

By: Callegari

H.B. No. 3357

Substitute the following for H.B. No. 3357:

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C.S.H.B. No. 3357

A BILL TO BE ENTITLED

AN ACT

relating to the administration of and benefits payable by the
Teacher Retirement System of Texas.

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

SECTION 1. Sections 551.130(e) and (j), Government Code,
are amended to read as follows:

(e) The location where a quorum is physically present must
be open to the public during the open portions of a telephone
conference call meeting. The open portions of the meeting must be
audible to the public at the location where the quorum is present
and be recorded [~~tape-recorded~~] at that location. The [~~tape~~]
recording shall be made available to the public.

(j) A person who is not a member of the board may [~~not~~] speak
at the meeting from a remote location by telephone conference
call[~~, except as provided by Section 551.129~~].

SECTION 2. The heading to Section 824.1012, Government
Code, is amended to read as follows:

Sec. 824.1012. POST-RETIREMENT CHANGE IN RETIREMENT
PAYMENT PLAN [~~REVOCATION OF BENEFICIARY DESIGNATION~~] FOR CERTAIN
RETIREMENT BENEFIT OPTIONS.

SECTION 3. Sections 824.1012(a) and (b), Government Code,
are amended to read as follows:

(a) As an exception to Section 824.101(c), a retiree who
selected an optional service retirement annuity under Section

1 824.204(c)(1), (c)(2), or (c)(5) or an optional disability
2 retirement annuity under Section 824.308(c)(1), (c)(2), or (c)(5)
3 and who has received at least one payment under the plan selected
4 may change the optional annuity selection made by the retiree to a
5 standard service or disability retirement annuity as provided for
6 in this section. If the beneficiary is the spouse or former spouse
7 of the retiree, the beneficiary must sign a notarized consent to the
8 change, or [~~may revoke the designation of the beneficiary to~~
9 ~~receive the annuity on the death of the retiree, if]~~ a court in a
10 divorce proceeding involving the retiree and beneficiary must
11 approve or order the change [~~approves or orders the revocation~~] in
12 the divorce decree or acceptance of a property settlement [~~or if the~~
13 ~~beneficiary is the spouse, a former spouse, or an adult child of the~~
14 ~~retiree and signs a notarized consent to the revocation~~]. The
15 change in plan selection [~~revocation~~] takes effect when the
16 retirement system receives it.

17 (b) A change [~~revocation~~] described by Subsection (a)
18 cancels the optional annuity selection made by the retiree,
19 effective with the beginning of payments of the annuity as
20 recomputed under this subsection. The retiree is entitled to
21 receive payments of a standard service or disability retirement
22 annuity, as applicable, reduced for early retirement, if
23 applicable, beginning with the payment for the month after the
24 month in which the retirement system receives the notice of change
25 [~~revocation~~] and ending on the death of the retiree. The change
26 also cancels the designation of beneficiary with respect to the
27 optional annuity benefit but does not cancel a designation with

1 respect to any other benefit payable by the retirement system on the
2 death of the retiree.

3 SECTION 4. Section 824.1013(b), Government Code, is amended
4 to read as follows:

5 (b) If the beneficiary designated at the time of the
6 retiree's retirement is the spouse [~~or former spouse~~] of the
7 retiree at the time of the designation:

8 (1) the spouse [~~or former spouse~~] must give written,
9 notarized consent to the change; [~~or~~]

10 (2) if the parties divorce after the designation, the
11 former spouse who was designated beneficiary must give written,
12 notarized consent to the change; or

13 (3) a court with jurisdiction over the marriage must
14 have ordered the change.

15 SECTION 5. Sections 825.002(c), (e), and (e-1), Government
16 Code, are amended to read as follows:

17 (c) The governor shall appoint two members of the board from
18 a slate of three members of the retirement system who are currently
19 employed by a public school district, charter school, or regional
20 education service center and who have been nominated in accordance
21 with Subsection (f) by the members of the retirement system whose
22 most recent credited service was performed for a public school
23 district, charter school, or regional education service center.
24 The two members hold office for staggered terms.

