

By: Pitts

H.B. No. 2441

A BILL TO BE ENTITLED

AN ACT

relating to public junior college employee participation in the Teacher Retirement System of Texas.

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

SECTION 1. Section 821.001(7), Government Code, is amended to read as follows:

(7) "Employer" means any agents or agencies in the state responsible for public education, including the governing board of any school district or public junior college district created under the laws of this state, any county school board, the board of trustees, the board of regents of any college or university, or any other legally constituted board or agency of any public school, but excluding the State Board of Education, the Texas Education Agency, and the State Board for Educator Certification.

SECTION 2. Section 822.001, Government Code, is amended to read as follows:

Sec. 822.001. MEMBERSHIP REQUIREMENT. (a) Membership in the retirement system includes:

(1) all persons who were members of the retirement system on the day before the effective date of this subtitle; ~~and~~

(2) all employees of the public school system; and

(3) all employees of a public junior college.

(b) Membership in the retirement system is a condition of

1 employment for employees of the public school system or a public
2 junior college unless an employee is excluded from membership under
3 Section 822.002.

4 SECTION 3. Section 822.0015(a), Government Code, is amended
5 to read as follows:

6 (a) In lieu of participating in the Employees Retirement
7 System of Texas, the commissioner of education may elect to
8 participate in the retirement system in the same manner and under
9 the same conditions as a member who is an employee of the public
10 school system or a public junior college.

11 SECTION 4. Subchapter A, Chapter 822, Government Code, is
12 amended by adding Section 822.0016 to read as follows:

13 Sec. 822.0016. OPTIONAL MEMBERSHIP FOR CERTAIN QUALIFIED
14 EMPLOYEES. (a) In this section, "qualified employee" means a
15 person who:

16 (1) was employed by a public junior college before
17 December 31, 2011, and elected to participate in the optional
18 retirement program under Chapter 830; and

19 (2) is actively participating in the optional
20 retirement program.

21 (b) A qualified employee may make a one-time, irrevocable
22 election in a manner provided by the retirement system to
23 participate in the retirement system and cease participation in the
24 optional retirement program.

25 SECTION 5. Section 822.002, Government Code, is amended to
26 read as follows:

27 Sec. 822.002. EXCEPTIONS TO MEMBERSHIP REQUIREMENT. An

1 employee of the public school system or a public junior college is
2 not permitted to be a member of the retirement system if the
3 employee:

4 (1) is eligible and elects to participate in the
5 optional retirement program under Chapter 830;

6 (2) is solely employed by a public institution of
7 higher education that as a condition of employment requires the
8 employee to be enrolled as a student in the institution; or

9 (3) has retired under the retirement system and has
10 not been reinstated to membership pursuant to Section 824.005 or
11 824.307.

12 SECTION 6. Section 822.003(c), Government Code, is amended
13 to read as follows:

14 (c) A person does not terminate membership under Subsection
15 (a)(4) if the person:

16 (1) is performing military service creditable in the
17 retirement system;

18 (2) is on leave of absence from employment in a public
19 school or public junior college; or

20 (3) is earning service credit in another retirement
21 system covered by Chapter 803 or 805.

22 SECTION 7. Section 830.001, Government Code, is amended to
23 read as follows:

24 Sec. 830.001. PURPOSE OF CHAPTER. The purpose of this
25 chapter is to establish a complete retirement program for faculty
26 members employed in certain state-supported institutions of higher
27 education as an incentive that will attract high quality faculties

1 and thereby improve the level of education at state-supported
2 colleges and universities.

3 SECTION 8. Section 830.003, Government Code, is amended to
4 read as follows:

5 Sec. 830.003. APPLICATION. In this chapter, the term
6 "institution of higher education" includes the Texas Higher
7 Education Coordinating Board, the Texas State Technical College
8 System, and the institutions defined in Section 821.001(10), except
9 a public junior college. The term [but] excludes the Rodent and
10 Predatory Animal Control Service.

