

By: Truitt

H.B. No. 3354

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the administration of and benefits payable by the
3 Teacher Retirement System of Texas and to certain domestic
4 relations orders.

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

6 SECTION 1. Section 411.081(i), Government Code, as amended
7 by Chapters 183 (H.B. 1830), 780 (S.B. 1056), 816 (S.B. 1599), and
8 1027 (H.B. 4343), Acts of the 81st Legislature, Regular Session,
9 2009, is reenacted and amended to read as follows:

10 (i) A criminal justice agency may disclose criminal history
11 record information that is the subject of an order of nondisclosure
12 under Subsection (d) to the following noncriminal justice agencies
13 or entities only:

- 14 (1) the State Board for Educator Certification;
- 15 (2) a school district, charter school, private school,
16 regional education service center, commercial transportation
17 company, or education shared service arrangement;
- 18 (3) the Texas Medical Board;
- 19 (4) the Texas School for the Blind and Visually
20 Impaired;
- 21 (5) the Board of Law Examiners;
- 22 (6) the State Bar of Texas;
- 23 (7) a district court regarding a petition for name
24 change under Subchapter B, Chapter 45, Family Code;

- 1 (8) the Texas School for the Deaf;
- 2 (9) the Department of Family and Protective Services;
- 3 (10) the Texas Youth Commission;
- 4 (11) the Department of Assistive and Rehabilitative
- 5 Services;
- 6 (12) the Department of State Health Services, a local
- 7 mental health service, a local mental retardation authority, or a
- 8 community center providing services to persons with mental illness
- 9 or retardation;
- 10 (13) the Texas Private Security Board;
- 11 (14) a municipal or volunteer fire department;
- 12 (15) the Texas Board of Nursing;
- 13 (16) a safe house providing shelter to children in
- 14 harmful situations;
- 15 (17) a public or nonprofit hospital or hospital
- 16 district;
- 17 (18) the Texas Juvenile Probation Commission;
- 18 (19) the securities commissioner, the banking
- 19 commissioner, the savings and mortgage lending commissioner, or the
- 20 credit union commissioner;
- 21 (20) the Texas State Board of Public Accountancy;
- 22 (21) the Texas Department of Licensing and Regulation;
- 23 (22) the Health and Human Services Commission;
- 24 (23) the Department of Aging and Disability Services;
- 25 (24) the Texas Education Agency; [~~and~~]
- 26 (25) the Guardianship Certification Board; [~~and~~]
- 27 (26) a county clerk's office in relation to a

1 proceeding for the appointment of a guardian under Chapter XIII,
2 Texas Probate Code;

3 (27) [~~(25)~~] the Department of Information Resources
4 but only regarding an employee, applicant for employment,
5 contractor, subcontractor, intern, or volunteer who provides
6 network security services under Chapter 2059 to:

7 (A) the Department of Information Resources; or

8 (B) a contractor or subcontractor of the
9 Department of Information Resources;

10 (28) [~~(25)~~] the Court Reporters Certification Board;

11 [~~and~~]

12 (29) [~~(25)~~] the Texas Department of Insurance; and

13 (30) the Teacher Retirement System of Texas.

14 SECTION 2. Subchapter F, Chapter 411, Government Code, is
15 amended by adding Section 411.0971 to read as follows:

16 Sec. 411.0971. ACCESS TO CRIMINAL HISTORY RECORD

17 INFORMATION: TEACHER RETIREMENT SYSTEM OF TEXAS. (a) The Teacher

18 Retirement System of Texas is entitled to obtain from the

19 department, the Federal Bureau of Investigation Criminal Justice

20 Information Services Division, or another law enforcement agency

21 criminal history record information maintained by the department,

22 division, or agency that relates to a person who:

23 (1) is an employee or an applicant for employment with
24 the retirement system;

25 (2) is a consultant, contract employee, independent

26 contractor, intern, or volunteer for the retirement system or an

27 applicant to serve in one of those positions;

1 (3) proposes to enter into a contract with or has a
2 contract with the retirement system to perform services for or
3 supply goods to the retirement system; or

4 (4) is an employee or subcontractor, or an applicant
5 to be an employee or subcontractor, of a contractor that provides
6 services to the retirement system.

