEMBER SERVICES

8 Sec. 825.601. POLICIES GOVERNING RETIREMENT BENEFITS
9 COUNSELING. The board of trustees shall adopt policies governing
10 retirement benefits counseling provided to members by the system.
11 The policies must:

12 (1) address the manner in which the retirement system
13 makes group and individual member retirement benefits counseling
14 available throughout the state;

15 (2) identify the geographic regions of the state most
16 in need of retirement benefits counseling services and the manner
17 in which that need will be met; and

18 (3) clarify that the retirement system does not
19 provide financial or legal advice.

20 Sec. 825.602. RETIREMENT BENEFITS COUNSELING FOR
21 INDIVIDUALS. (a) To the extent feasible, the retirement system
22 shall make retirement benefits counseling for individual members
23 available in conjunction with informational or educational
24 programs concerning retirement planning that the system provides
25 for groups.

26 (b) The retirement system shall provide retirement benefits
27 counseling for individual members in geographic regions of this

1 state outside of Austin.

2 SECTION 14. Sections 22.004(d) and (e), Education Code, are
3 amended to read as follows:

4 (d) Each district shall report the district's compliance
5 with this section to the executive director of the Teacher
6 Retirement System of Texas not later than March 1 of each
7 even-numbered year in the manner required by the board of trustees
8 of the Teacher Retirement System of Texas. For a district that does
9 not participate in the program described by Subsection (a), the
10 report must be available for review, together with the policy or
11 contract for the group health coverage plan, at the central
12 administrative office of each campus in the district and be posted
13 on the district's Internet website if the district maintains a
14 website, must be based on the district group health coverage plan in
15 effect during the current plan year, and must include:

16 (1) appropriate documentation of:

17 (A) the district's contract for group health
18 coverage with a provider licensed to do business in this state by
19 the Texas Department of Insurance or a risk pool authorized under
20 Chapter 172, Local Government Code; or

21 (B) a resolution of the board of trustees of the
22 district authorizing a self-insurance plan for district employees
23 and of the district's review of district ability to cover the
24 liability assumed;

25 (2) the schedule of benefits;

26 (3) the premium rate sheet, including the amount paid
27 by the district and employee;

1 (4) the number of employees covered by the health
2 coverage plan offered by the district; ~~and~~

3 (5) information concerning the ease of completing the
4 report, as required by the executive director of the Teacher
5 Retirement System of Texas; and

6 (6) any other information considered appropriate by
7 the executive director of the Teacher Retirement System of Texas.

8 (e) The ~~[Based on the criteria prescribed by Subsection (b),~~
9 ~~the]~~ executive director of the Teacher Retirement System of Texas
10 ~~[shall, for each district that does not participate in the program~~
11 ~~described by Subsection (a), certify whether a district's coverage~~
12 ~~is comparable to the basic health coverage provided under Chapter~~
13 ~~1551, Insurance Code. If the executive director of the Teacher~~
14 ~~Retirement System of Texas determines that the group health~~
15 ~~coverage offered by a district is not comparable, the executive~~
16 ~~director shall report that information to the district and to the~~
17 ~~Legislative Budget Board. The executive director]~~ shall submit a
18 report to the legislature not later than September 1 of each
19 even-numbered year describing the status of each district's group
20 health coverage program based on the information contained in the
21 report required by Subsection (d) ~~[and the certification required~~
22 ~~by this subsection]~~. The retirement system shall post the report on
23 the Internet website maintained by the system.

