

BILL ANALYSIS

Senate Research Center

S.B. 1668
By: Duncan
State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

During several public meetings in 2010, the board and staff of the Teacher Retirement System of Texas (TRS) reviewed the different types of service credit that members of TRS could purchase. The costs of various types of purchases were unequal and some types of purchases were subsidized by the other members of TRS. This bill eliminates or reduces subsidizing the purchase of service credits and eliminates or reduces cost inequities. The staff of TRS estimates that this action could increase the contributions received by the pension trust fund by \$200 million per year.

S.B. 1668 amends current law relating to purchase of service credit in the Teacher Retirement System of Texas.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends the heading to Section 823.304, Government Code, to read as follows:

Sec. 823.304. USERRA CREDIT.

SECTION 2. Amends Sections 823.304(a), (c), and (d), Government Code, as follows:

(a) Provides that a person eligible to establish USERRA credit, rather than reemployed veteran's credit, is one who qualifies under the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. Section 4301 et seq., rather than the Veteran's Reemployment Rights Act, 38 U.S.C. Section 2021 et seq., for the benefits of reemployment in a position included within the membership of the Teacher Retirement System of Texas (TRS) and who is entitled under that Act to additional credit and benefits from TRS because of the person's active duty in the armed forces of the United States.

(c) Authorizes a person to establish credit under this section by depositing with TRS for each year of service claimed an amount equal to certain member contributions, rather than certain member contributions and a fee of five percent, compounded annually, of the required contribution from the date of the person's first eligibility to establish the credit to the date of deposit.

(d) Authorizes TRS, to the extent required by the Uniformed Services Employment and Reemployment Rights Act of 1994 and permitted by Sections 401(a) and 415 of the Internal Revenue Code of 1986 (26 U.S.C. Sections 401 and 415), to:

(1) grant the person service credit for the period of active duty in the armed forces as if the person had been employed in a position eligible for membership and credit with TRS if the person establishes credit by making the required deposits, or, if the person has not made the required deposits, consider the period

of active duty for the purpose of determining whether the person meets the length-of-service eligibility requirements for retirement or other benefits administered by TRS, as if the person had established the credit; and

(2) include in relevant benefit computations under this subtitle the annual compensation, as determined by TRS, that would have been otherwise received by the person for service covered by TRS during any year in which the person had active duty in the armed forces.

SECTION 3. Amends Section 823.401(c), Government Code, to provide that a member eligible to establish credit under this section is one who has at least five years of service credit in TRS for actual service in public schools, including at least one year completed after the relevant out-of-state service.

SECTION 4. Amends Sections 823.402(c), (d), and (e), Government Code, as follows:

(c) Provides that a member eligible to establish credit under this section is one who:

(1) has at least five years of service credited in TRS before the developmental leave occurs, rather than has at least five years of service credit in TRS;

(2) has, at the time the required deposits for the credit are paid, at least one year of membership service credit in TRS following the developmental leave; and

(3) has at least five years of service credited in TRS at the time the required deposits for the credit are paid, rather than is an employee of a public school at the time the credit is sought. Makes nonsubstantive changes.

(d) Requires a member, on or before the date the member takes developmental leave, to file with TRS a notice of intent to take developmental leave, and requires the member's employer to file with TRS a certification that the leave meets the requirements of Subsection (b). Requires that the notice of intent and the certification be in the form required by TRS. Provides that leave is not creditable in TRS if the member does not submit notice of intent and obtain the certification required by this subsection. Makes nonsubstantive changes.

(e) Authorizes a member to establish credit under this section by depositing with TRS for each year of developmental leave certified the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of the service credit under this section, based on rates and tables recommended by TRS's actuary and adopted by the board of trustees. Deletes existing text authorizing a member to establish credit under this section by depositing with TRS for each year of developmental leave claimed an amount equal to the sum of the rate of member contributions required during the year of leave, times the member's annual rate of compensation during the member's most recent year of creditable service that preceded the year of leave, plus the amount that the state would have contributed had the member performed membership service during the year of leave at the member's annual rate of compensation during the most recent year of service that preceded the leave.

SECTION 5. Amends Section 823.501(c), Government Code, to authorize a member to reinstate canceled credit under this section by depositing with TRS the amount withdrawn or refunded, plus a reinstatement fee of eight percent, rather than six percent, compounded annually, of the amount withdrawn or refunded from the date of withdrawal or refund to the date of redeposit.

