

By: Duncan
(Truitt)

S.B. No. 1668

A BILL TO BE ENTITLED

AN ACT

relating to purchase of service credit in the Teacher Retirement System of Texas.

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

SECTION 1. The heading to Section 823.304, Government Code, is amended to read as follows:

Sec. 823.304. USERRA [~~REEMPLOYED VETERAN'S~~] CREDIT.

SECTION 2. Subsections (a), (c), and (d), Section 823.304, Government Code, are amended to read as follows:

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

(c) A person may establish credit under this section by depositing with the retirement system for each year of service claimed an amount equal to[+]

[~~(1)~~] the member contributions to the retirement system, as determined by the retirement system, that the person would have made had the person continued to be employed in the person's former position covered by the retirement system during

1 the entire period of active duty in the armed forces for which the
2 person is to receive retirement credit[, and

3 ~~[(2) a fee of five percent, compounded annually, of~~
4 ~~the required contribution from the date of the person's first~~
5 ~~eligibility to establish the credit to the date of deposit].~~

6 (d) To the extent required by the Uniformed Services
7 Employment and [Veteran's] Reemployment Rights Act of 1994 and
8 permitted by Sections 401(a) and 415 of the Internal Revenue Code of
9 1986 (26 U.S.C. Sections 401 and 415), the retirement system may:

10 (1) grant the person service credit for the period of
11 active duty in the armed forces as if the person had been employed
12 in a position eligible for membership and credit with the
13 retirement system if the person establishes credit by making the
14 required deposits, or, if the person has not made the required
15 deposits, consider the period of active duty for the purpose of
16 determining whether the person meets the length-of-service
17 eligibility requirements for retirement or other benefits
18 administered by the retirement system as if the person had
19 established the credit; and

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

25 SECTION 3. Subsection (c), Section 823.401, Government
26 Code, is amended to read as follows:

27 (c) A member eligible to establish credit under this section

1 is one who has at least five years of service credit in the
2 retirement system for actual service in public schools, including
3 at least one year completed after the relevant out-of-state
4 service.

5 SECTION 4. Subsections (c), (d), and (e), Section 823.402,
6 Government Code, are amended to read as follows:

7 (c) A member eligible to establish credit under this section
8 is one who:

9 (1) has at least five years of service credited
10 [credit] in the retirement system before the developmental leave
11 occurs; [and]

12 (2) has, [is an employee of a public school] at the
13 time the required deposits for the credit are paid, at least one
14 year of membership service credit in the retirement system
15 following the developmental leave; and

16 (3) has at least five years of service credited in the
17 retirement system at the time the required deposits for the credit
18 are paid [is sought].

19 (d) On or before the date a member takes developmental
20 leave, the member must ~~[shall]~~ file with the retirement system a
21 notice of intent to take developmental leave, and the member's
22 employer must ~~[shall]~~ file with the retirement system a
23 certification that the leave meets the requirements of Subsection
24 (b). The notice of intent and the certification must be in the form
25 required by the retirement system. Leave is not creditable in the
26 retirement system if the member does not submit notice of intent and
27 obtain the certification required by this subsection.

1 (e) A member may establish credit under this section by
2 depositing with the retirement system for each year of
3 developmental leave certified the actuarial present value, at the
4 time of deposit, of the additional standard retirement annuity
5 benefits that would be attributable to the purchase of the service
6 credit under this section, based on rates and tables recommended by
7 the retirement system's actuary and adopted by the board of
8 trustees [~~claimed an amount equal to the sum of:~~

9 [(1) ~~the rate of member contributions required during~~
10 ~~the year of leave, times the member's annual rate of compensation~~
11 ~~during the member's most recent year of creditable service that~~
12 ~~preceded the year of leave; plus~~

13 [(2) ~~the amount that the state would have contributed~~
14 ~~had the member performed membership service during the year of~~
15 ~~leave at the member's annual rate of compensation during the most~~
16 ~~recent year of service that preceded the leave].~~

17 SECTION 5. Subsection (c), Section 823.501, Government
18 Code, is amended to read as follows:

19 (c) A member may reinstate canceled credit under this
20 section by depositing with the retirement system:

21 (1) the amount withdrawn or refunded; plus

22 (2) a reinstatement fee of eight [~~six~~] percent,
23 compounded annually, of the amount withdrawn or refunded from the
24 date of withdrawal or refund to the date of redeposit.