24 SECTION 15. Section 1575.004(a), Insurance Code, is amended
25 to read as follows:

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

27 (1) an individual not eligible for coverage under a

1 plan provided under Chapter 1551 or 1601 who:

2 (A) has taken a service retirement under the
3 Teacher Retirement System of Texas after September 1, 2005, with at
4 least 10 years of service credit in the system, which may include up
5 to five years of military service credit, but which may not include
6 any other service credit purchased for equivalent or special
7 service credit, and either:

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

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

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

17 (i) meets the requirements for eligibility
18 for the group program for coverage as a retiree as those
19 requirements existed on August 31, 2004;

20 (ii) meets the requirements of Paragraph
21 (A); or

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

24 (C) has taken a service retirement under the
25 Teacher Retirement System of Texas on or before August 31, 2004, and
26 who is enrolled in the group program on August 31, 2005; ~~[or]~~

27 (2) an individual who:

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

3 (B) is entitled to receive monthly benefits from
4 the Teacher Retirement System of Texas; or

5 (3) an individual who:

6 (A) has taken a disability retirement under the
7 Teacher Retirement System of Texas;

8 (B) has at least 10 years of service credit in the
9 Teacher Retirement System of Texas on the date of disability
10 retirement, as determined under Section 824.304, Government Code;
11 and

12 (C) is not entitled to receive monthly benefits
13 from the Teacher Retirement System of Texas because those benefits
14 have been suspended in accordance with Section 824.310, Government
15 Code.

16 SECTION 16. Subchapter E, Chapter 1575, Insurance Code, is
17 amended by adding Section 1575.213 to read as follows:

18 Sec. 1575.213. CERTAIN DISABILITY RETIREES. An individual
19 who is eligible as a retiree under Section 1575.004(a)(3) shall pay
20 an additional premium in an amount determined by the trustee. The
21 amount of the premium may not exceed the total cost, as determined
22 by the trustee, attributable to the participation of that retiree
23 and the dependents of that retiree during the period the individual
24 is eligible as a retiree under Section 1575.004(a)(3).

25 SECTION 17. Section 4, Chapter 22, Acts of the 57th
26 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
27 Texas Civil Statutes), is amended to read as follows:

1 Sec. 4. In this section and in Sections 5, 6, 7, 8, 8A, 9,
2 10, [~~and~~] 11, 12, and 13 of this Act:

3 (1) "Board of trustees" means the board of trustees of
4 the Teacher Retirement System of Texas.

5 (2) "Educational institution" means a school district
6 or an open-enrollment charter school.

7 (3) "Eligible qualified investment" means a qualified
8 investment product offered by a company that:

9 (A) is certified to the board of trustees under
10 Section 5 of this Act; or

11 (B) is eligible to certify to the board of
12 trustees under Section 8 of this Act.

13 (4) "Employee" means an employee of an educational
14 institution.

15 (5) "Qualified investment product" means an annuity or
16 investment that:

17 (A) meets the requirements of Section 403(b),
18 Internal Revenue Code of 1986, and its subsequent amendments;

19 (B) complies with applicable federal insurance
20 and securities laws and regulations; and

21 (C) complies with applicable state insurance and
22 securities laws and rules.

23 (6) "Retirement system" means the Teacher Retirement
24 System of Texas.

25 (7) "Salary reduction agreement" means an agreement
26 between an educational institution and an employee to reduce the
27 employee's salary for the purpose of making direct contributions to

1 or purchases of a qualified investment product.

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

5 (a) An educational institution may enter into a salary
6 reduction agreement with an employee of the institution only if the
7 qualified investment product:

8 (1) is an eligible qualified investment; and

9 (2) is registered with the retirement system under
10 Section 8A of this Act.

11 SECTION 19. Sections 6(c), (e), and (h), Chapter 22, Acts of
12 the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5,
13 Vernon's Texas Civil Statutes), are amended to read as follows:

14 (c) After consultation with the Texas Department of
15 Insurance and the State Securities Board, the retirement system may
16 adopt rules only to administer this section and Sections 5, 7, 8,
17 8A, ~~and~~ 11, 12, and 13 of this Act.

18 (e) The Texas Department of Insurance and the State
19 Securities Board shall cooperate with the retirement system in the
20 administration of this Act and shall notify the retirement system
21 of any action or determination regarding a product or a company that
22 violates Section 5 or 8A of this Act.

23 (h) A certification or recertification remains in effect
24 for five years unless denied, suspended, ~~rejected~~ or revoked.