7 (b) Criminal history record information obtained by the
8 Teacher Retirement System of Texas under Subsection (a) may not be
9 released or disclosed to any person except:

10 (1) on court order;

11 (2) with the consent of the person who is the subject
12 of the criminal history record information; or

13 (3) to a federal agency as required by federal law or
14 executive order.

15 (c) The Teacher Retirement System of Texas shall destroy
16 criminal history record information obtained under this section
17 after the information is used for the purposes authorized by this
18 section.

19 (d) The Teacher Retirement System of Texas may provide a
20 copy of the criminal history record information obtained from the
21 department, the Federal Bureau of Investigation Criminal Justice
22 Information Services Division, or other law enforcement agency to
23 the individual who is the subject of the information.

24 (e) The failure or refusal of an employee or applicant to
25 provide the following on request constitutes good cause for
26 dismissal or refusal to hire:

27 (1) a complete set of fingerprints;

1 (2) a true and complete name; or

2 (3) other information necessary for a law enforcement
3 entity to obtain criminal history record information.

4 SECTION 3. Subchapter F, Chapter 551, Government Code, is
5 amended by adding Section 551.130 to read as follows:

6 Sec. 551.130. BOARD OF TRUSTEES OF TEACHER RETIREMENT
7 SYSTEM OF TEXAS; TELEPHONE CONFERENCE CALL. (a) In this section,
8 "board" means the board of trustees of the Teacher Retirement
9 System of Texas.

10 (b) Except as provided by this section, this chapter does
11 not prohibit the board from holding an open or closed meeting by
12 telephone conference call.

13 (c) A meeting held by telephone conference call by the board
14 may be held only if a quorum of the board is physically present at a
15 single location that is open to the public during any open portion
16 of the meeting.

17 (d) The telephone conference call meeting is subject to the
18 notice requirements applicable to other meetings.

19 (e) The notice of the telephone conference call meeting must
20 specify as the location of the meeting the location where the quorum
21 of the board of trustees will be physically present.

22 (f) Each part of the telephone conference call meeting that
23 is open to the public must be audible to the public at the location
24 specified in the notice of the meeting and shall be tape-recorded at
25 that location. The tape recording shall be made available to the
26 public.

27 (g) The meeting location specified in the notice must

1 provide two-way communication during the entire telephone
2 conference call, and the identification of each party to the
3 telephone conference must be clearly stated before the party
4 speaks.

5 (h) A board member who participates in a board meeting by
6 telephone conference call and who is not physically present at the
7 location of the meeting is not considered absent from the meeting
8 for any purpose, including for purposes of Section 825.010(a).

9 (i) This section does not authorize a person who is not a
10 board member to speak at a meeting from a remote location by
11 telephone conference call, except as provided by Section 551.129.

12 SECTION 4. Subchapter C, Chapter 552, Government Code, is
13 amended by adding Section 552.153 to read as follows:

14 Sec. 552.153. EXCEPTION: NAME OF APPLICANT FOR EXECUTIVE
15 DIRECTOR, CHIEF INVESTMENT OFFICER, OR CHIEF AUDIT EXECUTIVE OF
16 TEACHER RETIREMENT SYSTEM OF TEXAS. The name of an applicant for
17 the position of executive director, chief investment officer, or
18 chief audit executive of the Teacher Retirement System of Texas is
19 excepted from the requirements of Section 552.021, except that the
20 board of trustees of the Teacher Retirement System of Texas must
21 give public notice of the names of three finalists being considered
22 for one of those positions at least 21 days before the date of the
23 meeting at which the final action or vote is to be taken on choosing
24 a finalist for employment.