SECTION 6. Amends Sections 825.403(h) and (j), Government Code, as follows:

(h) Prohibits TRS, if deductions were previously required but not paid, from providing benefits based on the service or compensation unless the deposits required by this section have been fully paid. Requires the person's employer at the time the unreported service was rendered or compensation was paid to verify the service or compensation as required

by Subsection (j), and requires the person to submit the verification to TRS not later than five years after the end of the school year in which the service was rendered or compensation was paid. Requires the person, to establish the service or compensation credit, to deposit with TRS the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of service or compensation credit under this section, based on rates and tables recommended by TRS's actuary and adopted by the board of trustees. Requires the board of trustees to:

- (1) prescribe terms for payments under this subsection; and
- (2) credit the person, rather than the member, for prior service to which the person is entitled under this subtitle.

Deletes existing text requiring the member, if deductions were previously required but not paid, to pay the amount of those deductions plus a fee computed at a rate of five percent a year on the unpaid amount from the end of the school year in which the deductions first became due or the end of the 1974-1975 school year, whichever is later, to the date of payment. Deletes existing text requiring the board of trustees to deposit the fee required by this subsection in the state contribution account.

(j) Requires that proof of service satisfactory to TRS, if deductions were previously required but not paid, be made before service credit is granted or payment for the credit is required. Provides that proof of service is sufficient if the person's employer, rather than the member's employer, documents that the employer has records made at or near the time of service that establish the amount of time worked and salary earned. Deletes existing text authorizing a member to submit in lieu of employer documentation internal revenue, social security, bank, or other written records that were made at or near the time of service and that establish the amount of time worked and salary earned. Provides that an affidavit based on memory without written records made at or near the time of service is not sufficient documentation for the establishment of service credit. Authorizes TRS to audit records used for documentation under this subsection. Prohibits a person who does not obtain proof of service as required by this section from establishing the service or compensation credit.

SECTION 7. (a) Repealers: (1) Section 823.401(i) (relating to computing an annual rate of compensation from a member's reported compensation), Government Code;

(2) Sections 823.402(g) (relating to prohibiting a member from establishing credit under certain conditions and TRS from using established credit in computing service retirement benefits until certain requirements are met) and (h) (relating to all deposits being refundable under certain conditions), Government Code; and

(3) Section 823.501(e) (requiring canceled service credit by an unauthorized withdrawal of contributions to be reinstated), Government Code.

(b) Repealer: Section 57 (relating to establishing out-of-state credit and depositing a portion of a required deposit into the state contribution account), Chapter 1359 (S.B. 1691), Acts of the 79th Legislature, Regular Session, 2005.

SECTION 8. Provides that Sections 823.401(d) (authorizing a member to establish credit by performing certain actions) and (e) (requiring a deposit for at least one year of credit be made with an initial application for credit), Government Code, as amended by Section 10, Chapter 1359 (S.B. 1691), Acts of the 79th Legislature, Regular Session, effective September 1, 2005, apply to a person who was a member of TRS on December 31, 2005, and to out-of-state service performed before January 1, 2006, notwithstanding Section 57 of that Act.

SECTION 9. Requires that the verification required under Section 825.403(h) (requiring a member to pay the amount of certain deductions plus a fee), Government Code, as amended by

this Act, for unreported service rendered or unreported compensation paid before the effective date of this Act, be received by TRS not later than August 31, 2016.

SECTION 10. (a) Authorizes a person, notwithstanding the service credit cost provisions of Section 8 of this Act and Sections 823.402(e) (authorizing a member to establish credit by performing certain actions), 823.501(c)(2) (relating to a reinstatement fee), and 825.403(h), Government Code, as amended by this Act, to establish service credit by paying the deposits and fees required under Sections 823.402 (Developmental Leave), 823.501 (Credit Canceled by Membership Termination), and 825.403 (Collection of Member's Contributions), Government Code, and by Section 57, Chapter 1359 (S.B. 1691), Acts of the 79th Legislature, Regular Session, 2005, as those sections existed before amendment or repeal by this Act, if:

(1) the person otherwise meets all eligibility requirements under those sections as amended by this Act;

(2) the service for which credit is sought to be established was rendered, or the compensation for which credit is sought was paid, before the effective date of this Act; and

(3) the person makes payment for the service credit, or enters into an installment agreement for payment, not later than August 31, 2013.

(b) Authorizes a person, if the person has an installment agreement under Subsection (a) of this section that is terminated after August 31, 2013, before the person has made all of the payments, to establish credit only as provided by Sections 823.402, 823.501, and 825.403, Government Code, as amended by this Act, and by Section 8 of this Act.

SECTION 11. Effective date: September 1, 2011.