25 SECTION 20. Section 7(a), Chapter 22, Acts of the 57th
26 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
27 Texas Civil Statutes), is amended to read as follows:

1 (a) The retirement system may collect a fee, not to exceed
2 the administrative cost to the retirement system, from a company
3 that certifies or recertifies under Section 6 or 8 of this Act or
4 that registers a qualified investment product under Section 8A.
5 The fee for certification or recertification may not exceed \$5,000.
6 The fee for registration of a qualified investment product must be
7 set by the retirement system in the reasonable amount necessary to
8 recover the cost to the system of administering Section 8A of this
9 Act.

10 SECTION 21. Chapter 22, Acts of the 57th Legislature, 3rd
11 Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
12 Statutes), is amended by adding Section 8A to read as follows:

13 Sec. 8A. (a) A qualified investment product offered to an
14 employee under Section 5 of this Act must be an eligible qualified
15 investment registered with the retirement system under this
16 section. To register a product, the company offering the product
17 must submit an application to the retirement system in accordance
18 with this section and pay the registration fee established under
19 Section 7 of this Act.

20 (b) The retirement system shall adopt the form and content
21 of the registration application.

22 (c) The retirement system shall designate not more than two
23 registration periods each year during which a company may apply to
24 register a qualified investment product and add the product to the
25 list of qualified investment products maintained under Subsection
26 (f) of this section. To register a qualified investment product, a
27 company must submit an application for a designated registration

1 period in the manner required by the retirement system.

2 (d) A company that registers a qualified investment product
3 under this section shall notify the retirement system if, at any
4 time, the product is not an eligible qualified investment.

5 (e) A registration under this section remains in effect for
6 five years unless denied, suspended, or revoked.

7 (f) The retirement system shall establish and maintain a
8 list of qualified investment products that are registered under
9 this section. The list must include information concerning all the
10 fees charged in connection with each registered qualified
11 investment product and the sale and administration of the product.
12 The list must include other information concerning each product as
13 determined by the retirement system. In implementing the list, the
14 retirement system shall take action to avoid increasing the amount
15 of work required of educational institutions, which may include
16 assigning a unique identifying number to each product. The list
17 must be available on the retirement system's Internet website.

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

21 Sec. 9. An educational institution may not:

22 (1) refuse to enter into a salary reduction agreement
23 with an employee if the qualified investment product that is the
24 subject of the salary reduction is an eligible qualified investment
25 and is registered with the system under Section 8A;

26 (2) require or coerce an employee's attendance at any
27 meeting at which qualified investment products are marketed;

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

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

8 (5) grant exclusive access to information about an
9 employee's financial information, including information about an
10 employee's qualified investment products, to a company or agent
11 offering qualified investment products unless the employee
12 consents in writing to the access;

13 (6) accept any benefit from a company or from an agent
14 or affiliate of a company that offers qualified investment
15 products; or

16 (7) use public funds to recommend a qualified
17 investment product offered by a company or an agent of a company
18 that offers a qualified investment product.

19 SECTION 23. Section 10(a), Chapter 22, Acts of the 57th
20 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
21 Texas Civil Statutes), is amended to read as follows:

22 (a) A person commits an offense if the person:

23 (1) sells or offers for sale a qualified investment
24 product that is not an eligible qualified investment or that is not
25 registered under Section 8A of this Act and that the person knows
26 will be the subject of a salary reduction agreement;

27 (2) violates the licensing requirements of Title 13

1 ~~[Subchapter A, Chapter 21]~~, Insurance Code, with regard to a
2 qualified investment product that the person knows will be the
3 subject of a salary reduction agreement; or

4 (3) engages in activity described by Subchapter B,
5 Chapter 541 ~~[Section 4, Article 21.21]~~, Insurance Code, with regard
6 to a qualified investment product that the person knows will be the
7 subject of a salary reduction agreement.