25 SECTION 5. Section 804.003, Government Code, is amended by
26 amending Subsections (f) and (g) and adding Subsection (p) to read
27 as follows:

1 (f) A domestic relations order is a qualified domestic
2 relations order only if such order:

3 (1) clearly specifies the:

4 (A) name [~~, social security number,~~] and last
5 known mailing address [~~, if any,~~] of:

6 (i) the member or retiree; and

7 (ii) [~~the name, social security number, and~~
8 ~~mailing address of~~] each alternate payee covered by the order; and

9 (B) social security number, or an express
10 authorization for the parties to use an alternate method acceptable
11 to the public retirement system to verify the social security
12 number, of the member or retiree and each alternate payee covered by
13 the order;

14 (2) clearly specifies the amount or percentage of the
15 member's or retiree's benefits to be paid by a public retirement
16 system to each such alternate payee or the manner in which such
17 amount or percentage is to be determined;

18 (3) clearly specifies the number of payments or the
19 period to which such order applies;

20 (4) clearly specifies that such order applies to a
21 designated public retirement system;

22 (5) does not require the public retirement system to
23 provide any type or form of benefit or any option not otherwise
24 provided under the plan;

25 (6) does not require the public retirement system to
26 provide increased benefits determined on the basis of actuarial
27 value;

1 (7) does not require the payment of benefits to an
2 alternate payee which are required to be paid to another alternate
3 payee under another order previously determined to be a qualified
4 domestic relations order; and

5 (8) does not require the payment of benefits to an
6 alternate payee before the retirement of a member, the distribution
7 of a withdrawal of contributions to a member, or other distribution
8 to a member required by law.

9 (g) A public retirement system may reject a domestic
10 relations order as a qualified domestic relations order unless the
11 order:

12 (1) provides for a proportional reduction of the
13 amount awarded to an alternate payee in the event of the retirement
14 of the member before normal retirement age;

15 (2) does not purport to require the designation of a
16 particular person as the recipient of benefits in the event of a
17 member's or annuitant's death;

18 (3) does not purport to require the selection of a
19 particular benefit payment plan or option;

20 (4) provides clearly for each possible benefit
21 distribution under plan provisions;

22 (5) does not require any action on the part of the
23 retirement system contrary to its governing statutes or plan
24 provision other than the direct payment of the benefit awarded to an
25 alternate payee;

26 (6) does not make the award of an interest contingent
27 on any condition other than those conditions resulting in the

1 liability of a retirement system for payments under its plan
2 provisions;

3 (7) does not purport to award any future benefit
4 increases that are provided or required by the legislature; ~~and~~

5 (8) provides for a proportional reduction of the
6 amount awarded to an alternate payee in the event that benefits
7 available to the retiree or member are reduced by law; and

8 (9) if required by the retirement system, conforms to
9 a model order adopted by the retirement system.

10 (p) A public retirement system may assess administrative
11 fees on a party who is subject to a domestic relations order for the
12 review of the order under this subchapter and, as applicable, for
13 the administration of payments under an order that is determined to
14 be qualified. In addition to other methods of collecting fees that
15 a retirement system may establish, the retirement system may deduct
16 fees from payments made under the order.

17 SECTION 6. Section 821.008, Government Code, is amended to
18 read as follows:

19 Sec. 821.008. PURPOSE OF RETIREMENT SYSTEM. (a) The
20 purpose of the retirement system is to invest and protect funds of
21 the retirement system and to deliver the benefits provided by
22 statute, not to advocate or influence legislative action or
23 inaction or to advocate higher benefits.

24 (b) This section does not prohibit comments by an employee
25 of the retirement system on federal laws, regulations, or other
26 official actions or proposed actions affecting or potentially
27 affecting the retirement system that are made in accordance with

1 policies adopted by the board.

2 SECTION 7. Section 823.002, Government Code, is amended by
3 adding Subsection (b) to read as follows:

4 (b) A member shall notify the retirement system in writing
5 of membership service that has not been properly credited by the
6 retirement system on an annual statement. The member must provide
7 verification and make deposits as required by the retirement system
8 before the service may be credited. A member must notify the
9 retirement system of the service in writing on or before the last
10 day of the fifth school year after the end of the school year in
11 which the service was rendered for the service to be credited.

