

By: Huffman

S.B. No. 1939

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to contributions to, benefits from, and the administration  
3 of systems and programs administered by the Teacher Retirement  
4 System of Texas.

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

6 SECTION 1. Section [822.201\(b\)](#), Government Code, is amended  
7 to read as follows:

8 (b) "Salary and wages" as used in Subsection (a) means:

9 (1) normal periodic payments of money for service the  
10 right to which accrues on a regular basis in proportion to the  
11 service performed;

12 (2) amounts by which the member's salary is reduced  
13 under a salary reduction agreement authorized by Chapter 610;

14 (3) amounts that would otherwise qualify as salary and  
15 wages under Subdivision (1) but are not received directly by the  
16 member pursuant to a good faith, voluntary written salary reduction  
17 agreement in order to finance payments to a deferred compensation  
18 or tax sheltered annuity program specifically authorized by state  
19 law or to finance benefit options under a cafeteria plan qualifying  
20 under Section 125 of the Internal Revenue Code of 1986, if:

21 (A) the program or benefit options are made  
22 available to all employees of the employer; and

23 (B) the benefit options in the cafeteria plan are  
24 limited to one or more options that provide deferred compensation,

1 group health and disability insurance, group term life insurance,  
2 dependent care assistance programs, or group legal services plans;

3 (4) performance pay awarded to an employee by a school  
4 district as part of a total compensation plan approved by the board  
5 of trustees of the district and meeting the requirements of  
6 Subsection (e);

7 (5) the benefit replacement pay a person earns under  
8 Subchapter H, Chapter 659, except as provided by Subsection (c);

9 (6) stipends paid to teachers in accordance with  
10 Section 21.410, 21.411, 21.412, or 21.413, Education Code;

11 (7) amounts by which the member's salary is reduced or  
12 that are deducted from the member's salary as authorized by  
13 Subchapter J, Chapter 659;

14 (8) a merit salary increase made under Section 51.962,  
15 Education Code;

16 (9) amounts received under the relevant parts of the  
17 educator excellence awards program under Subchapter O, Chapter 21,  
18 Education Code, or a mentoring program under Section 21.458,  
19 Education Code, that authorize compensation for service;

20 (10) salary amounts designated as health care  
21 supplementation by an employee under Subchapter D, Chapter 22,  
22 Education Code; and

23 (11) to the extent required by Sections 3401(h) and  
24 414(u)(12) [~~414(u)(2)~~], Internal Revenue Code of 1986,  
25 differential wage payments received by an individual from an  
26 employer on or after January 1, 2009, while the individual is  
27 performing qualified military service as defined by Section 414(u),

1 Internal Revenue Code of 1986.

2 SECTION 2. Section 823.006, Government Code, is amended to  
3 read as follows:

4 Sec. 823.006. LIMITS ON ANNUAL CONTRIBUTIONS FOR PURCHASE  
5 OF SERVICE CREDIT. Notwithstanding any other provision of this  
6 subtitle, the retirement system shall [~~may~~] limit the purchase of  
7 service credit to the extent required by applicable limits on the  
8 amount of annual contributions a participant may make to a  
9 qualified plan under Sections 401(a) and 415(c), Internal Revenue  
10 Code of 1986.

11 SECTION 3. Section 824.1012(a), Government Code, is amended  
12 to read as follows:

13 (a) As an exception to Section 824.101(c), a retiree who  
14 selected an optional service retirement annuity under Section  
15 824.204(c)(1), (c)(2), or (c)(5) or an optional disability  
16 retirement annuity under Section 824.308(c)(1), (c)(2), or (c)(5)  
17 and who has received at least one payment under the plan selected  
18 may change the optional annuity selection made by the retiree to a  
19 standard service or disability retirement annuity as provided for  
20 in this section. If the beneficiary of the optional annuity was  
21 [is] the spouse [or former spouse] of the retiree when the retiree  
22 designated the spouse as beneficiary of the optional annuity, to  
23 change from the optional annuity to a standard retirement annuity  
24 under this subsection, the spouse or former spouse, as applicable,  
25 who was designated [7] the beneficiary of the optional annuity must  
26 sign a notarized consent to the change[7] or a court with  
27 jurisdiction over the marriage of [~~in a divorce proceeding~~

1 ~~involving~~] the retiree and beneficiary must approve or order the  
2 change [~~in the divorce decree or acceptance of a property~~  
3 ~~settlement~~]. The change in plan selection takes effect when the  
4 retirement system receives the request to change the plan, provided  
5 the signed consent form or court order, as applicable, is  
6 subsequently received by the retirement system [~~it~~].