8 SECTION 24. Section 11(c), Chapter 22, Acts of the 57th
9 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
10 Texas Civil Statutes), is amended to read as follows:

11 (c) The notice required under this section must be uniform
12 and:

13 (1) be in at least 14-point type;

14 (2) contain spaces for:

15 (A) the name, address, and telephone number of
16 the agent and company offering the annuity contract for sale;

17 (B) the name, address, and telephone number of
18 the company underwriting the annuity;

19 (C) the license number of the person offering to
20 sell the product;

21 (D) the name of the state agency that issued the
22 person's license;

23 (E) the name of the company account
24 representative who has the authority to respond to inquiries or
25 complaints; and

26 (F) with respect to fixed annuity products:

27 (i) the current interest rate or the

1 formula used to calculate the current rate of interest;

2 (ii) the guaranteed rate of interest and
3 the percentage of the premium to which the interest rate applies;

4 (iii) how interest is compounded;

5 (iv) the amount of any up-front, surrender,
6 withdrawal, deferred sales, and market value adjustment charges or
7 any other contract restriction that exceeds 10 years;

8 (v) the time, if any, the annuity is
9 required to be in force before the purchaser is entitled to the full
10 bonus accumulation value;

11 (vi) the manner in which the amount of the
12 guaranteed benefit under the annuity is computed;

13 (vii) whether loans are guaranteed to be
14 available under the annuity;

15 (viii) what restrictions, if any, apply to
16 the availability of money attributable to the value of the annuity
17 once the purchaser is retired or separated from the employment of
18 the employer;

19 (ix) the amount of any other fees, costs, or
20 penalties;

21 (x) whether the annuity guarantees the
22 participant the right to surrender a percentage of the surrender
23 value each year, and the percentage, if any; and

24 (xi) whether the annuity guarantees the
25 interest rate associated with any settlement option; and

26 (3) state, in plain language:

27 (A) that the company offering the annuity must

1 comply with Section 5 of this Act and that the annuity must be a
2 qualified investment product registered under Section 8A of this
3 Act;

4 (B) that the potential purchaser may contact the
5 retirement system or access its Internet website to determine which
6 companies are in compliance with Section 5 of this Act and which
7 qualified investment products are registered under Section 8A of
8 this Act;

9 (C) the civil remedies available to the employee;

10 (D) that the employee may purchase any eligible
11 qualified investment through a salary reduction agreement;

12 (E) the name and telephone number of the Texas
13 Department of Insurance division that specializes in consumer
14 protection; and

15 (F) the name and telephone number of the attorney
16 general's division that specializes in consumer protection.

17 SECTION 25. Chapter 22, Acts of the 57th Legislature, 3rd
18 Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
19 Statutes), is amended by adding Section 13 to read as follows:

20 Sec. 13. (a) The board of trustees may deny, suspend, or
21 revoke the certification or recertification of a company if the
22 company violates Section 5, 6, 7, 8, 8A, 10, 11, or 12 of this Act or
23 a rule adopted under those sections.

24 (b) The board of trustees may deny, suspend, or revoke the
25 registration of an investment product under this section if:

26 (1) the product is not an eligible qualified
27 investment;

1 (2) the offer of the product violates Section 5, 6, 7,
2 8, 8A, 10, 11, or 12 of this Act or a rule adopted under those
3 sections; or

4 (3) the company that offers the product violates
5 Section 5, 6, 7, 8, 8A, 10, 11, or 12 of this Act or a rule adopted
6 under those sections.

7 (c) A proceeding to suspend or revoke a certification,
8 recertification, or registration under this section is a contested
9 case under Chapter 2001, Government Code.

