

BILL ANALYSIS

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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Teacher Retirement System of Texas (TRS) delivers retirement and related benefits as authorized by law for TRS members and their beneficiaries. In order to comply with fiduciary standards, funds held in the TRS trust must be used exclusively for the benefit of members. S.B. 1939 provides for technical and clarifying changes to laws regulating TRS so that TRS can efficiently deliver benefits.

S.B. 1939 seeks to make changes relating to the administration of and benefits paid by TRS.

As proposed, S.B. 1939 amends current law relating to contributions to, benefits from, and the administration of systems and programs administered by the Teacher Retirement System of Texas.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the board of trustees of the Teacher Retirement System of Texas is rescinded in SECTION 19 (Section 22.004, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 822.201(b), Government Code, to redefine "salary and wages," as used in Subsection (a) (providing compensation subject to report and deduction for member contributions in benefit computations set forth).

SECTION 2. Amends Section 823.006, Government Code, as follows:

Sec. 823.006. LIMITS ON ANNUAL CONTRIBUTIONS FOR PURCHASE OF SERVICE CREDIT. Requires, rather than authorizes, the Teacher Retirement System of Texas (TRS), notwithstanding any other provision of this subtitle, to limit the purchase of service credit to the extent required by applicable limits on the amount of annual contributions a participant may make to a qualified plan under Sections 401(a) and 415(c), Internal Revenue Code of 1986.

SECTION 3. Amends Section 824.1012(a), Government Code, as follows:

(a) Requires the spouse or former spouse, as applicable, who was designated the beneficiary of the optional annuity, if the beneficiary of the optional annuity was the spouse of the retiree when the retiree designated the spouse as beneficiary of the optional annuity, to change from the optional annuity to a standard retirement annuity under this subsection, to sign a notarized consent to the change or a court with jurisdiction over the marriage of the retiree and beneficiary to approve or order the change. Provides that the change in plan selection takes effect when TRS receives the request to change the plan, provided the signed consent form or court order, as applicable, is subsequently received by TRS. Deletes existing text requiring the beneficiary, if the beneficiary is the spouse or former spouse of the retiree, to sign a notarized consent to the change, or a court in a divorce proceeding involving the retiree and beneficiary to approve or order the change in the divorce decree or acceptance of a property settlement. Makes nonsubstantive changes.

SECTION 4. Amends Sections 824.1013(b) and (c-1), Government Code, as follows:

(b) Provides that if the beneficiary designated at the time of the retiree's retirement is the spouse of the retiree at the time of the designation:

(1) and (2) Makes no change to these subdivisions;

(3) a court with jurisdiction over the marriage must approve or order the change, rather than a court with jurisdiction over the marriage must have ordered the change.

(c-1) Entitles a beneficiary designated under this section, notwithstanding Subsection (c) (entitling a beneficiary to certain monthly payments for a certain time period set forth), on the retiree's death, to receive monthly payments of the survivor's portion of the retiree's optional retirement annuity for the remainder of the beneficiary's life if the beneficiary designated at the time of the retiree's retirement is a trust and the beneficiary designated under this section is:

(1) Creates this subdivision from existing text; or

(2) an individual who is the sole beneficiary designated in the trust instrument to receive the survivor's portion of the retiree's optional retirement annuity.

SECTION 5. Amends Section 825.004, Government Code, by adding Subsection (c), to authorize a trustee appointed under Section 825.002(c) (requiring the governor of the State of Texas to appoint two members to the board of trustees of TRS (board) who meet certain requirements) or (e) (requiring the governor of the State of Texas to appoint two members to the board who meet certain requirements) who retires from a public school district, charter school, regional education service center, or institution of higher education, as applicable, while serving on the board to continue to serve on the board for the remainder of the term for which the person was appointed if there remains at least one trustee on the board who is a contributing member of TRS.

SECTION 6. Amends Section 825.115, Government Code, by adding Subsection (f), as follows:

(f) Provides that, notwithstanding any other law, Chapter 551 (Open Meetings) does not apply to an assembly of the board of trustees or one of the board's committees while attending a summit, conference, convention, workshop, or other event held for educational purposes and not for the purpose of deliberating, voting, or taking action on a specific matter of public business or public policy over which the board of trustees or a committee of the board has supervision or control. Provides that this subsection does not apply to a regular, special, or emergency meeting of the board of trustees scheduled or called under the board's bylaws.

