

By: Whitmire

S.B. No. 905

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. A
8 member is eligible to retire and receive a disability retirement
9 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 and

14 (3) does not earn compensation for work performed that
15 exceeds the eligibility limits established under Section 824.310.

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

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

23 (1) the duration of the disability;

24 (2) the number of months of creditable service the

1 person has at retirement; or

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

3 (b) Subject to Section 824.310, if ~~if~~ a member has a total
4 of at least 10 years of service credit in the retirement system on
5 the date of disability retirement, the retirement system shall pay
6 the person for the duration of the disability a disability
7 retirement annuity in an amount equal to the greater of:

8 (1) a standard service retirement annuity computed
9 under Section 824.203; or

10 (2) \$150 a month.

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

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

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

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

25 Sec. 824.310. PURPOSE OF DISABILITY BENEFIT; LIMIT ON
26 SUPPLEMENTAL INCOME. (a) The purpose of a disability retirement
27 annuity paid under this subchapter is to lessen the financial

1 hardships faced by a member with a disability.

2 (b) The board of trustees shall adopt rules under which the
3 disability retirement annuity paid to a disability retiree under
4 this subchapter is reduced on a sliding-scale basis or is suspended
5 for a period in which the compensation earned by the retiree for
6 work performed in a 12-month period during the disability
7 retirement, as determined under the rules of the board of trustees,
8 exceeds the compensation earned by the retiree for actual service
9 as a member of the retirement system in the 12-month period before
10 the retiree applied for a disability retirement annuity.

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

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

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

22 (c) A person [~~paid officer, employee, or consultant of a~~
23 ~~Texas trade association in the field of investment or insurance]~~
24 may not be a trustee or an employee of the retirement system
25 employed in a "bona fide executive, administrative, or professional
26 capacity," as that phrase is used for purposes of establishing an
27 exemption to the overtime provisions of the federal Fair Labor

1 Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:

2 (1) the person is an officer, employee, or paid
3 consultant of a Texas trade association in the field of investment
4 or insurance; or

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

11 (e) In [~~For the purposes of~~] this section, a Texas trade
12 association means [~~is~~] a [~~nonprofit,~~] cooperative[~~7~~] and
13 voluntarily joined association of business or professional
14 competitors in this state designed to assist its members and its
15 industry or profession in dealing with mutual business or
16 professional problems and in promoting their common interest.

17 SECTION 6. Section 825.0041, Government Code, is amended to
18 read as follows:

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

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

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

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

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

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

23 (4) [~~(9)~~] any applicable ethics policies adopted by
24 the system or the Texas Ethics Commission.

25 (c) A person appointed to the board of trustees is entitled
26 to reimbursement under Section 825.007 for the travel expenses
27 incurred in attending the training program regardless of whether

1 the attendance at the program occurs before or after the person
2 qualifies for office.

3 SECTION 7. Section 825.006, Government Code, is amended to
4 read as follows:

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

15 SECTION 8. Section 825.010(a), Government Code, is amended
16 to read as follows:

17 (a) It is a ground for removal from the board that [~~if~~] a
18 trustee:

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

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

24 (3) violates a prohibition established by Section
25 825.002(b) or 825.0032;

26 (4) cannot because of illness or disability discharge
27 the trustee's duties for a substantial part of the term for which

1 the trustee is appointed; or

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

6 SECTION 9. Subchapter B, Chapter 825, Government Code, is
7 amended by adding Section 825.1025 to read as follows:

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

11 (1) negotiated rulemaking procedures under Chapter
12 2008 for the adoption of the retirement system's rules; and

13 (2) appropriate alternative dispute resolution
14 procedures under Chapter 2009 to assist in the resolution of
15 internal and external disputes under the retirement system's
16 jurisdiction.

17 (b) Subject to Subsection (d), the retirement system's
18 procedures relating to alternative dispute resolution must
19 conform, to the extent possible, to any model guidelines issued by
20 the State Office of Administrative Hearings for the use of
21 alternative dispute resolution by state agencies.