7 SECTION 4. Sections 824.1013(b) and (c-1), Government Code,  
8 are amended to read as follows:

9 (b) If the beneficiary designated at the time of the  
10 retiree's retirement is the spouse of the retiree at the time of the  
11 designation:

12 (1) the spouse must give written, notarized consent to  
13 the change;

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

17 (3) a court with jurisdiction over the marriage must  
18 approve or order [~~have ordered~~] the change.

19 (c-1) Notwithstanding Subsection (c), a beneficiary  
20 designated under this section is entitled on the retiree's death to  
21 receive monthly payments of the survivor's portion of the retiree's  
22 optional retirement annuity for the remainder of the beneficiary's  
23 life if the beneficiary designated at the time of the retiree's  
24 retirement is a trust and the beneficiary designated under this  
25 section is:

26 (1) the sole beneficiary of that trust; or

27 (2) an individual who is the sole beneficiary

1 designated in the trust instrument to receive the survivor's  
2 portion of the retiree's optional retirement annuity.

3 SECTION 5. Section 825.004, Government Code, is amended by  
4 adding Subsection (c) to read as follows:

5 (c) A trustee appointed under Section 825.002(c) or (e) who  
6 retires from a public school district, charter school, regional  
7 education service center, or institution of higher education, as  
8 applicable, while serving on the board may continue to serve on the  
9 board for the remainder of the term for which the person was  
10 appointed if there remains at least one trustee on the board who is  
11 a contributing member of the retirement system.

12 SECTION 6. Section 825.115, Government Code, is amended by  
13 adding Subsection (f) to read as follows:

14 (f) Notwithstanding any other law, Chapter 551 does not  
15 apply to an assembly of the board of trustees or one of the board's  
16 committees while attending a summit, conference, convention,  
17 workshop, or other event held for educational purposes and not for  
18 the purpose of deliberating, voting, or taking action on a specific  
19 matter of public business or public policy over which the board of  
20 trustees or a committee of the board has supervision or control.  
21 This subsection does not apply to a regular, special, or emergency  
22 meeting of the board of trustees scheduled or called under the  
23 board's bylaws.

24 SECTION 7. Section 825.208(b), Government Code, is amended  
25 to read as follows:

26 (b) The retirement system is exempt from Sections 651.002  
27 and 651.004, Chapter 660, ~~and~~ Subchapter K, Chapter 659, and

1 Subchapter A, Chapter 661, to the extent the board of trustees  
2 determines an exemption is necessary for the performance of  
3 fiduciary duties.

4 SECTION 8. Section 825.212, Government Code, is amended by  
5 adding Subsection (d) to read as follows:

6 (d) Notwithstanding any other law, all personal financial  
7 disclosures made by employees of the retirement system under this  
8 section, including a rule or policy adopted under this section, are  
9 confidential and excepted from the requirements of Section 552.021.

10 SECTION 9. Section 825.306, Government Code, is amended to  
11 read as follows:

12 Sec. 825.306. CREDITING SYSTEM ASSETS. (a) The assets of  
13 the retirement system shall be maintained and reported in a manner  
14 that reflects the source of the assets or the purpose for which the  
15 assets are held in accordance with appropriate accounting  
16 standards. In the alternative, the assets may be credited,  
17 according to the purpose for which they are held, to one of the  
18 following accounts:

- 19 (1) member savings account;
- 20 (2) state contribution account;
- 21 (3) retired reserve account;
- 22 (4) interest account;
- 23 (5) expense account; or
- 24 (6) deferred retirement option account.