11 SECTION 9. Section 830.004(c), Government Code, is amended
12 to read as follows:

13 (c) An institution of higher education to which this chapter
14 applies may establish a governmental excess benefit arrangement as
15 provided by Section 415(m) of the Internal Revenue Code of 1986 (26
16 U.S.C. Section 415(m)) for the purpose of providing to participants
17 in the optional retirement program any portion of a participant's
18 benefits that would otherwise be payable under the terms of the
19 program except for the limitation on benefits imposed by Section
20 415 of the Internal Revenue Code of 1986 (26 U.S.C. Section 415).
21 The governing board of an institution of higher education to which
22 this chapter applies may take any action necessary to establish and
23 implement a governmental excess benefit arrangement authorized in
24 accordance with this subsection.

25 SECTION 10. Section 830.005, Government Code, is amended to
26 read as follows:

27 Sec. 830.005. EXEMPTION FROM TAXES. If qualified to do

1 business in this state, a life insurance or annuity company is
2 exempt from the payment of franchise or premium taxes on annuity or
3 group insurance policies issued under a benefit program authorized
4 and at least partly paid for by the governing board of an
5 institution of higher education to which this chapter applies or
6 the Texas Education Agency.

7 SECTION 11. Section 830.006(a), Government Code, is amended
8 to read as follows:

9 (a) The governing board of each institution of higher
10 education to which this chapter applies, other than the Texas
11 Higher Education Coordinating Board, shall annually submit a report
12 to the coordinating board that includes information concerning the
13 number of participants and eligible positions and the amount of
14 contributions.

15 SECTION 12. Section 830.101(a), Government Code, is amended
16 to read as follows:

17 (a) The governing board of each institution of higher
18 education to which this chapter applies shall provide an
19 opportunity to participate in the optional retirement program to
20 all faculty members in the component institutions governed by the
21 board. The State Board of Education shall provide an opportunity to
22 participate in the optional retirement program to the commissioner
23 of education.

24 SECTION 13. Section 830.103, Government Code, is amended to
25 read as follows:

26 Sec. 830.103. EFFECT OF TRANSFERS AND CHANGES IN EMPLOYMENT
27 STATUS. (a) An institution of higher education to which this

1 chapter applies shall accept the transfer of a participant's
2 optional retirement program from another institution of higher
3 education to which this chapter applies or from the Texas Education
4 Agency. The Texas Education Agency shall accept the transfer of a
5 participant's optional retirement program from an institution of
6 higher education to which this chapter applies if the participant
7 becomes commissioner of education.

8 (b) If, after participating in the optional retirement
9 program for at least one year, a person becomes employed in an
10 institution of higher education to which this chapter applies in a
11 position normally covered by the retirement system, the person
12 shall continue participation in the optional retirement program if
13 the person has had no intervening employment in the public schools
14 other than as commissioner of education or a position in an
15 institution of higher education to which this chapter applies.

16 SECTION 14. Section 830.105(b), Government Code, is amended
17 to read as follows:

18 (b) A change of company providing optional retirement
19 program benefits or a participant's transfer between institutions
20 of higher education to which this chapter applies is not a
21 termination of employment.

22 SECTION 15. Section 830.106, Government Code, is amended to
23 read as follows:

24 Sec. 830.106. ELIGIBILITY FOR RESUMPTION OF MEMBERSHIP. A
25 participant in the optional retirement program is not eligible for
26 membership in the retirement system unless:

27 (1) the person:

1 (A) [~~(1)~~] terminates employment covered by the
2 optional retirement program; and

3 (B) [~~(2)~~] becomes employed in the public school
4 system or with a state agency in a position that is not eligible for
5 participation in the optional retirement program; or

6 (2) the person is a qualified employee under Section
7 822.0016 who makes an election to participate in the retirement
8 system.

9 SECTION 16. Sections 830.2015(a) and (c), Government Code,
10 are amended to read as follows:

11 (a) Each fiscal year, the governing board of an institution
12 of higher education to which this chapter applies may make a
13 contribution to the optional retirement program as provided by this
14 section. The governing board may use any source of funds for the
15 contribution.

16 (c) The governing board of an institution of higher
17 education to which this chapter applies may contribute an amount
18 under this section to the benefit of a participant employed by the
19 ~~[an]~~ institution of higher education on or before August 31, 1995,
20 that is different from the amount the governing board contributes
21 to the benefit of a participant employed by the ~~[an]~~ institution of
22 higher education after that date.