25 SECTION 6. Subsections (h) and (j), Section 825.403,
26 Government Code, are amended to read as follows:

27 (h) If deductions were previously required but not paid, the

1 retirement system may not provide benefits based on the service or
2 compensation unless the deposits required by this section have been
3 fully paid. The person's employer at the time the unreported
4 service was rendered or compensation was paid must verify the
5 service or compensation as required by Subsection (j) and the
6 person must submit the verification to the retirement system not
7 later than five years after ~~[member shall pay the amount of those~~
8 ~~deductions plus a fee computed at a rate of five percent a year on~~
9 ~~the unpaid amount from]~~ the end of the school year in which the
10 service was rendered or compensation was paid. To establish the
11 service or compensation credit, the person must deposit with the
12 retirement system the actuarial present value, at the time of
13 deposit, of the additional standard retirement annuity benefits
14 that would be attributable to the purchase of service or
15 compensation credit under this section, based on rates and tables
16 recommended by the retirement system's actuary and adopted by the
17 board of trustees ~~[deductions first became due or the end of the~~
18 ~~1974-75 school year, whichever is later, to the date of payment].~~

19 The board of trustees shall:

20 (1) prescribe terms for payments under this
21 subsection; and

22 (2) credit the person ~~[member]~~ for prior service to
23 which the person ~~[member]~~ is entitled under this subtitle~~[, and~~

24 ~~[(3) deposit the fee required by this subsection in~~
25 ~~the state contribution account].~~

26 (j) If deductions were previously required ~~[of a member]~~ but
27 not paid, proof of service satisfactory to the retirement system

1 must be made before service credit is granted or payment for the
2 credit is required. Proof of service is sufficient if the person's
3 ~~[member's]~~ employer documents that the employer has records made at
4 or near the time of service that establish the amount of time worked
5 and salary earned. ~~[A member may submit in lieu of employer~~
6 ~~documentation internal revenue, social security, bank, or other~~
7 ~~written records that were made at or near the time of service and~~
8 ~~that establish the amount of time worked and salary earned.]~~ An
9 affidavit based on memory without written records made at or near
10 the time of service is not sufficient documentation for the
11 establishment of service credit. The retirement system may audit
12 records used for documentation under this subsection. A person who
13 does not obtain proof of service as required by this section may not
14 establish the service or compensation credit.

15 SECTION 7. (a) The following sections of the Government
16 Code are repealed:

- 17 (1) Subsection (i), Section 823.401;
18 (2) Subsections (g) and (h), Section 823.402; and
19 (3) Subsection (e), Section 823.501.

20 (b) Section 57, Chapter 1359 (S.B. 1691), Acts of the 79th
21 Legislature, Regular Session, 2005, is repealed.

22 SECTION 8. Subsections (d) and (e), Section 823.401,
23 Government Code, as amended by Section 10, Chapter 1359 (S.B.
24 1691), Acts of the 79th Legislature, Regular Session, effective
25 September 1, 2005, apply to a person who was a member of the Teacher
26 Retirement System of Texas on December 31, 2005, and to
27 out-of-state service performed before January 1, 2006,

1 notwithstanding Section 57 of that Act.

2 SECTION 9. For unreported service rendered or unreported
3 compensation paid before the effective date of this Act, the
4 verification required under Subsection (h), Section 825.403,
5 Government Code, as amended by this Act, must be received by the
6 Teacher Retirement System of Texas not later than August 31, 2016.

7 SECTION 10. (a) Notwithstanding the service credit cost
8 provisions of Section 8 of this Act and Subsection (e), Section
9 823.402, Subdivision (2), Subsection (c), Section 823.501, and
10 Subsection (h), Section 825.403, Government Code, as amended by
11 this Act, a person may establish service credit by paying the
12 deposits and fees required under Sections 823.402, 823.501, and
13 825.403, Government Code, and by Section 57, Chapter 1359 (S.B.
14 1691), Acts of the 79th Legislature, Regular Session, 2005, as
15 those sections existed before amendment or repeal by this Act, if:

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

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

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

24 (b) If a person has an installment agreement under
25 Subsection (a) of this section that is terminated after August 31,
26 2013, before the person has made all of the payments, the person may
27 establish credit only as provided by Sections 823.402, 823.501, and

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1 825.403, Government Code, as amended by this Act, and by Section 8
2 of this Act.

3 SECTION 11. This Act takes effect September 1, 2011.