25 (b) Notwithstanding any other law, a requirement to deposit  
26 in or transfer assets from one of the accounts described under  
27 Subsection (a) is satisfied by maintaining and reporting the assets

1 in accordance with that subsection.

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

5 (h) Subject to Subsections (h-1), (h-2), (h-3), and (h-4),  
6 if [~~If~~] deductions were previously required but not paid, the  
7 retirement system may not provide benefits based on the service or  
8 compensation unless the deposits required by this section have been  
9 fully paid.

10 (h-1) If, due to an error, an employer does not report to the  
11 retirement system all service rendered or compensation paid as  
12 required by this section and the error relates to service rendered  
13 or compensation paid by a member in:

14 (1) the current school year, the error may be  
15 corrected by submitting to the retirement system in the manner  
16 prescribed by the retirement system:

17 (A) a corrected report; and

18 (B) contributions on the unreported service or  
19 compensation, plus interest at the rate provided under Section  
20 825.408, computed from the final date on which the service or  
21 compensation should have been reported to the retirement system to  
22 the date the contributions related to that service or compensation  
23 are submitted to the retirement system; or

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

26 (A) the member for whom contributions are due is  
27 employed by the employer and the employer owes the member

1 compensation payable in the current year;

2 (B) the employer requests from the retirement  
3 system a waiver of the documentation requirements under Section  
4 825.408(a) and the request is granted by the retirement system;

5 (C) the employer, in the manner prescribed by the  
6 retirement system:

7 (i) submits to the retirement system member  
8 contributions on the unreported service or compensation in the  
9 manner provided by Section 825.409 by making the corresponding  
10 reduction in the compensation owed to the member;

11 (ii) submits to the retirement system any  
12 employer contributions due on the compensation;

13 (iii) pays the interest on the  
14 contributions described by Subparagraphs (i) and (ii) at the rate  
15 provided by Section 825.408; and

16 (iv) corrects the records relating to the  
17 report months in which the service or compensation are at issue; and

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

22 (h-2) On receipt of the member and employer contributions  
23 and the corrected reports under Subsection (h-1), the retirement  
24 system shall credit the service or compensation, as applicable, to  
25 the member.

26 (h-3) The retirement system may not credit service or  
27 compensation to a member in the manner provided by Subsections



1 (h-1) and (h-2) for service rendered or compensation received by a  
2 member in any school year before the preceding school year. If  
3 service is rendered or compensation paid by a member in a school  
4 year before the preceding school year, the member's [~~The person's~~]  
5 employer at the time the unreported service was rendered or  
6 compensation was paid must verify the service or compensation as  
7 required by Subsection (j) and the member [~~person~~] must submit the  
8 verification to the retirement system not later than five years  
9 after the end of the school year in which the service was rendered  
10 or compensation was paid. To establish the service or compensation  
11 credit under this subsection:

12 (1) [~~7~~] the member [~~person~~] must deposit with the  
13 retirement system the member contributions that were due on the  
14 unreported service or compensation, plus interest at a rate of two  
15 percent per year, computed from the final date on which the service  
16 or compensation should have been reported to the retirement system  
17 to the date the contributions related to that service or  
18 compensation are submitted to the retirement system under this  
19 subsection; and

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

27 (h-4) The board of trustees shall:

1           (1) prescribe terms for payments under Subsections  
2 (h-1), (h-2), and (h-3) [~~this subsection~~]; and

3           (2) credit the member [~~person~~] for prior service to  
4 which the member [~~person~~] is entitled under this subtitle.

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

18           SECTION 11. Section 825.408, Government Code, is amended by  
19 amending Subsection (a) and adding Subsection (c) to read as  
20 follows:

21           (a) Except as provided by Subsection (c), an [~~An~~] employer  
22 that fails to remit, before the seventh day after the last day of a  
23 month, all member and employer deposits and documentation of the  
24 deposits required by this subchapter to be remitted by the employer  
25 for the month shall pay to the retirement system, in addition to the  
26 deposits, interest on the unpaid or undocumented amounts at an  
27 annual rate compounded monthly. The rate of interest is the rate

1 established under Section 825.313(b)(1), plus two percent.  
2 Interest required under this section is creditable to the interest  
3 account. On request, the retirement system may grant a waiver of  
4 the deadline imposed by this subsection based on an employer's  
5 financial or technological resources.