12 SECTION 8. Subchapter A, Chapter 824, Government Code, is
13 amended by adding Section 824.008 to read as follows:

14 Sec. 824.008. DEDUCTIONS FROM AMOUNTS PAYABLE BY THE
15 RETIREMENT SYSTEM. (a) Notwithstanding Section 821.005, the
16 retirement system may deduct the amount of a person's indebtedness
17 to the retirement system from an amount payable by the retirement
18 system to the person or the person's estate and the distributees of
19 the estate.

20 (b) If the retirement system makes a payment to a
21 participant who is deceased and the payment is not payable, the
22 retirement system may deduct the amount of the payment from any
23 amount payable by the retirement system to a person who received the
24 payment or to that person's estate and distributees of the estate.

25 SECTION 9. Section 824.1013, Government Code, is amended by
26 adding Subsection (c-1) to read as follows:

27 (c-1) Notwithstanding Subsection (c), a beneficiary

1 designated under this section is entitled on the retiree's death to
2 receive monthly payments of the survivor's portion of the retiree's
3 optional retirement annuity for the remainder of the beneficiary's
4 life if the beneficiary designated at the time of the retiree's
5 retirement is a trust and the beneficiary designated under this
6 section is the sole beneficiary of that trust.

7 SECTION 10. Section 824.103(a), Government Code, is amended
8 to read as follows:

9 (a) Benefits payable on the death of a member or annuitant,
10 except an optional retirement annuity under Section 824.204(c)(1),
11 (c)(2), or (c)(5), are payable, and rights to elect survivor
12 benefits, if applicable, are available, to one of the classes of
13 persons described in Subsection (b), if:

14 (1) the member or annuitant fails to designate a
15 beneficiary before death;

16 (2) a designated beneficiary does not survive the
17 member or annuitant; ~~or~~

18 (3) a designated beneficiary, under Section 824.004,
19 waives claims to benefits payable on the death of the member or
20 annuitant;

21 (4) a beneficiary designation is revoked under Section
22 824.101(g); or

23 (5) a person is not eligible to receive a benefit under
24 Section 824.105.

25 SECTION 11. Section 824.105, Government Code, is amended by
26 amending Subsections (a), (c), and (d) and adding Subsection (f) to
27 read as follows:

1 (a) A benefit payable on the death of a member or annuitant
2 may not be paid to a person who has been convicted of causing that
3 death or who is otherwise ineligible under Subsection (f) but
4 instead is payable to a person who would be entitled to the benefit
5 had the convicted or otherwise ineligible person predeceased the
6 decedent.

7 (c) The retirement system shall reduce any annuity computed
8 in part on the age of the convicted or otherwise ineligible person
9 to a lump sum equal to the present value of the remainder of the
10 annuity. The reduced amount is payable to a person entitled as
11 provided by this section to receive the benefit.

12 (d) The retirement system is not required to pay benefits
13 under this section unless it receives actual notice of the
14 conviction or other ground of ineligibility of a beneficiary.
15 However, the retirement system may delay payment of a benefit
16 payable on the death of a member or annuitant pending the results of
17 a criminal investigation and of legal proceedings relating to the
18 cause of death.

19 (f) A person is ineligible to receive a benefit payable on
20 the death of a member or annuitant if the person is:

21 (1) found not guilty by reason of insanity under
22 Chapter 46C, Code of Criminal Procedure, of causing the death of the
23 member or annuitant; or

24 (2) the subject of an indictment, information,
25 complaint, or other charging instrument alleging that the person
26 caused the death of the member or annuitant, and the person is
27 determined to be incompetent to stand trial under Chapter 46B, Code

1 of Criminal Procedure.