10 SECTION 26. Section 17.46(b), Business & Commerce Code, is
11 amended to read as follows:

12 (b) Except as provided in Subsection (d) of this section,
13 the term "false, misleading, or deceptive acts or practices"
14 includes, but is not limited to, the following acts:

15 (1) passing off goods or services as those of another;

16 (2) causing confusion or misunderstanding as to the
17 source, sponsorship, approval, or certification of goods or
18 services;

19 (3) causing confusion or misunderstanding as to
20 affiliation, connection, or association with, or certification by,
21 another;

22 (4) using deceptive representations or designations
23 of geographic origin in connection with goods or services;

24 (5) representing that goods or services have
25 sponsorship, approval, characteristics, ingredients, uses,
26 benefits, or quantities which they do not have or that a person has
27 a sponsorship, approval, status, affiliation, or connection which

1 he does not;

2 (6) representing that goods are original or new if
3 they are deteriorated, reconditioned, reclaimed, used, or
4 secondhand;

5 (7) representing that goods or services are of a
6 particular standard, quality, or grade, or that goods are of a
7 particular style or model, if they are of another;

8 (8) disparaging the goods, services, or business of
9 another by false or misleading representation of facts;

10 (9) advertising goods or services with intent not to
11 sell them as advertised;

12 (10) advertising goods or services with intent not to
13 supply a reasonable expectable public demand, unless the
14 advertisements disclosed a limitation of quantity;

15 (11) making false or misleading statements of fact
16 concerning the reasons for, existence of, or amount of price
17 reductions;

18 (12) representing that an agreement confers or
19 involves rights, remedies, or obligations which it does not have or
20 involve, or which are prohibited by law;

21 (13) knowingly making false or misleading statements
22 of fact concerning the need for parts, replacement, or repair
23 service;

24 (14) misrepresenting the authority of a salesman,
25 representative or agent to negotiate the final terms of a consumer
26 transaction;

27 (15) basing a charge for the repair of any item in

1 whole or in part on a guaranty or warranty instead of on the value of
2 the actual repairs made or work to be performed on the item without
3 stating separately the charges for the work and the charge for the
4 warranty or guaranty, if any;

5 (16) disconnecting, turning back, or resetting the
6 odometer of any motor vehicle so as to reduce the number of miles
7 indicated on the odometer gauge;

8 (17) advertising of any sale by fraudulently
9 representing that a person is going out of business;

10 (18) advertising, selling, or distributing a card
11 which purports to be a prescription drug identification card issued
12 under Section 4151.152, Insurance Code, in accordance with rules
13 adopted by the commissioner of insurance, which offers a discount
14 on the purchase of health care goods or services from a third party
15 provider, and which is not evidence of insurance coverage, unless:

16 (A) the discount is authorized under an agreement
17 between the seller of the card and the provider of those goods and
18 services or the discount or card is offered to members of the
19 seller;

20 (B) the seller does not represent that the card
21 provides insurance coverage of any kind; and

22 (C) the discount is not false, misleading, or
23 deceptive;

24 (19) using or employing a chain referral sales plan in
25 connection with the sale or offer to sell of goods, merchandise, or
26 anything of value, which uses the sales technique, plan,
27 arrangement, or agreement in which the buyer or prospective buyer

1 is offered the opportunity to purchase merchandise or goods and in
2 connection with the purchase receives the seller's promise or
3 representation that the buyer shall have the right to receive
4 compensation or consideration in any form for furnishing to the
5 seller the names of other prospective buyers if receipt of the
6 compensation or consideration is contingent upon the occurrence of
7 an event subsequent to the time the buyer purchases the merchandise
8 or goods;

9 (20) representing that a guarantee or warranty confers
10 or involves rights or remedies which it does not have or involve,
11 provided, however, that nothing in this subchapter shall be
12 construed to expand the implied warranty of merchantability as
13 defined in Sections 2.314 through 2.318 and Sections 2A.212 through
14 2A.216 to involve obligations in excess of those which are
15 appropriate to the goods;

16 (21) promoting a pyramid promotional scheme, as
17 defined by Section 17.461;

18 (22) representing that work or services have been
19 performed on, or parts replaced in, goods when the work or services
20 were not performed or the parts replaced;

21 (23) filing suit founded upon a written contractual
22 obligation of and signed by the defendant to pay money arising out
23 of or based on a consumer transaction for goods, services, loans, or
24 extensions of credit intended primarily for personal, family,
25 household, or agricultural use in any county other than in the
26 county in which the defendant resides at the time of the
27 commencement of the action or in the county in which the defendant