23 SECTION 17. Sections 830.202(c), (d), (e), and (g),
24 Government Code, are amended to read as follows:

25 (c) The disbursing officer of an institution of higher
26 education to which this chapter applies and, if applicable, of the
27 Texas Education Agency shall pay the contributions collected under

1 this section to a company providing an optional retirement program
2 for that institution not later than the third business day after the
3 date the funds become legally available. If possible, the
4 disbursing officer shall send the state's contributions and the
5 participants' contributions together, and otherwise shall send the
6 participants' contributions at the time of withholding and the
7 state's contributions on receipt from the comptroller. This
8 subsection does not apply to a supplemental payroll. This
9 subsection applies only to a currently authorized company or a
10 company with at least 50 participants at the institution.

11 (d) An institution of higher education to which this chapter
12 applies and, if applicable, the Texas Education Agency shall
13 certify to the comptroller, in the manner provided for estimate of
14 state contributions to the retirement system, estimates of funds
15 required for the payments by the state under this section.

16 (e) The disbursing officer of an institution of higher
17 education to which this chapter applies and, if applicable, of the
18 Texas Education Agency, shall:

19 (1) send contributions to a company providing an
20 optional retirement program for the institution by electronic
21 transfer if the institution is currently able to send funds by
22 electronic transfer; or

23 (2) certify to the Texas Higher Education Coordinating
24 Board that the company is unable to receive funds by electronic
25 transfer and send contributions by paper check.

26 (g) At least once each fiscal year, an institution of higher
27 education to which this chapter applies and the Texas Education

1 Agency shall give notice to each participant in the optional
2 retirement program at the institution or agency indicating which
3 companies are unable to receive funds by electronic transfer.

4 SECTION 18. Section 830.203(a)(3), Government Code, is
5 amended to read as follows:

6 (3) "Noneducational and general funds" means all funds
7 of an institution of higher education to which this chapter applies
8 except those funds used as a method of financing for an
9 institutional appropriation in the General Appropriations Act or
10 dedicated by the Constitution of the State of Texas.

11 SECTION 19. Section 1551.003(14), Insurance Code, is
12 amended to read as follows:

13 (14) "State agency" means a commission, board,
14 department, division, institution of higher education other than a
15 public junior college, or other agency of this state created by the
16 constitution or statutes of this state. The term also includes the
17 Texas Municipal Retirement System and the Texas County and District
18 Retirement System.

19 SECTION 20. Section 1551.006(b), Insurance Code, is amended
20 to read as follows:

21 (b) In this chapter, "institution of higher education" does
22 not include:

23 (1) an entity in The University of Texas System, as
24 described by Section 65.02, Education Code; ~~and~~

25 (2) an entity in The Texas A&M University System, as
26 described by Subtitle D, Title 3, Education Code, including the
27 Texas Veterinary Medical Diagnostic Laboratory; or

1 (3) a public junior college.

2 SECTION 21. Section 1551.102, Insurance Code, is amended by
3 adding Subsection (j) to read as follows:

4 (j) An individual is eligible to participate in the group
5 benefits program as provided by Subsection (a) if the individual
6 retires under Chapter 822, Government Code, after making an
7 election to participate in the Teacher Retirement System of Texas
8 under Section 822.0016, Government Code, and the individual:

9 (1) is at least 50 years old and has at least 10 years
10 of eligible service credit;

11 (2) has at least 25 years of eligible service credit;
12 or

13 (3) has at least 10 years of eligible service credit
14 and the sum of the individual's service credit and attained age
15 equals or exceeds the number 70.

16 SECTION 22. Section 1575.002, Insurance Code, is amended by
17 amending Subdivision (1) and adding Subdivision (5-a) to read as
18 follows:

19 (1) "Active employee" means a contributing member of
20 the Teacher Retirement System of Texas who:

21 (A) is employed by:

22 (i) a public school; or

23 (ii) a public junior college; and

24 (B) is not entitled to coverage under a plan
25 provided under Chapter 1551 or 1601.

26 (5-a) "Public junior college" has the meaning assigned
27 by Section 61.003, Education Code.

1 SECTION 23. Section 1575.204(a), Insurance Code, is amended
2 to read as follows:

3 (a) Each state fiscal year, each public school and public
4 junior college shall contribute to the fund the amount prescribed
5 by the General Appropriations Act, which may not be less than 0.25
6 percent or greater than 0.75 percent of the salary of each active
7 employee of the public school or public junior college. The public
8 school or public junior college shall make the contributions on a
9 monthly basis and as otherwise prescribed by the trustee.