25 (e) The governor shall appoint one member of the board from
26 a slate of three persons who have been nominated in accordance with
27 Subsection (f) by the following groups collectively:

1 (1) members of the retirement system whose most recent
2 credited service was performed for an institution of higher
3 education;

4 (2) members of the retirement system whose most recent
5 credited service was performed for a public school district,
6 charter school, or regional education service center; and

7 (3) persons who have retired and are receiving
8 benefits from the retirement system.

9 (e-1) A person may be nominated for appointment to the board
10 under Subsection (e) if the person is:

11 (1) a member of the retirement system who is currently
12 employed by an institution of higher education;

13 (2) a member of the retirement system who is currently
14 employed by a public school district, charter school, or regional
15 education service center; or

16 (3) a former member of the retirement system who has
17 retired and is receiving benefits from the system.

18 SECTION 6. Section 825.103, Government Code, is amended by
19 adding Subsection (h) to read as follows:

20 (h) The board of trustees may accept on behalf of the
21 retirement system gifts of money, services, or other property from
22 any public or private source.

23 SECTION 7. Section 825.115, Government Code, is amended by
24 adding Subsections (d) and (e) to read as follows:

25 (d) The board of trustees or its audit committee may conduct
26 a closed meeting in accordance with Subchapter E, Chapter 551, with
27 the retirement system's internal or external auditors to discuss:

1 (1) governance, risk management or internal control
2 weaknesses, known or suspected compliance violations or fraud,
3 status of regulatory reviews or investigations, or identification
4 of potential fraud risk areas and audits for the annual internal
5 audit plan; or

6 (2) the auditors' ability to perform duties in
7 accordance with the Internal Audit Charter, relevant auditing
8 standards, and Chapter 2102.

9 (e) The board of trustees may conduct a closed meeting in
10 accordance with Subchapter E, Chapter 551, to deliberate or confer
11 with one or more employees, consultants, or legal counsel of the
12 retirement system or a third party regarding a procurement to be
13 awarded by the board of trustees if, before conducting the closed
14 meeting, a majority of the trustees in an open meeting vote that
15 deliberating or conferring in an open meeting would have a
16 detrimental effect on the position of the retirement system in
17 negotiations with a third person. The board of trustees is required
18 to vote or take final action on the procurement in an open meeting.

19 SECTION 8. Section 825.204, Government Code, is amended by
20 adding Subsection (d) to read as follows:

21 (d) The medical board is not subject to subpoena regarding
22 findings it makes in assisting the executive director or board of
23 trustees under this section, and its members may not be held liable
24 for any opinions, conclusions, or recommendations made under this
25 section.

26 SECTION 9. Sections 825.212(a), (b), and (c), Government
27 Code, are amended to read as follows:

1 (a) The [~~In addition to any other requirements provided by~~
2 ~~law, the~~] board of trustees shall adopt a code or codes of [~~enforce~~
3 ~~an~~] ethics, including standards of ethical conduct and disclosure
4 requirements, applicable to:

5 (1) trustees;

6 (2) [~~policy as provided by this section for~~
7 ~~employees;~~ and

8 (3) any contractors or any categories of contractors
9 that the board of trustees determines provide:

10 (A) advice or opinion [~~of and consultants and~~
11 ~~advisors~~] to the retirement system that is the basis for a
12 significant decision or action by or on behalf of the retirement
13 system; or

14 (B) significant services to the retirement
15 system that relate to the administration and operation of the
16 retirement system.

17 (b) In any code of ethics adopted under this section, [~~Each~~
18 ~~employee of the retirement system who exercises significant~~
19 ~~decisionmaking or fiduciary authority, as determined by~~] the board
20 of trustees may:

21 (1) impose enhanced [~~, shall file financial~~]
22 disclosure requirements on employees that [~~statements with a person~~
23 ~~designated by~~] the board of trustees determines exercise
24 significant fiduciary authority;

25 (2) impose disclosure requirements on contractors for
26 expenditures on behalf of retirement system trustees or employees
27 in amounts equal to or greater than a minimum amount considered

1 material by the board of trustees; or
2 (3) address topics related to ethical conduct,
3 including prohibited conduct, conflicts of interest, waivers of
4 conflicts of interest, remedies for conflicts of interest, and
5 sanctions. [The content of a financial disclosure statement must
6 comply substantially with the requirements of Subchapter B, Chapter
7 572. A statement must be filed not later than the 30th day after the
8 date a person is employed in a significant decisionmaking or
9 fiduciary position and annually after employment not later than
10 April 30. The filing deadline may be postponed by the executive
11 director for not more than 60 days on written request or for an
12 additional period for good cause, as determined by the chairman of
13 the board. The retirement system shall maintain a financial
14 disclosure statement for at least five years after the date of its
15 filing.]