1 in fact signed the contract; provided, however, that a violation of
2 this subsection shall not occur where it is shown by the person
3 filing such suit he neither knew or had reason to know that the
4 county in which such suit was filed was neither the county in which
5 the defendant resides at the commencement of the suit nor the county
6 in which the defendant in fact signed the contract;

7 (24) failing to disclose information concerning goods
8 or services which was known at the time of the transaction if such
9 failure to disclose such information was intended to induce the
10 consumer into a transaction into which the consumer would not have
11 entered had the information been disclosed;

12 (25) using the term "corporation," "incorporated," or
13 an abbreviation of either of those terms in the name of a business
14 entity that is not incorporated under the laws of this state or
15 another jurisdiction;

16 (26) selling, offering to sell, or illegally promoting
17 an annuity contract under Chapter 22, Acts of the 57th Legislature,
18 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
19 Statutes), with the intent that the annuity contract will be the
20 subject of a salary reduction agreement, as defined by that Act, if
21 the annuity contract is not an eligible qualified investment under
22 that Act or is not registered with the Teacher Retirement System of
23 Texas as required by Section 8A of that Act; or

24 (27) taking advantage of a disaster declared by the
25 governor under Chapter 418, Government Code, by:

26 (A) selling or leasing fuel, food, medicine, or
27 another necessity at an exorbitant or excessive price; or

1 (B) demanding an exorbitant or excessive price in
2 connection with the sale or lease of fuel, food, medicine, or
3 another necessity.

4 SECTION 27. Section 825.0032(d), Government Code, is
5 repealed.

6 SECTION 28. The changes in law made by Sections 824.302,
7 824.304, and 824.308, Government Code, and Section 1575.004,
8 Insurance Code, as amended by this Act, and by Section 824.310,
9 Government Code, and Section 1575.213, Insurance Code, as added by
10 this Act, apply only to the disability retirement annuity of a
11 person who applies for the annuity on or after the effective date of
12 this Act. The disability retirement annuity of a person who applies
13 for the annuity before the effective date of this Act is governed by
14 the law as it existed immediately before the effective date of this
15 Act, and that law is continued in effect for that purpose.

16 SECTION 29. The changes in law made by this Act by the
17 amendment of Sections 825.0032, 825.0041, and 825.010, Government
18 Code, regarding the prohibitions on, qualifications of, and
19 training for members of the board of trustees of the Teacher
20 Retirement System of Texas do not affect the entitlement of a member
21 serving on the board immediately before September 1, 2007, to
22 continue to serve and function as a member of the board for the
23 remainder of the member's term. The changes in law described by
24 this section apply only to a member appointed on or after September
25 1, 2007.

26 SECTION 30. The change in law made by this Act to Chapter
27 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article

1 6228a-5, Vernon's Texas Civil Statutes), applies only to the offer
2 of a qualified investment product in accordance with that Act on or
3 after January 1, 2008. The offer of a qualified investment product
4 before January 1, 2008, is governed by the law as it existed
5 immediately before the effective date of this Act, and that law is
6 continued in effect for that purpose.

7 SECTION 31. The change in law made by this Act to Section
8 10(a), Chapter 22, Acts of the 57th Legislature, 3rd Called
9 Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes),
10 applies only to an offense committed on or after January 1, 2008.
11 For purposes of this section, an offense is committed before
12 January 1, 2008, if any element of the offense occurs before that
13 date. An offense committed before January 1, 2008, is covered by
14 the law in effect when the offense was committed, and the former law
15 is continued in effect for that purpose.

16 SECTION 32. Section 17.46(b), Business & Commerce Code, as
17 amended by this Act, applies only to a cause of action that accrues
18 on or after January 1, 2008. A cause of action that accrues before
19 January 1, 2008, is governed by the law as it existed immediately
20 before the effective date of this Act, and that law is continued in
21 effect for that purpose.

22 SECTION 33. This Act takes effect September 1, 2007.