SECTION 7. Amends Section 825.208(b), Government Code, to provide that TRS is exempt from Sections 651.002 (Benefits of and Restrictions on State Employees Working Out of State) and 651.004 (Management-To-Staff Ratios), Chapter 660 (Travel Expenses), Subchapter K (Promotions, Reclassifications, and Other Adjustments to Salary), Chapter 659, and Subchapter A (State Employee Sick Leave Pool), Chapter 661, to the extent the board of trustees determines an exemption is necessary for the performance of fiduciary duties. Makes a nonsubstantive change.

SECTION 8. Amends Section 825.212, Government Code, by adding Subsection (d), to provide that, notwithstanding any other law, all personal financial disclosures made by employees of TRS under this section, including a rule or policy adopted under this section, are confidential and excepted from the requirements of Section 552.021 (Availability of Public Information).

SECTION 9. Amends Section 825.306, Government Code, as follows:

Sec. 825.306. CREDITING SYSTEM ASSETS. (a) Creates this subsection from existing text. Requires that the assets of TRS be maintained and reported in a manner that reflects the source of the assets or the purpose for which the assets are held in accordance with appropriate accounting standards. Authorizes that the assets, in the alternative, be credited, according to the purpose for which they are held, to one of the following accounts:

(1)-(6) Makes no change to these subdivisions.

(b) Provides that, notwithstanding any other law, a requirement to deposit in or transfer assets from one of the accounts described under Subsection (a) is satisfied by maintaining and reporting the assets in accordance with that subsection.

SECTION 10. Amends Section 825.403, Government Code, by amending Subsections (h) and (j) and adding Subsections (h-1), (h-2), (h-3), and (h-4), as follows:

(h) Adds references to Subsections (h-1), (h-2), (h-3), and (h-4) and makes no further change.

(h-1) Provides that, if, due to an error, an employer does not report to TRS all service rendered or compensation paid as required by this section and the error relates to service rendered or compensation paid by a member in:

(1) the current school year, the error may be corrected by submitting to TRS in the manner prescribed by TRS:

(A) a corrected report; and

(B) contributions on the unreported service or compensation, plus interest at the rate provided under Section 825.408, computed from the final date on which the service or compensation should have been reported to TRS to the date the contributions related to that service or compensation are submitted to TRS; or

(2) the preceding school year, the error may be corrected if the following requirements are met:

(A) the member for whom contributions are due is employed by the employer and the employer owes the member compensation payable in the current year;

(B) the employer requests from TRS a waiver of the documentation requirements under Section 825.408(a) and the request is granted by TRS;

(C) the employer, in the manner prescribed by TRS, takes certain actions as set forth; and

(D) the error is corrected in accordance with this subsection not later than the final day of the school year following the school year in which the service or compensation at issue was rendered or paid, as applicable.

(h-2) Requires TRS, on receipt of the member and employer contributions and the corrected reports under Subsection (h-1), to credit the services or compensation, as applicable, to the member.

(h-3) Creates this subsection from existing text. Prohibits TRS from crediting service or compensation to a member in the manner provided by Subsections (h-1) and (h-2) for service rendered or compensation received by a member in any school year before the preceding school year. Provides that, if service is rendered or compensation paid by a member in a school year before the preceding school year, the member's employer, at the

time the unreported service was rendered or compensation was paid, must verify the service or compensation as required by Subsection (j) and the member must submit the verification to TRS not later than five years after the end of the school year in which the service was rendered or compensation was paid. Provides that, to establish the service or compensation credit under this subsection:

(1) the member must deposit with TRS the member contributions that were due on the unreported service or compensation, plus interest at a rate of two percent per year, computed from the final date on which the service or compensation should have been reported to TRS to the date the contributions related to that service or compensation are submitted to TRS under this subsection; and

(2) the employer must deposit with TRS the actuarial present value, at the time of deposit, of the additional standard retirement annuity benefits that would be attributable to the purchase of service or compensation credit under this section, based on rates and tables recommended by TRS's actuary and adopted by the board of trustees, less the member contribution under Subdivision (1).

Makes nonsubstantive changes.

(h-4) Creates this subsection from existing text. Requires the board of trustees to:

(1) prescribe terms for payments under Subsections (h-1), (h-2), and (h-3), rather than under this subsection; and

(2) credit the member for prior service to which the member is entitled under this subtitle. Makes nonsubstantive changes.

(j) Creates an exception as otherwise provided by this section. Makes conforming changes.

SECTION 11. Amends Section 825.408, Government Code, by amending Subsection (a) and adding Subsection (c), as follows:

(a) Creates as exception as provided by Subsection (c).

(c) Provides that this section does not apply to service or compensation credit established under Section 825.403(h-3).