22 (c) The board of trustees shall designate a trained person
23 to:

24 (1) coordinate the implementation of the policy
25 adopted under Subsection (a);

26 (2) serve as a resource for any training needed to
27 implement the procedures for negotiated rulemaking or alternative

1 dispute resolution; and

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

4 (d) The board of trustees shall ensure that the
5 implementation of this section and the negotiated rulemaking
6 procedures and alternative dispute resolution procedures adopted
7 under this section are consistent with the fiduciary responsibility
8 imposed on the board by law.

9 SECTION 10. Section 825.113, Government Code, is amended by
10 adding Subsection (g) to read as follows:

11 (g) The board of trustees shall implement a policy requiring
12 the retirement system to use appropriate technological solutions to
13 improve the retirement system's ability to perform its functions.
14 The policy must ensure that the public is able to interact with the
15 retirement system on the Internet.

16 SECTION 11. Section 825.511, Government Code, is amended to
17 read as follows:

18 Sec. 825.511. COMPLAINT FILES. (a) The retirement system
19 shall maintain a system to promptly and efficiently act on
20 complaints [~~keep an information file about each complaint~~] filed
21 with the system that the system has authority to resolve. The
22 system shall maintain information about parties to the complaint,
23 the subject matter of the complaint, a summary of the results of the
24 review or investigation of the complaint, and its disposition
25 [~~provide to the person filing the complaint and the persons or~~
26 ~~entities complained about the system's policies and procedures~~
27 ~~pertaining to complaint investigation and resolution. The system,~~

1 ~~at least quarterly and until final disposition of the complaint,~~
2 ~~shall notify the person filing the complaint and the persons or~~
3 ~~entities complained about of the status of the complaint unless the~~
4 ~~notice would jeopardize an undercover investigation].~~

5 (b) The retirement system shall make information available
6 describing its procedures for complaint investigation and
7 resolution [~~keep information about each complaint filed with the~~
8 ~~system. The information shall include:~~

9 ~~[(1) the date the complaint is received,~~

10 ~~[(2) the name of the complainant,~~

11 ~~[(3) the subject matter of the complaint,~~

12 ~~[(4) a record of all persons contacted in relation to~~
13 ~~the complaint,~~

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

16 ~~[(6) for complaints for which the system took no~~
17 ~~action, an explanation of the reason the complaint was closed~~
18 ~~without action].~~

19 (c) The retirement system shall periodically notify the
20 complaint parties of the status of the complaint until final
21 disposition.

22 SECTION 12. Chapter 825, Government Code, is amended by
23 adding Subchapter G to read as follows:

24 SUBCHAPTER G. MEMBER SERVICES

25 Sec. 825.601. POLICIES GOVERNING RETIREMENT COUNSELING.

26 The board of trustees shall adopt policies governing retirement
27 counseling provided to members by the system. The policies must:

1 (1) address the manner in which the retirement system
2 makes group and individual member retirement counseling available
3 throughout the state; and

4 (2) identify the geographic regions of the state most
5 in need of retirement counseling services and the manner in which
6 that need will be met.

7 Sec. 825.602. RETIREMENT COUNSELING FOR INDIVIDUALS. (a)
8 To the extent feasible, the retirement system shall make retirement
9 counseling for individual members available in conjunction with
10 informational or educational programs concerning retirement
11 planning that the system provides for groups.

12 (b) The retirement system shall provide retirement
13 counseling for individual members in geographic regions of this
14 state outside of Austin.

15 SECTION 13. Section 22.004(e), Education Code, is amended
16 to read as follows:

17 (e) The [~~Based on the criteria prescribed by Subsection (b),~~
18 ~~the~~] executive director of the Teacher Retirement System of Texas
19 [~~shall, for each district that does not participate in the program~~
20 ~~described by Subsection (a), certify whether a district's coverage~~
21 ~~is comparable to the basic health coverage provided under Chapter~~
22 ~~1551, Insurance Code. If the executive director of the Teacher~~
23 ~~Retirement System of Texas determines that the group health~~
24 ~~coverage offered by a district is not comparable, the executive~~
25 ~~director shall report that information to the district and to the~~
26 ~~Legislative Budget Board. The executive director] shall submit a
27 report to the legislature not later than September 1 of each~~

1 even-numbered year describing the status of each district's group
2 health coverage program based on the information contained in the
3 report required by Subsection (d) [~~and the certification required~~
4 ~~by this subsection~~].

