

**House Bill 3357**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

SENATE VERSION (IE)

CONFERENCE

No equivalent provision.

SECTION \_\_. Section 12.055, Education Code, is amended to read as follows:

Sec. 12.055. APPLICABILITY OF LAWS AND RULES TO CAMPUS OR PROGRAM GRANTED CHARTER. (a) A campus or program for which a charter is granted under this subchapter is subject to federal and state laws and rules governing public schools, except that the campus or program is subject to this code and rules adopted under this code only to the extent the applicability to a campus or program for which a charter is granted under this subchapter of a provision of this code or a rule adopted under this code is specifically provided.

(b) A school district may contract with another district or an open-enrollment charter holder for services at a campus charter. An employee of the district or open-enrollment charter holder providing contracted services to a campus charter is eligible for membership in and benefits from the Teacher Retirement System of Texas if the employee would be eligible for membership and benefits if holding the same position at the employing district or open-enrollment charter school operated by the charter holder. [CA2]

No equivalent provision.

SECTION \_\_. Section 12.057, Education Code, is amended by adding Subsection (b-1) to read as follows:

(b-1) An employee of a charter holder, as defined by Section 12.1012, who is employed on a campus or in a program granted a charter under this subchapter and who qualifies for membership in the Teacher Retirement System of Texas shall be covered under the system in the same manner and to the same extent as a qualified employee of an independent school district who is employed on a regularly operating campus or in a regularly operating program. [CA2]

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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 824.204(c)(1), (c)(2), or (c)(5) or an optional disability retirement annuity under Section 824.308(c)(1), (c)(2), or (c)(5) and who has received at least one payment under the plan selected may change the optional annuity selection made by the retiree to a standard service or disability retirement annuity as provided for in this section. If the beneficiary is the spouse or former spouse of the retiree, the beneficiary must sign a notarized consent to the change, or [~~may revoke the designation of the beneficiary to receive the annuity on the~~

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SECTION 1. Same as House version.

SECTION 2. Same as House version.

SECTION 3. Same as House version.

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~~death of the retiree, if] a court in a divorce proceeding involving the retiree and beneficiary must approve or order the change [approves or orders the revocation] in the divorce decree or acceptance of a property settlement ~~[or if the beneficiary is the spouse, a former spouse, or an adult child of the retiree and signs a notarized consent to the revocation].~~ The change in plan selection [revocation] takes effect when the retirement system receives it.~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) a member of the retirement system who is currently

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employed by a public school district, charter school, or regional education service center; or

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

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

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

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

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

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

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

(e) The board of trustees may conduct a closed meeting in accordance with Subchapter E, Chapter 551, to deliberate or confer with one or more employees, consultants, or legal counsel of the retirement system or a third party regarding a procurement to be awarded by the board of trustees if, before conducting the closed meeting, a majority of the trustees in an open meeting vote that deliberating or conferring in an open

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SECTION 6. [Deleted by CA1(1)]

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meeting would have a detrimental effect on the position of the retirement system in negotiations with a third person. The board of trustees is required to vote or take final action on the procurement in an open meeting.

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

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

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

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

(1) trustees;

(2) [policy as provided by this section for] employees; and

(3) any contractors or any categories of contractors that the board of trustees determines provide;

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

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

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

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SECTION 8. Same as House version.

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

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

(1) trustees;

(2) [policy as provided by this section for] employees; and

(3) any contractors or any categories of contractors that the board of trustees determines provide;

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

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

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

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

(2) impose disclosure requirements on contractors for expenditures on behalf of retirement system trustees or employees in amounts equal to or greater than a minimum amount considered material by the board of trustees; or

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

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

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

(2) impose disclosure requirements on contractors for expenditures on behalf of retirement system trustees or employees in amounts equal to or greater than a minimum amount considered material by the board of trustees; or

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

(c) This chapter modifies the common law of conflict of interests as applied to trustees, employees, and contracts of the retirement system to the extent that violations of the common law of conflict of interests do not void retirement system contracts. The retirement system shall by rule or policy adopt procedures for disclosing and curing violations of the common law of conflict of interests and any such rule or policy may specify time periods in which disclosures and cures must be completed [An employee who has a business or commercial relationship that could reasonably be expected to diminish the

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~~employee's independence of judgment in the performance of the employee's responsibilities to the retirement system shall disclose that relationship in writing to a person designated by the board]. [CA1(2)]~~

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

(b) The retirement system shall pay from the account all administrative expenses of the retirement system ~~[that exceed the amounts appropriated under Section 825.404(d) and]~~ that are required to perform the fiduciary duties of the board.

SECTION 10. Same as House version.

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

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

SECTION 11. Same as House version.

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

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

SECTION 12. Same as House version.

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

Sec. 825.314. USE ~~[AND REPORTING]~~ OF STATE

SECTION 13. Same as House version.

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~~CONTRIBUTIONS [AND OTHER APPROPRIATIONS AND ASSETS].~~ [(a)] The retirement system shall use all assets contributed by the state~~[, other than operating expenses appropriated under Section 825.404(d),]~~ to pay benefits authorized by this subtitle.