2 SECTION 12. Sections 824.202(a-1) and (b-1), Government
3 Code, are amended to read as follows:

4 (a-1) This subsection applies only to a person who becomes a
5 member of the retirement system on or after September 1, 2007
6 [~~2006~~]. A member subject to this subsection is eligible to retire
7 and receive a standard service retirement annuity if:

8 (1) the member is at least 65 years old and has at
9 least five years of service credit in the retirement system; or

10 (2) the member is at least 60 years old and has at
11 least five years of service credit in the retirement system and the
12 sum of the member's age and amount of service credit in the
13 retirement system equals the number 80.

14 (b-1) This subsection applies only to a person who becomes a
15 member of the retirement system on or after September 1, 2007
16 [~~2006~~]. If a member subject to this subsection is at least 55 years
17 old and has at least five years of service credit in the retirement
18 system, but does not meet the requirements under Subsection (d-1),
19 the member is eligible to retire and receive a service retirement
20 annuity reduced from the standard service retirement annuity
21 available under Subsection (a-1)(1), to a percentage derived from
22 the following table:

23 Age at date of	55	56	57	58	59	60	61	62	63	64	65
24 retirement											
25 Percentage of	47%	51%	55%	59%	63%	67%	73%	80%	87%	93%	100%
26 standard annuity											
27 receivable											

1 SECTION 13. Section 824.405, Government Code, is amended to
2 read as follows:

3 Sec. 824.405. TABLES FOR DETERMINATION OF DEATH BENEFIT
4 ANNUITY. For the purpose of computing a death benefit annuity under
5 Section 824.402(a)(4) or Section 824.403, the board of trustees
6 shall extend the tables[+

7 [~~(1)~~] in Section 824.202 [~~824.202(b) or (b-1)~~], as
8 ~~applicable,~~ to ages earlier than indicated in the tables [~~55~~
9 ~~years~~] by actuarially reducing the benefit available under the
10 applicable table [~~at the age of 55 years~~] to the actuarial
11 equivalent at the attained age of the member [~~beneficiary, and~~

12 [~~(2) in Section 824.202(b) or (d-1), as applicable, to~~
13 ~~ages earlier than the earliest retirement age by actuarially~~
14 ~~reducing the benefit available at the earliest retirement age to~~
15 ~~the actuarial equivalent at the attained age of the beneficiary]~~.

16 SECTION 14. Section 825.002, Government Code, is amended by
17 amending Subsections (f) and (g) and adding Subsection (h) to read
18 as follows:

19 (f) Persons considered for nomination under Subsection (c),
20 (d), or (e) must have been nominated [~~by written ballot~~] at an
21 election conducted under rules adopted by the board of trustees.

22 (g) To provide for the nomination of persons for appointment
23 under Subsection (d), the board shall send to each retiree of the
24 retirement system:

25 (1) notice of the deadline for filing as a candidate
26 for nomination;

27 (2) information on procedures to follow in filing as a

1 candidate; and

2 (3) instructions on how to request a paper ballot or
3 vote in another manner established by the board, including by
4 telephone or other electronic means [~~a written ballot~~].

5 (h) If only two persons are nominated under Subsection (c),
6 (d), or (e), the governor shall appoint a member of the board to the
7 applicable trustee position from the slate of two nominated
8 persons. If only one person is nominated under Subsection (c), (d),
9 or (e), the governor shall appoint that person to the applicable
10 trustee position. If no member or retiree is nominated for a
11 position under Subsection (c), (d), or (e), the governor shall
12 appoint to the applicable trustee position a person who otherwise
13 meets the qualifications required for the position.

14 SECTION 15. Section 825.206(c), Government Code, is amended
15 to read as follows:

16 (c) The board of trustees annually shall evaluate the
17 performance of the actuary during the previous year. At least once
18 every four [~~three~~] years, the board shall redesignate its actuary
19 after advertising for and reviewing proposals from providers of
20 actuarial services.