5 SECTION 14. Section 1575.004(a), Insurance Code, is amended
6 to read as follows:

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

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

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

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

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

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

25 (i) meets the requirements for eligibility
26 for the group program for coverage as a retiree as those
27 requirements existed on August 31, 2004;

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

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

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

8 (2) an individual who:

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

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

13 (3) an individual who:

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

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

20 (C) is not entitled to receive monthly benefits
21 from the Teacher Retirement System of Texas because those benefits
22 have been suspended in accordance with Section 824.310, Government
23 Code.

24 SECTION 15. Subchapter E, Chapter 1575, Insurance Code, is
25 amended by adding Section 1575.213 to read as follows:

26 Sec. 1575.213. CERTAIN DISABILITY RETIREES. An individual
27 who is eligible as a retiree under Section 1575.004(a)(3) shall pay

1 an additional premium in an amount determined by the trustee. The
2 amount of the premium may not exceed the total cost, as determined
3 by the trustee, attributable to the participation of that retiree
4 and the dependents of that retiree during the period the individual
5 is eligible as a retiree under Section 1575.004(a)(3).

6 SECTION 16. Section 4, Chapter 22, Acts of the 57th
7 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
8 Texas Civil Statutes), is amended to read as follows:

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

11 (1) "Board of trustees" means the board of trustees of
12 the Teacher Retirement System of Texas.

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

15 (3) "Eligible qualified investment" means a qualified
16 investment product offered by a company that:

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

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

21 (4) "Employee" means an employee of an educational
22 institution.

23 (5) "Qualified investment product" means an annuity or
24 investment that:

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

27 (B) complies with applicable federal insurance

1 and securities laws and regulations; and

2 (C) complies with applicable state insurance and
3 securities laws and rules.

4 (6) "Retirement system" means the Teacher Retirement
5 System of Texas.

6 (7) "Salary reduction agreement" means an agreement
7 between an educational institution and an employee to reduce the
8 employee's salary for the purpose of making direct contributions to
9 or purchases of a qualified investment product.

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

13 (a) An educational institution may enter into a salary
14 reduction agreement with an employee of the institution only if the
15 qualified investment product:

16 (1) is an eligible qualified investment; and

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

19 SECTION 18. Sections 6(c), (e), and (h), Chapter 22, Acts of
20 the 57th Legislature, 3rd Called Session, 1962 (Article 6228a-5,
21 Vernon's Texas Civil Statutes), are amended to read as follows:

22 (c) After consultation with the Texas Department of
23 Insurance and the State Securities Board, the retirement system may
24 adopt rules only to administer this section and Sections 5, 7, 8,
25 8A, ~~and~~ 11, 12, and 13 of this Act.

26 (e) The Texas Department of Insurance and the State
27 Securities Board shall cooperate with the retirement system in the

1 administration of this Act and shall notify the retirement system
2 of any action or determination regarding a product or a company that
3 violates Section 5 or 8A of this Act.

4 (h) A certification or recertification remains in effect
5 for five years unless denied, suspended, ~~[rejected]~~ or revoked.

6 SECTION 19. Section 7(a), Chapter 22, Acts of the 57th
7 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
8 Texas Civil Statutes), is amended to read as follows:

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

18 SECTION 20. Chapter 22, Acts of the 57th Legislature, 3rd
19 Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
20 Statutes), is amended by adding Section 8A to read as follows:

21 Sec. 8A. (a) A qualified investment product offered to an
22 employee under Section 5 of this Act must be an eligible qualified
23 investment registered with the retirement system under this
24 section. To register a product, the company offering the product
25 must submit an application to the retirement system in accordance
26 with this section and pay the registration fee established under
27 Section 7 of this Act.