~~[(b) The staff of the retirement system shall report to the board at each board meeting the amounts and uses since the preceding board meeting of any money expended by the system from amounts transferred under Section 825.313(d) and include an explanation of why the amounts were needed to perform the fiduciary duties of the board. The retirement system annually shall prepare and issue to each contributing member and annuitant and to the governor, lieutenant governor, and speaker of the house of representatives a summary of the reports presented during the preceding year to the board.]~~

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

Sec. 825.404. **COLLECTION OF STATE CONTRIBUTIONS [AND APPROPRIATED OPERATING EXPENSES].**

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

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

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SECTION 14. Same as House version.

SECTION 15. Same as House version.

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

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

(1) The retirement system shall credit a member's payments made under this section to a suspense account in the trust fund until the sum of the payments equals the amount required for one year of service credit, at which time the retirement system shall deposit the payments in the appropriate accounts in the trust fund and grant the applicable amount of service credit. No credit shall be established for service pursuant to Section 823.501 [~~or Section 825.403~~] until a lump sum has been paid or all payroll deduction or installment payments have been completed.

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

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

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

(a) Records of a participant and information about the records of a participant that are in the custody of the retirement system or of an administrator, carrier, attorney, consultant, or governmental agency, including the comptroller, acting in cooperation with or on behalf of the retirement system are

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SECTION 16. Same as House version.

SECTION 17. Same as House version.

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confidential and not subject to public disclosure [~~in a form that would identify an individual and are exempt from the public access provisions of Chapter 552, except as otherwise provided by this section~~]. Because the records and information described by this section [~~subsection~~] are exempt from the public access provisions of Chapter 552, the retirement system or an administering firm, carrier, attorney, consultant, or governmental agency, including the comptroller, acting in cooperation with or on behalf of the retirement system, is not required to accept or comply with a request for a record or information about a record or to seek an opinion from the attorney general, except as otherwise provided by this section.

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

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

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

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

(4) an administrator, carrier, consultant, attorney, or agent

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acting on behalf of the retirement system;

(5) a governmental entity, an employer, or the designated agent of an employer, only to the extent the retirement system needs to share the information to perform the purposes of the retirement system, as determined by the executive director;

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

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

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

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

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

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

(g) In this section, "participant" means a member, former member, retiree, annuitant, beneficiary, or alternate payee of the retirement system, or an employee or contractor of an employer covered by the retirement system for whom records

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were received by the retirement system for the purpose of administering the terms of the plan, including for audit or investigative purposes.

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

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

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

- (1) "Dependent" means:
- (A) the spouse of a retiree;
  - (B) a [~~an unmarried~~] child of a retiree or deceased active member if the child is younger than 26 [~~25~~] years of age, including:
    - (i) an adopted child or child who is lawfully placed for legal adoption;
    - (ii) a foster child, stepchild, or other child who is in a regular

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SECTION 18. Same as House version.

SECTION 19. Same as House version.

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parent-child relationship; or

(iii) a ~~recognized~~ natural child;

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

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

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

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

SECTION 20. Section 1575.205(c), Insurance Code, is amended to read as follows:

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

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

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

- (1) a spouse of a full-time employee or part-time employee;
- (2) a ~~an unmarried~~ child of a full-time or part-time employee if the child is younger than 26 ~~[25]~~ years of age, including:
  - (A) an adopted child or child who is lawfully placed for adoption;
  - (B) a foster child, stepchild, or other child who is in a regular parent-child relationship; and
  - (C) a ~~recognized~~ natural child;
- (3) a full-time or part-time employee's ~~recognized~~ natural child, adopted child, foster child, stepchild, or other child who is in a regular parent-child relationship and who lives with or has his or her care provided by the employee or the surviving spouse on a regular basis, regardless of the child's age, if the child has a mental disability or is physically incapacitated to an extent that the child is dependent on the employee or surviving spouse for care or support, as determined by the board of trustees; and
- (4) notwithstanding any other provision of this code, any other dependent of a full-time or part-time employee specified by rules adopted by the board of trustees.

SECTION 22. The following laws are repealed:

- (1) Section 825.211, Government Code;
- (2) Sections 825.212(d), (e), (f), (g), and (h), Government Code;
- (3) Sections 825.402(b), (c), and (d), Government Code;
- (4) Section 825.404(d), Government Code; and
- (5) Section 825.411, Government Code.

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SECTION 22. The following laws are repealed:

- (1) Section 825.211, Government Code;
- (2) Sections 825.212(d), (e), (f), (g), and (h), Government Code;
- (3) sections 825.402(b), (c), and (d), Government Code;
- (4) Section 825.404(d), Government Code;
- (5) Section 825.411, Government Code; and
- (6) Section 1579.103, Insurance Code. [CA1(3)]

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

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SECTION 23. EFFECTIVE DATE. (a) Except as provided by Subsection (b) of this section, this Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

(b) Sections 824.1012 and 824.1013, Government Code, as amended by this Act, take effect September 1, 2013.  
[CA1(4)]

CONFERENCE