21 SECTION 16. Section 825.215, Government Code, is amended to
22 read as follows:

23 Sec. 825.215. ADVOCACY PROHIBITED. (a) An employee of the
24 retirement system may not advocate increased benefits or engage in
25 activities to advocate or influence legislative action or inaction.
26 Advocacy or activity of this nature is grounds for dismissal of an
27 employee.

1 (b) This section does not prohibit comments by an employee
2 of the retirement system on federal laws, regulations, or other
3 official actions or proposed actions affecting or potentially
4 affecting the retirement system that are made in accordance with
5 policies adopted by the board.

6 SECTION 17. Section 825.315, Government Code, is amended to
7 read as follows:

8 Sec. 825.315. PROHIBITED USE OF ASSETS. (a) Assets of the
9 retirement system may not be used to advocate or influence the
10 outcome of an election or the passage or defeat of any legislative
11 measure. This prohibition may not be construed to prevent any
12 trustee or employee from furnishing information in the hands of the
13 trustee or employee that is not considered confidential under law
14 to a member or committee of the legislature, to any other state
15 officer or employee, or to any private citizen, at the request of
16 the person or entity to whom the information is furnished. This
17 prohibition does not apply to the incidental use of retirement
18 system facilities by groups of members or retirees or by officers or
19 employees of state agencies.

20 (b) This section does not prohibit the use of system assets
21 by an employee of the retirement system to comment on federal laws,
22 regulations, or other official actions or proposed actions
23 affecting or potentially affecting the retirement system that are
24 made in accordance with policies adopted by the board.

25 SECTION 18. Section 825.408, Government Code, is amended to
26 read as follows:

27 Sec. 825.408. INTEREST ON CONTRIBUTIONS AND FEES; DEPOSITS

1 IN TRUST. (a) An employer [~~employing district~~] that fails to
2 remit, before the seventh day after the last day of a month, all
3 member and employer deposits and documentation of the deposits
4 required by this subchapter to be remitted by the employer
5 [~~district~~] for the month shall pay to the retirement system, in
6 addition to the deposits, interest on the unpaid or undocumented
7 amounts at an annual rate compounded monthly. The rate of interest
8 is the rate established under Section 825.313(b)(1), plus two
9 percent. Interest required under this section is creditable to the
10 interest account. On request, the retirement system may grant a
11 waiver of the deadline imposed by this subsection based on an
12 employer's [~~a district's~~] financial or technological resources.

13 (b) An employer [~~employing district~~] and its trustees or
14 other governing body hold amounts due to the retirement system
15 under this subtitle in trust for the retirement system and its
16 members and may not divert the amounts to any other purpose.

17 SECTION 19. A member of the Teacher Retirement System of
18 Texas who seeks credit under Section 823.002(b), Government Code,
19 as added by this Act, for service rendered before September 1, 2011,
20 but not properly credited to a member's annual statement, must
21 notify the retirement system not later than the date specified in
22 Section 823.002(b), Government Code, as added by this Act, or
23 August 31, 2016, whichever is later.

24 SECTION 20. (a) The change in law made by this Act to
25 Section 804.003, Government Code, applies only to a qualified
26 domestic relations order entered on or after the effective date of
27 this Act. A qualified domestic relations order entered before the

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

4 (b) The changes in law made by this Act to Section 824.105,
5 Government Code, apply only to the death of a member or annuitant
6 that is caused by conduct that occurs on or after the effective date
7 of this Act. The death of a member or annuitant that is caused by
8 conduct that occurs before the effective date of this Act is
9 governed by the law in effect immediately before that date, and the
10 former law is continued in effect for that purpose.

11 (c) The change in law made by this Act to Section 825.002,
12 Government Code, applies only to a vacancy on the board of trustees
13 of the Teacher Retirement System of Texas for a term that expires on
14 or after the effective date of this Act. A vacancy for a term that
15 expires before the effective date of this Act is governed by the law
16 in effect immediately before that date, and that law is continued in
17 effect for that purpose.

18 SECTION 21. This Act takes effect September 1, 2011.