

1-1 By: Duncan S.B. No. 1668
1-2 (In the Senate - Filed March 11, 2011; March 23, 2011, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 21, 2011, reported favorably by the following vote: Yeas 9,
1-5 Nays 0; April 21, 2011, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to purchase of service credit in the Teacher Retirement
1-9 System of Texas.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. The heading to Section 823.304, Government Code,
1-12 is amended to read as follows:

1-13 Sec. 823.304. USERRA [REEMPLOYED VETERAN'S] CREDIT.

1-14 SECTION 2. Subsections (a), (c), and (d), Section 823.304,
1-15 Government Code, are amended to read as follows:

1-16 (a) A person eligible to establish USERRA [reemployed
1-17 veteran's] credit is one who qualifies under the Uniformed Services
1-18 Employment and [Veteran's] Reemployment Rights Act of 1994, 38
1-19 U.S.C. Section 4301 [2021] et seq., for the benefits of
1-20 reemployment in a position included within the membership of the
1-21 retirement system and who is entitled under that Act to additional
1-22 credit and benefits from the retirement system because of the
1-23 person's active duty in the armed forces of the United States.

1-24 (c) A person may establish credit under this section by
1-25 depositing with the retirement system for each year of service
1-26 claimed an amount equal to~~+~~

1-27 [~~(1)~~] the member contributions to the retirement
1-28 system, as determined by the retirement system, that the person
1-29 would have made had the person continued to be employed in the
1-30 person's former position covered by the retirement system during
1-31 the entire period of active duty in the armed forces for which the
1-32 person is to receive retirement credit~~+, and~~

1-33 [~~(2)~~ ~~a fee of five percent, compounded annually, of~~
1-34 ~~the required contribution from the date of the person's first~~
1-35 ~~eligibility to establish the credit to the date of deposit].~~

1-36 (d) To the extent required by the Uniformed Services
1-37 Employment and [Veteran's] Reemployment Rights Act of 1994 and
1-38 permitted by Sections 401(a) and 415 of the Internal Revenue Code of
1-39 1986 (26 U.S.C. Sections 401 and 415), the retirement system may:

1-40 (1) grant the person service credit for the period of
1-41 active duty in the armed forces as if the person had been employed
1-42 in a position eligible for membership and credit with the
1-43 retirement system if the person establishes credit by making the
1-44 required deposits, or, if the person has not made the required
1-45 deposits, consider the period of active duty for the purpose of
1-46 determining whether the person meets the length-of-service
1-47 eligibility requirements for retirement or other benefits
1-48 administered by the retirement system as if the person had
1-49 established the credit; and

1-50 (2) include in relevant benefit computations under
1-51 this subtitle the annual compensation, as determined by the
1-52 retirement system, that would have been otherwise received by the
1-53 person for service covered by the retirement system during any year
1-54 in which the person had active duty in the armed forces.

1-55 SECTION 3. Subsection (c), Section 823.401, Government
1-56 Code, is amended to read as follows:

1-57 (c) A member eligible to establish credit under this section
1-58 is one who has at least five years of service credit in the
1-59 retirement system for actual service in public schools, including
1-60 at least one year completed after the relevant out-of-state
1-61 service.

1-62 SECTION 4. Subsections (c), (d), and (e), Section 823.402,
1-63 Government Code, are amended to read as follows:

1-64 (c) A member eligible to establish credit under this section

2-1 is one who:

2-2 (1) has at least five years of service credited
2-3 [~~credit~~] in the retirement system before the developmental leave
2-4 occurs; and

2-5 (2) has, [is an employee of a public school] at the
2-6 time the required deposits for the credit are paid, at least one
2-7 year of membership service credit in the retirement system
2-8 following the developmental leave; and

2-9 (3) has at least five years of service credited in the
2-10 retirement system at the time the required deposits for the credit
2-11 are paid [is sought].

2-12 (d) On or before the date a member takes developmental
2-13 leave, the member must [~~shall~~] file with the retirement system a
2-14 notice of intent to take developmental leave, and the member's
2-15 employer must [~~shall~~] file with the retirement system a
2-16 certification that the leave meets the requirements of Subsection
2-17 (b). The notice of intent and the certification must be in the form
2-18 required by the retirement system. Leave is not creditable in the
2-19 retirement system if the member does not submit notice of intent and
2-20 obtain the certification required by this subsection.

2-21 (e) A member may establish credit under this section by
2-22 depositing with the retirement system for each year of
2-23 developmental leave certified the actuarial present value, at the
2-24 time of deposit, of the additional standard retirement annuity
2-25 benefits that would be attributable to the purchase of the service
2-26 credit under this section, based on rates and tables recommended by
2-27 the retirement system's actuary and adopted by the board of
2-28 trustees [elaimed an amount equal to the sum of:

2-29 [~~(1) the rate of member contributions required during~~
2-30 ~~the year of leave, times the member's annual rate of compensation~~
2-31 ~~during the member's most recent year of creditable service that~~
2-32 ~~preceded the year of leave; plus~~

2-33 [~~(2) the amount that the state would have contributed~~
2-34 ~~had the member performed membership service during the year of~~
2-35 ~~leave at the member's annual rate of compensation during the most~~
2-36 ~~recent year of service that preceded the leave].~~

2-37 SECTION 5. Subsection (c), Section 823.501, Government
2-38 Code, is amended to read as follows:

2-39 (c) A member may reinstate canceled credit under this
2-40 section by depositing with the retirement system:

2-41 (1) the amount withdrawn or refunded; plus

2-42 (2) a reinstatement fee of eight [~~six~~] percent,
2-43 compounded annually, of the amount withdrawn or refunded from the
2-44 date of withdrawal or refund to the date of redeposit.