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

3 (c) The retirement system shall designate not more than two
4 registration periods each year during which a company may apply to
5 register a qualified investment product and add the product to the
6 list of qualified investment products maintained under Subsection
7 (f) of this section. To register a qualified investment product, a
8 company must submit an application for a designated registration
9 period in the manner required by the retirement system.

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

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

15 (f) The retirement system shall establish and maintain a
16 list of qualified investment products that are registered under
17 this section. The list must include information concerning the fees
18 charged in connection with each registered qualified investment
19 product and may include other information concerning each product.
20 The list must be available on the retirement system's Internet
21 website.

22 SECTION 21. Section 9, Chapter 22, Acts of the 57th
23 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
24 Texas Civil Statutes), is amended to read as follows:

25 Sec. 9. An educational institution may not:

26 (1) refuse to enter into a salary reduction agreement
27 with an employee if the qualified investment product that is the

1 subject of the salary reduction is an eligible qualified investment
2 and is registered with the system under Section 8A;

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

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

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

12 (5) grant exclusive access to information about an
13 employee's financial information, including information about an
14 employee's qualified investment products, to a company or agent
15 offering qualified investment products unless the employee
16 consents in writing to the access;

17 (6) accept any benefit from a company or from an agent
18 or affiliate of a company that offers qualified investment
19 products; or

20 (7) use public funds to recommend a qualified
21 investment product offered by a company or an agent of a company
22 that offers a qualified investment product.

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

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

27 (1) sells or offers for sale a qualified investment

1 product that is not an eligible qualified investment or that is not
2 registered under Section 8A of this Act and that the person knows
3 will be the subject of a salary reduction agreement;

4 (2) violates the licensing requirements of Title 13
5 [~~Subchapter A, Chapter 21~~], Insurance Code, with regard to a
6 qualified investment product that the person knows will be the
7 subject of a salary reduction agreement; or

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

12 SECTION 23. Section 11(c), Chapter 22, Acts of the 57th
13 Legislature, 3rd Called Session, 1962 (Article 6228a-5, Vernon's
14 Texas Civil Statutes), is amended to read as follows:

15 (c) The notice required under this section must be uniform
16 and:

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

18 (2) contain spaces for:

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

21 (B) the name, address, and telephone number of
22 the company underwriting the annuity;

23 (C) the license number of the person offering to
24 sell the product;

25 (D) the name of the state agency that issued the
26 person's license;

27 (E) the name of the company account

1 representative who has the authority to respond to inquiries or
2 complaints; and

3 (F) with respect to fixed annuity products:

4 (i) the current interest rate or the
5 formula used to calculate the current rate of interest;

6 (ii) the guaranteed rate of interest and
7 the percentage of the premium to which the interest rate applies;

8 (iii) how interest is compounded;

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

12 (v) the time, if any, the annuity is
13 required to be in force before the purchaser is entitled to the full
14 bonus accumulation value;

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

17 (vii) whether loans are guaranteed to be
18 available under the annuity;

19 (viii) what restrictions, if any, apply to
20 the availability of money attributable to the value of the annuity
21 once the purchaser is retired or separated from the employment of
22 the employer;

23 (ix) the amount of any other fees, costs, or
24 penalties;

25 (x) whether the annuity guarantees the
26 participant the right to surrender a percentage of the surrender
27 value each year, and the percentage, if any; and

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

3 (3) state, in plain language:

4 (A) that the company offering the annuity must
5 comply with Section 5 of this Act and that the annuity must be a
6 qualified investment product registered under Section 8A of this
7 Act;

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

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

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

16 (E) the name and telephone number of the Texas
17 Department of Insurance division that specializes in consumer
18 protection; and

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

21 SECTION 24. Chapter 22, Acts of the 57th Legislature, 3rd
22 Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
23 Statutes), is amended by adding Section 13 to read as follows:

24 Sec. 13. (a) The board of trustees may deny, suspend, or
25 revoke the certification or recertification of a company, or may
26 assess an administrative penalty against the company under this
27 section, if the company violates Section 5, 6, 7, 8, 8A, 10, 11, or

1 12 of this Act or a rule adopted under those sections.