10 SECTION 24. Section 1575.211, Insurance Code, is amended to
11 read as follows:

12 Sec. 1575.211. COST SHARING. (a) The total costs for the
13 operation of the group program shall be shared among the state, the
14 public schools and public junior colleges, the active employees,
15 and the retirees in the manner prescribed by the General
16 Appropriations Act.

17 (b) In determining the allocation of total costs under this
18 section, the state shall pay not more than 55 percent of the total
19 costs, retirees shall pay at least 30 percent of the total costs,
20 and the balance shall be paid by active employees and public schools
21 and public junior colleges.

22 SECTION 25. Section 1575.402(a), Insurance Code, is amended
23 to read as follows:

24 (a) The Retirees Advisory Committee is composed of the
25 following nine members appointed by the trustee:

26 (1) one member who is an active school or public junior
27 college administrator;

1 (2) one member who is a retired school or public junior
2 college administrator;

3 (3) two members who are active teachers or public
4 junior college faculty members;

5 (4) three members who are retired teachers or public
6 junior college faculty members;

7 (5) one member who is an active member of the auxiliary
8 personnel of a school district or public junior college district;
9 and

10 (6) one member who is a retired member of the auxiliary
11 personnel of a school district or public junior college district.

12 SECTION 26. Section 1575.403(b), Insurance Code, is amended
13 to read as follows:

14 (b) Five members' terms, including the terms of the active
15 school or public junior college administrator, one active teacher
16 or public junior college faculty member, two retired teachers or
17 public junior college faculty members, and the retired member of
18 the auxiliary personnel, expire February 1, 2002, and every fourth
19 year after that date.

20 SECTION 27. Section 1579.002(5), Insurance Code, is amended
21 to read as follows:

22 (5) "Participating entity" means an entity
23 participating in the uniform group coverage program established
24 under this chapter. The term includes:

25 (A) a school district;

26 (B) a public junior college district;

27 (C) another educational district whose employees

1 are members of the Teacher Retirement System of Texas;

2 (D) [~~(C)~~] a regional education service center;

3 and

4 (E) [~~(D)~~] a charter school that meets the
5 requirements of Section 1579.154.

6 SECTION 28. Sections 1579.151(a) and (b), Insurance Code,
7 are amended to read as follows:

8 (a) Each school district or public junior college district
9 with 500 or fewer employees and each regional education service
10 center is required to participate in the program.

11 (b) Notwithstanding Subsection (a), a school district or
12 public junior college district otherwise subject to Subsection (a)
13 that, on January 1, 2001, was individually self-funded for the
14 provision of health coverage to its employees may elect not to
15 participate in the program.

16 SECTION 29. Section 1579.152, Insurance Code, is amended to
17 read as follows:

18 Sec. 1579.152. PARTICIPATION OF OTHER SCHOOL DISTRICTS. A
19 [~~Effective September 1, 2005, a~~] school district or public junior
20 college district with more than 500 employees may elect to
21 participate in the program. A school district or public junior
22 college district that elects to participate under this section
23 shall apply for participation in the manner prescribed by the
24 trustee by rule.

25 SECTION 30. Section 1579.251(a), Insurance Code, is amended
26 to read as follows:

27 (a) The state shall assist employees of participating

1 school districts, public junior college districts, and charter
2 schools in the purchase of group health coverage under this chapter
3 by providing for each covered employee the amount of \$900 each state
4 fiscal year or a greater amount as provided by the General
5 Appropriations Act. The state contribution, as applicable, shall
6 be distributed through the school finance formulas under Chapters
7 41 and 42, Education Code, and used by school districts and charter
8 schools as provided by Section 42.260, Education Code.

9 SECTION 31. (a) The changes to Sections 822.001 and
10 822.002, Government Code, as amended by this Act, apply only to a
11 person who is first employed by a public junior college on or after
12 January 1, 2012, and to a former employee who has withdrawn
13 retirement contributions under Section 822.003, Government Code,
14 and is reemployed by a public junior college on or after January 1,
15 2012.

16 (b) The changes to Section 1575.002, Insurance Code, as
17 amended by this Act, apply only to a person who is first employed by
18 a public junior college on or after January 1, 2012.

19 SECTION 32. This Act takes effect September 1, 2011.