16 (c) This section preempts the common law of conflicts of
17 interest as applied to trustees, employees, and contracts of [An
18 employee who has a business or commercial relationship that could
19 reasonably be expected to diminish the employee's independence of
20 judgment in the performance of the employee's responsibilities to]
21 the retirement system [shall disclose that relationship in writing
22 to a person designated by the board].

23 SECTION 10. Section 825.312(b), Government Code, is amended
24 to read as follows:

25 (b) The retirement system shall pay from the account all
26 administrative expenses of the retirement system [~~that exceed the~~
27 ~~amounts appropriated under Section 825.404(d) and~~] that are

1 required to perform the fiduciary duties of the board.

2 SECTION 11. The heading to Section 825.313, Government
3 Code, is amended to read as follows:

4 Sec. 825.313. TRANSFERS FROM INTEREST [~~OR STATE~~
5 ~~CONTRIBUTION~~] ACCOUNT.

6 SECTION 12. Section 825.313(d), Government Code, is amended
7 to read as follows:

8 (d) The board of trustees, by resolution recorded in its
9 minutes, may transfer from the interest account to the expense
10 account an amount necessary to cover the expenses of the retirement
11 system for the fiscal year [~~that exceed the amount of operating~~
12 ~~expenses appropriated under Section 825.404(d) and~~] that are
13 required to perform the fiduciary duties of the board[~~, including~~
14 ~~the expense of servicing mortgages insured by the Federal Housing~~
15 ~~Administration under the National Housing Act (12 U.S.C. Section~~
16 ~~1701 et seq.)~~].

17 SECTION 13. Section 825.314, Government Code, is amended to
18 read as follows:

19 Sec. 825.314. USE [~~AND REPORTING~~] OF STATE CONTRIBUTIONS
20 [~~AND OTHER APPROPRIATIONS AND ASSETS~~]. [~~(a)~~] The retirement
21 system shall use all assets contributed by the state[~~, other than~~
22 ~~operating expenses appropriated under Section 825.404(d),~~] to pay
23 benefits authorized by this subtitle.

24 [~~(b) The staff of the retirement system shall report to the~~
25 ~~board at each board meeting the amounts and uses since the preceding~~
26 ~~board meeting of any money expended by the system from amounts~~
27 ~~transferred under Section 825.313(d) and include an explanation of~~

1 ~~why the amounts were needed to perform the fiduciary duties of the~~
2 ~~board. The retirement system annually shall prepare and issue to~~
3 ~~each contributing member and annuitant and to the governor,~~
4 ~~lieutenant governor, and speaker of the house of representatives a~~
5 ~~summary of the reports presented during the preceding year to the~~
6 ~~board.]~~

7 SECTION 14. The heading to Section 825.404, Government
8 Code, is amended to read as follows:

9 Sec. 825.404. COLLECTION OF STATE CONTRIBUTIONS [~~AND~~
10 ~~APPROPRIATED OPERATING EXPENSES~~].

11 SECTION 15. Section 825.404(e), Government Code, is amended
12 to read as follows:

13 (e) All money appropriated by the state to the retirement
14 system shall be paid to the state contribution account in equal
15 monthly installments as provided by Section 403.093(c) [~~7~~
16 ~~Government Code, except money appropriated under Subsection (d),~~
17 ~~which remains in the general revenue fund until expenses are~~
18 ~~approved under Chapter 2103~~].

19 SECTION 16. Section 825.410(b), Government Code, is amended
20 to read as follows:

21 (b) Service credit shall be established pursuant to the
22 following provisions:

23 (1) The retirement system shall credit a member's
24 payments made under this section to a suspense account in the trust
25 fund until the sum of the payments equals the amount required for
26 one year of service credit, at which time the retirement system
27 shall deposit the payments in the appropriate accounts in the trust

1 fund and grant the applicable amount of service credit. No credit
2 shall be established for service pursuant to Section 823.501 [~~or~~
3 ~~Section 825.403~~] until a lump sum has been paid or all payroll
4 deduction or installment payments have been completed.