2-45 SECTION 6. Subsections (h) and (j), Section 825.403,
2-46 Government Code, are amended to read as follows:

2-47 (h) If deductions were previously required but not paid, the
2-48 retirement system may not provide benefits based on the service or
2-49 compensation unless the deposits required by this section have been
2-50 fully paid. The person's employer at the time the unreported
2-51 service was rendered or compensation was paid must verify the
2-52 service or compensation as required by Subsection (j) and the
2-53 person must submit the verification to the retirement system not
2-54 later than five years after [member shall pay the amount of those
2-55 deductions plus a fee computed at a rate of five percent a year on
2-56 the unpaid amount from] the end of the school year in which the
2-57 service was rendered or compensation was paid. To establish the
2-58 service or compensation credit, the person must deposit with the
2-59 retirement system the actuarial present value, at the time of
2-60 deposit, of the additional standard retirement annuity benefits
2-61 that would be attributable to the purchase of service or
2-62 compensation credit under this section, based on rates and tables
2-63 recommended by the retirement system's actuary and adopted by the
2-64 board of trustees [deductions first became due or the end of the
2-65 1974-75 school year, whichever is later, to the date of payment].
2-66 The board of trustees shall:

2-67 (1) prescribe terms for payments under this
2-68 subsection; and

2-69 (2) credit the person [~~member~~] for prior service to

3-1 which the person [~~member~~] is entitled under this subtitle[, ~~and~~
 3-2 ~~[(3) deposit the fee required by this subsection in~~
 3-3 ~~the state contribution account].~~

3-4 (j) If deductions were previously required [~~of a member~~] but
 3-5 not paid, proof of service satisfactory to the retirement system
 3-6 must be made before service credit is granted or payment for the
 3-7 credit is required. Proof of service is sufficient if the person's
 3-8 [~~member's~~] employer documents that the employer has records made at
 3-9 or near the time of service that establish the amount of time worked
 3-10 and salary earned. [~~A member may submit in lieu of employer~~
 3-11 ~~documentation internal revenue, social security, bank, or other~~
 3-12 ~~written records that were made at or near the time of service and~~
 3-13 ~~that establish the amount of time worked and salary earned.] An~~
 3-14 affidavit based on memory without written records made at or near
 3-15 the time of service is not sufficient documentation for the
 3-16 establishment of service credit. The retirement system may audit
 3-17 records used for documentation under this subsection. A person who
 3-18 does not obtain proof of service as required by this section may not
 3-19 establish the service or compensation credit.

3-20 SECTION 7. (a) The following sections of the Government
 3-21 Code are repealed:

- 3-22 (1) Subsection (i), Section 823.401;
- 3-23 (2) Subsections (g) and (h), Section 823.402; and
- 3-24 (3) Subsection (e), Section 823.501.

3-25 (b) Section 57, Chapter 1359 (S.B. 1691), Acts of the 79th
 3-26 Legislature, Regular Session, 2005, is repealed.

3-27 SECTION 8. Subsections (d) and (e), Section 823.401,
 3-28 Government Code, as amended by Section 10, Chapter 1359 (S.B.
 3-29 1691), Acts of the 79th Legislature, Regular Session, effective
 3-30 September 1, 2005, apply to a person who was a member of the Teacher
 3-31 Retirement System of Texas on December 31, 2005, and to
 3-32 out-of-state service performed before January 1, 2006,
 3-33 notwithstanding Section 57 of that Act.

3-34 SECTION 9. For unreported service rendered or unreported
 3-35 compensation paid before the effective date of this Act, the
 3-36 verification required under Subsection (h), Section 825.403,
 3-37 Government Code, as amended by this Act, must be received by the
 3-38 Teacher Retirement System of Texas not later than August 31, 2016.

3-39 SECTION 10. (a) Notwithstanding the service credit cost
 3-40 provisions of Section 8 of this Act and Subsection (e), Section
 3-41 823.402, Subdivision (2), Subsection (c), Section 823.501, and
 3-42 Subsection (h), Section 825.403, Government Code, as amended by
 3-43 this Act, a person may establish service credit by paying the
 3-44 deposits and fees required under Sections 823.402, 823.501, and
 3-45 825.403, Government Code, and by Section 57, Chapter 1359 (S.B.
 3-46 1691), Acts of the 79th Legislature, Regular Session, 2005, as
 3-47 those sections existed before amendment or repeal by this Act, if:

- 3-48 (1) the person otherwise meets all eligibility
 3-49 requirements under those sections as amended by this Act;
- 3-50 (2) the service for which credit is sought to be
 3-51 established was rendered, or the compensation for which credit is
 3-52 sought was paid, before the effective date of this Act; and
- 3-53 (3) the person makes payment for the service credit,
 3-54 or enters into an installment agreement for payment, not later than
 3-55 August 31, 2013.

3-56 (b) If a person has an installment agreement under
 3-57 Subsection (a) of this section that is terminated after August 31,
 3-58 2013, before the person has made all of the payments, the person may
 3-59 establish credit only as provided by Sections 823.402, 823.501, and
 3-60 825.403, Government Code, as amended by this Act, and by Section 8
 3-61 of this Act.

3-62 SECTION 11. This Act takes effect September 1, 2011.

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