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

4 (1) the product is not an eligible qualified
5 investment;

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

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

12 (c) The amount of an administrative penalty under this
13 section may not exceed \$1,000. The amount shall be based on:

14 (1) the seriousness of the violation, including the
15 nature, circumstances, extent, and gravity of the violation;

16 (2) the history of previous violations;

17 (3) the amount necessary to deter a future violation;

18 (4) efforts to correct the violation; and

19 (5) any other matter that justice may require.

20 (d) The board of trustees by rule shall adopt a schedule of
21 administrative penalties based on the criteria listed in Subsection
22 (c) for violations subject to an administrative penalty under this
23 section to ensure that the amount of a penalty imposed is
24 appropriate to the violation.

25 (e) The enforcement of an administrative penalty under this
26 section may be stayed during the time the order is under judicial
27 review if the person pays the penalty to the clerk of the court or

1 files a supersedeas bond with the court in the amount of the
2 penalty. A person who cannot afford to pay the penalty or file the
3 bond may stay the enforcement by filing an affidavit in the manner
4 required by the Texas Rules of Civil Procedure for a party who
5 cannot afford to file security for costs, subject to the right of
6 the retirement system to contest the affidavit as provided by those
7 rules.

8 (f) The attorney general may file suit to collect an
9 administrative penalty under this section. Penalties recovered
10 shall be deposited to the credit of the general revenue fund and may
11 be used to support the enforcement of this section.

12 (g) A proceeding to suspend or revoke a certification or
13 recertification or registration or to impose an administrative
14 penalty under this section is a contested case under Chapter 2001,
15 Government Code.

16 SECTION 25. Section 17.46(b), Business & Commerce Code, is
17 amended to read as follows:

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

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

22 (2) causing confusion or misunderstanding as to the
23 source, sponsorship, approval, or certification of goods or
24 services;

25 (3) causing confusion or misunderstanding as to
26 affiliation, connection, or association with, or certification by,
27 another;

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

3 (5) representing that goods or services have
4 sponsorship, approval, characteristics, ingredients, uses,
5 benefits, or quantities which they do not have or that a person has
6 a sponsorship, approval, status, affiliation, or connection which
7 he does not;

8 (6) representing that goods are original or new if
9 they are deteriorated, reconditioned, reclaimed, used, or
10 secondhand;

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

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

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

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

21 (11) making false or misleading statements of fact
22 concerning the reasons for, existence of, or amount of price
23 reductions;

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

27 (13) knowingly making false or misleading statements

1 of fact concerning the need for parts, replacement, or repair
2 service;

3 (14) misrepresenting the authority of a salesman,
4 representative or agent to negotiate the final terms of a consumer
5 transaction;

6 (15) basing a charge for the repair of any item in
7 whole or in part on a guaranty or warranty instead of on the value of
8 the actual repairs made or work to be performed on the item without
9 stating separately the charges for the work and the charge for the
10 warranty or guaranty, if any;

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

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

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

22 (A) the discount is authorized under an agreement
23 between the seller of the card and the provider of those goods and
24 services or the discount or card is offered to members of the
25 seller;

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

1 (C) the discount is not false, misleading, or
2 deceptive;

3 (19) using or employing a chain referral sales plan in
4 connection with the sale or offer to sell of goods, merchandise, or
5 anything of value, which uses the sales technique, plan,
6 arrangement, or agreement in which the buyer or prospective buyer
7 is offered the opportunity to purchase merchandise or goods and in
8 connection with the purchase receives the seller's promise or
9 representation that the buyer shall have the right to receive
10 compensation or consideration in any form for furnishing to the
11 seller the names of other prospective buyers if receipt of the
12 compensation or consideration is contingent upon the occurrence of
13 an event subsequent to the time the buyer purchases the merchandise
14 or goods;