5 (2) No credit shall be established for other service
6 when the cost of establishing the service has been determined by
7 using withdrawn service to be reinstated pursuant to Section
8 823.501 [~~or previously unreported service to be established~~
9 ~~pursuant to Section 825.403~~] until a lump sum or all payroll
10 deductions or installments for the withdrawn [~~or previously~~
11 ~~unreported~~] service have been paid.

12 (3) All other service shall be credited when
13 sufficient payroll deductions or installments have been completed
14 to satisfy the cost requirements for a year of service.

15 SECTION 17. Sections 825.507(a), (b), (c), (f), and (g),
16 Government Code, are amended to read as follows:

17 (a) Records of a participant and information about the
18 records of a participant that are in the custody of the retirement
19 system or of an administrator, carrier, attorney, consultant, or
20 governmental agency, including the comptroller, acting in
21 cooperation with or on behalf of the retirement system are
22 confidential and not subject to public disclosure [~~in a form that~~
23 ~~would identify an individual and are exempt from the public access~~
24 ~~provisions of Chapter 552, except as otherwise provided by this~~
25 ~~section~~]. Because the records and information described by this
26 section [~~subsection~~] are exempt from the public access provisions
27 of Chapter 552, the retirement system or an administering firm,

1 carrier, attorney, consultant, or governmental agency, including
2 the comptroller, acting in cooperation with or on behalf of the
3 retirement system, is not required to accept or comply with a
4 request for a record or information about a record or to seek an
5 opinion from the attorney general, except as otherwise provided by
6 this section.

7 (b) The retirement system may release records of a
8 participant, or information about the records of a participant,
9 including a participant to which Chapter 803 applies, to:

10 (1) the participant or the participant's attorney or
11 guardian or another person who the executive director determines is
12 acting on behalf of the participant;

13 (2) the executor or administrator of the deceased
14 participant's estate, including information relating to the
15 deceased participant's beneficiary, or if an executor or
16 administrator of the deceased participant's estate has not been
17 named, a person or entity who the executive director determines is
18 acting in the interest of the deceased participant's estate, or an
19 heir, legatee, or devisee of the deceased participant;

20 (3) a spouse or former spouse of the participant if the
21 executive director determines that the information is relevant to
22 the spouse's or former spouse's interest in member accounts,
23 benefits, or other amounts payable by the retirement system;

24 (4) an administrator, carrier, consultant, attorney,
25 or agent acting on behalf of the retirement system;

26 (5) a governmental entity, an employer, or the
27 designated agent of an employer, only to the extent the retirement

1 system needs to share the information to perform the purposes of the
2 retirement system, as determined by the executive director;

3 (6) a person authorized by the participant in writing
4 to receive the information;

5 (7) a federal, state, or local criminal law
6 enforcement agency that requests a record for a law enforcement
7 purpose;

8 (8) the attorney general to the extent necessary to
9 enforce child support; or

10 (9) a party in response to a subpoena issued under
11 applicable law if the executive director determines that the
12 participant will have a reasonable opportunity to contest the
13 subpoena.

14 (c) The records of a participant and information about the
15 records remain confidential after release to a person as authorized
16 by this section. This section does not prevent the retirement
17 system or administering firm or carrier acting in cooperation with
18 or on behalf of the retirement system from disclosing or confirming
19 [disclosure or confirmation], on an individual basis, ~~[of]~~ the
20 status or identity of a participant as a member, former member,
21 retiree, deceased member or retiree, beneficiary, or alternate
22 payee of the retirement system.

23 (f) This section does not authorize the retirement system to
24 compile or disclose a list of participants' names, addresses,
25 including e-mail addresses, or social security numbers unless the
26 executive director determines that a compilation or disclosure is
27 necessary to administer the retirement system.

1 (g) In this section, "participant" means a member, former
2 member, retiree, annuitant, beneficiary, or alternate payee of the
3 retirement system, or an employee or contractor of an employer
4 covered by the retirement system for whom records were received by
5 the retirement system for the purpose of administering the terms of
6 the plan, including for audit or investigative purposes.