SECTION 12. Amends Section 825.4092(c), Government Code, as follows:

(c) Requires the employer who reports the employment of a retiree, except as provided by Subsection (e) (providing that certain amounts are not required to be paid for a retiree who retired before September 1, 2005) each payroll period, for each retiree who is enrolled in the Texas Public School Employees Group Insurance Program under Chapter 1575 (Texas Public School Employees Group Benefits Program), Insurance Code, to contribute to the trust fund established under that chapter an amount established by TRS, rather than contribute any difference between the amount the retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the full cost of the retiree's and enrolled dependents' participation in the group program as determined by TRS. Requires TRS to consider, in determining the amount to be contributed by the employer under this subsection, the amount the retiree is required to pay for the retiree and any enrolled dependents to participate in the group program and the average cost of the retiree's and enrolled dependents' participation in the group program, rather than in the group program as determined by TRS.

SECTION 13. Amends Section 825.410(a), Government Code,

(a) Deletes existing text providing that if TRS refunds payments pursuant to this subsection, the member is not permitted to use the installment method of payment or the

payroll deduction method, as applicable, for the same service for three years after the date of the refund. Deletes existing text providing that a member who requests and receives a refund of installment or payroll deduction payments also is not permitted to use the same method of payment for the same service for three years after the date of the refund. Makes no further change to this subsection.

SECTION 14. Amends Section 825.505, Government Code, as follows:

Sec. 825.505. AUDITS. Provides that for the purpose of determining the propriety of employer reports, including demographic data, and contributions or credits, the records of an employer concerning the employment and compensation of all its personnel are subject to audit and examination, in the offices of the employer during regular working hours, by representatives of TRS designated to conduct the audit and examination.

SECTION 15. Amends Section 825.508(b), Government Code, to require TRS to honor a power of attorney executed in accordance with Chapter 752 (Statutory Durable Power of Attorney), Estates Code, rather than Chapter XII, Section 490, Texas Probate Code.

SECTION 16. Amends Section 825.509(b-1), Government Code, as follows:

(b-1) Authorizes the eligible portion of a certain rollover distribution to be transferred only:

(1) and (2) Makes no change to these subdivisions;

(3) for distributions occurring on or after January 1, 2007, to a qualified plan described by Section 401(a), Internal Revenue Code of 1986, if the plan separately accounts for:

(A) the amounts transferred and the earnings on amounts transferred; and

(B) the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income; or

(4) Makes no change to this subdivision.

SECTION 17. Amends Section 825.515(a), Government Code, to add a reference to a Food Service Worker in a list of positions about which employers are required to provide certain information to TRS.

SECTION 18. Amends Section 830.201(h), Government Code, to change references to the board of trustees of TRS to the Texas Higher Education Coordinating Board (THECB) and makes no further change.

SECTION 19. Amends Sections 22.004(b) and (d), Education Code, as follows:

(b) Requires the district, in determining whether a school district's group health coverage is comparable to the basic health coverage specified by this subsection, to consider the following factors:

(1)-(7) Makes no change to these subdivisions.

Deletes existing text requiring the board of trustees of TRS to adopt rules to determine whether a school district's group health coverage is comparable to the basic health coverage specified by this subsection. Deletes existing text requiring that the rules provide for consideration of the certain factors concerning the district's coverage in determining whether the district's coverage is comparable to the basic health coverage specified by this subsection.

(d) Requires each district that does not participate in the program described by Subsection (a) to prepare a report addressing the district's compliance with this section. Requires that the report be available for review, together with the policy or contract for the group health coverage plan, at the central administrative office of each campus in the district and be posted on the district's Internet website if the district maintains a website, to be based on the district group health coverage plan in effect during the current plan year, and to include certain information set forth.

Deletes existing text requiring the report to include any other information considered appropriate by the executive director of TRS.

SECTION 20. Amends Section 1579.255, Insurance Code, as follows:

Sec. 1579.255. INTEREST ASSESSED ON LATE PAYMENT OF CONTRIBUTIONS BY PARTICIPATING ENTITIES. (a) Requires a participating entity that does not remit to the trustee all contributions required by this subchapter before the 16th day of the month, rather than before the seventh day after the last day of the month, to pay to the Texas school employees uniform group coverage trust fund:

(1)-(2) Makes no change to these subdivisions.

(b) Authorizes the trustee, rather than authorizes the trustee on request, to grant a waiver of the deadline imposed by this section based on a participating entity's financial or technological resources.

SECTION 21. Provides that Section 825.4092(c), Government Code, as amended by this Act, applies to a retiree of the Teacher Retirement System of Texas regardless of whether the person retired from employment before, on, or after the effective date of this Act.

SECTION 22. Effective date: September 1, 2015.