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

22 (21) promoting a pyramid promotional scheme, as
23 defined by Section 17.461;

24 (22) representing that work or services have been
25 performed on, or parts replaced in, goods when the work or services
26 were not performed or the parts replaced;

27 (23) filing suit founded upon a written contractual

1 obligation of and signed by the defendant to pay money arising out
2 of or based on a consumer transaction for goods, services, loans, or
3 extensions of credit intended primarily for personal, family,
4 household, or agricultural use in any county other than in the
5 county in which the defendant resides at the time of the
6 commencement of the action or in the county in which the defendant
7 in fact signed the contract; provided, however, that a violation of
8 this subsection shall not occur where it is shown by the person
9 filing such suit he neither knew or had reason to know that the
10 county in which such suit was filed was neither the county in which
11 the defendant resides at the commencement of the suit nor the county
12 in which the defendant in fact signed the contract;

13 (24) failing to disclose information concerning goods
14 or services which was known at the time of the transaction if such
15 failure to disclose such information was intended to induce the
16 consumer into a transaction into which the consumer would not have
17 entered had the information been disclosed;

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

22 (26) selling, offering to sell, or illegally promoting
23 an annuity contract under Chapter 22, Acts of the 57th Legislature,
24 3rd Called Session, 1962 (Article 6228a-5, Vernon's Texas Civil
25 Statutes), with the intent that the annuity contract will be the
26 subject of a salary reduction agreement, as defined by that Act, if
27 the annuity contract is not an eligible qualified investment under

1 that Act or is not registered with the Teacher Retirement System of
2 Texas as required by Section 8A of that Act; or

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

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

7 (B) demanding an exorbitant or excessive price in
8 connection with the sale or lease of fuel, food, medicine, or
9 another necessity.

10 SECTION 26. Section 825.0032(d), Government Code, is
11 repealed.

12 SECTION 27. The changes in law made by Sections 824.302,
13 824.304, and 824.308, Government Code, and Section 1575.004,
14 Insurance Code, as amended by this Act, and by Section 824.310,
15 Government Code, and Section 1575.213, Insurance Code, as added by
16 this Act, apply only to the disability retirement annuity of a
17 person who applies for the annuity on or after the effective date of
18 this Act. The disability retirement annuity of a person who applies
19 for the annuity before the effective date of this Act is governed by
20 the law as it existed immediately before the effective date of this
21 Act, and that law is continued in effect for that purpose.

22 SECTION 28. The change in law made by this Act to Chapter
23 22, Acts of the 57th Legislature, 3rd Called Session, 1962 (Article
24 6228a-5, Vernon's Texas Civil Statutes), applies only to the offer
25 of a qualified investment product in accordance with that Act on or
26 after January 1, 2008. The offer of a qualified investment product
27 before January 1, 2008, is governed by the law as it existed

1 immediately before the effective date of this Act, and that law is
2 continued in effect for that purpose.

3 SECTION 29. The change in law made by this Act to Section
4 10(a), Chapter 22, Acts of the 57th Legislature, 3rd Called
5 Session, 1962 (Article 6228a-5, Vernon's Texas Civil Statutes),
6 applies only to an offense committed on or after January 1, 2008.
7 For purposes of this section, an offense is committed before
8 January 1, 2008, if any element of the offense occurs before that
9 date. An offense committed before January 1, 2008, is covered by
10 the law in effect when the offense was committed, and the former law
11 is continued in effect for that purpose.

12 SECTION 30. Section 17.46(b), Business & Commerce Code, as
13 amended by this Act, applies only to a cause of action that accrues
14 on or after January 1, 2008. A cause of action that accrues before
15 January 1, 2008, is governed by the law as it existed immediately
16 before the effective date of this Act, and that law is continued in
17 effect for that purpose.

18 SECTION 31. This Act takes effect September 1, 2007.