7 SECTION 18. Section 825.515(a), Government Code, is amended
8 to read as follows:

9 (a) At least annually, the retirement system shall acquire
10 and maintain records identifying members and specifying the types
11 of positions they hold as members. Employers shall provide to the
12 retirement system information specifying the type of position held
13 by each member [~~The type of position shall be identified~~] as
14 Administrative/Professional, Teacher/Full-Time Librarian,
15 Support, Bus Driver, or Peace Officer. Employers shall also
16 provide to the retirement system the work e-mail address for each
17 member. For each member identified as a Peace Officer, the records
18 must specify whether the member is an employee of an institution of
19 higher education or of a public school that is not an institution of
20 higher education. An employer shall provide the information
21 required by this section in the form and manner specified by the
22 retirement system.

23 SECTION 19. Section 1575.003(1), Insurance Code, is amended
24 to read as follows:

- 25 (1) "Dependent" means:
- 26 (A) the spouse of a retiree;
- 27 (B) a [~~an unmarried~~] child of a retiree or

1 deceased active member if the child is younger than 26 [~~25~~] years of
2 age, including:

3 (i) an adopted child or child who is
4 lawfully placed for legal adoption;

5 (ii) a foster child, stepchild, or other
6 child who is in a regular parent-child relationship; or

7 (iii) a [~~recognized~~] natural child;

8 (C) a retiree's [~~recognized~~] natural child,
9 adopted child, foster child, stepchild, or other child who is in a
10 regular parent-child relationship and who lives with or has his or
11 her care provided by the retiree or surviving spouse on a regular
12 basis regardless of the child's age, if the child has a mental
13 disability or is physically incapacitated to an extent that the
14 child is dependent on the retiree or surviving spouse for care or
15 support, as determined by the trustee; or

16 (D) a deceased active member's [~~recognized~~]
17 natural child, adopted child, foster child, stepchild, or other
18 child who is in a regular parent-child relationship, without regard
19 to the age of the child, if, while the active member was alive, the
20 child:

21 (i) lived with or had the child's care
22 provided by the active member on a regular basis; and

23 (ii) had a mental disability or was
24 physically incapacitated to an extent that the child was dependent
25 on the active member or surviving spouse for care or support, as
26 determined by the trustee.

27 SECTION 20. Section 1575.205(c), Insurance Code, is amended

1 to read as follows:

2 (c) The trustee may spend a part of the money received for
3 the group program to offset a part of the costs for optional
4 coverage paid by retirees if [~~the expenditure does not reduce the~~
5 ~~period~~] the group program is projected to remain financially
6 solvent during the currently funded [~~by more than one year in a~~
7 biennium.

8 SECTION 21. Section 1579.004, Insurance Code, is amended to
9 read as follows:

10 Sec. 1579.004. DEFINITION OF DEPENDENT. In this chapter,
11 "dependent" means:

12 (1) a spouse of a full-time employee or part-time
13 employee;

14 (2) a [~~an unmarried~~] child of a full-time or part-time
15 employee if the child is younger than 26 [~~25~~] years of age,
16 including:

17 (A) an adopted child or child who is lawfully
18 placed for adoption;

19 (B) a foster child, stepchild, or other child who
20 is in a regular parent-child relationship; and

21 (C) a [~~recognized~~] natural child;

22 (3) a full-time or part-time employee's [~~recognized~~]
23 natural child, adopted child, foster child, stepchild, or other
24 child who is in a regular parent-child relationship and who lives
25 with or has his or her care provided by the employee or the
26 surviving spouse on a regular basis, regardless of the child's age,
27 if the child has a mental disability or is physically incapacitated

1 to an extent that the child is dependent on the employee or
2 surviving spouse for care or support, as determined by the board of
3 trustees; and

4 (4) notwithstanding any other provision of this code,
5 any other dependent of a full-time or part-time employee specified
6 by rules adopted by the board of trustees.

7 SECTION 22. The following laws are repealed:

8 (1) Section 825.211, Government Code;

9 (2) Sections 825.212(d), (e), (f), (g), and (h),
10 Government Code;

11 (3) Sections 825.402(b), (c), and (d), Government
12 Code;

13 (4) Section 825.404(d), Government Code; and

14 (5) Section 825.411, Government Code.

15 SECTION 23. This Act takes effect September 1, 2013.