6 (c) This section does not apply to service or compensation  
7 credit established under Section 825.403(h-3).

8 SECTION 12. Section 825.4092(c), Government Code, is  
9 amended to read as follows:

10 (c) Except as provided by Subsection (e), each payroll  
11 period, for each retiree who is enrolled in the Texas Public School  
12 Employees Group Insurance Program under Chapter 1575, Insurance  
13 Code, the employer who reports the employment of a retiree shall  
14 contribute to the trust fund established under that chapter an  
15 amount established by the retirement system. In determining the  
16 amount to be contributed by the employer under this subsection, the  
17 retirement system shall consider [~~any difference between~~] the  
18 amount the retiree is required to pay for the retiree and any  
19 enrolled dependents to participate in the group program and the  
20 average [~~full~~] cost of the retiree's and enrolled dependents'  
21 participation in the group program[~~, as determined by the~~  
22 ~~retirement system~~]. If more than one employer reports the retiree  
23 to the retirement system during a month, the amount of the required  
24 payment shall be prorated among the employers.

25 SECTION 13. Section 825.410(a), Government Code, is amended  
26 to read as follows:

27 (a) Payments to establish special service credit as

1 authorized under this subtitle, other than service credit that may  
2 only be determined and paid for at the time of retirement such as  
3 unused leave as authorized by Section 823.403, may be made in a lump  
4 sum by a monthly payroll deduction in an amount not less than  
5 one-twelfth of the contribution required to establish at least one  
6 year of service credit, or in equal monthly installments over a  
7 period not to exceed the lesser of the number of years of credit to  
8 be purchased or 60 months. Installment and payroll deduction  
9 payments are due on the first day of each calendar month in the  
10 payment period. If an installment or payroll deduction payment is  
11 not made in full within 60 days after the due date, the retirement  
12 system may refund all installment or payroll deduction payments  
13 less fees paid on the lump sum due when installment or payroll  
14 deduction payments began. Partial payment of an installment or  
15 payroll deduction payment may be treated as nonpayment. A check  
16 returned for insufficient funds or a closed account shall be  
17 treated as nonpayment. When two or more consecutive monthly  
18 payments have a returned check, a refund may be made. [~~If the~~  
19 ~~retirement system refunds payments pursuant to this subsection, the~~  
20 ~~member is not permitted to use the installment method of payment or~~  
21 ~~the payroll deduction method, as applicable, for the same service~~  
22 ~~for three years after the date of the refund. A member who requests~~  
23 ~~and receives a refund of installment or payroll deduction payments~~  
24 ~~also is not permitted to use the same method of payment for the same~~  
25 ~~service for three years after the date of the refund.]~~

26 SECTION 14. Section 825.505, Government Code, is amended to  
27 read as follows:

1           Sec. 825.505. AUDITS. For the purpose of determining the  
2 propriety of employer reports, including demographic data, and  
3 contributions or credits, the records of an employer concerning the  
4 employment and compensation of all its personnel are subject to  
5 audit and examination, in the offices of the employer during  
6 regular working hours, by representatives of the retirement system  
7 designated to conduct the audit and examination.

8           SECTION 15. Section 825.508(b), Government Code, is amended  
9 to read as follows:

10           (b) The system must honor a power of attorney executed in  
11 accordance with Chapter 752, Estates [~~Chapter XII, Section 490,~~  
12 ~~Texas Probate~~] Code.

13           SECTION 16. Section 825.509(b-1), Government Code, is  
14 amended to read as follows:

15           (b-1) Notwithstanding Subsection (b)(3), with respect to a  
16 distribution made on or after January 1, 2002, an otherwise  
17 eligible portion of a rollover distribution that consists of  
18 after-tax employee contributions not includable in gross income is  
19 an eligible rollover distribution for purposes of this  
20 section. The eligible portion may be transferred only:

21           (1) to an individual retirement account or annuity  
22 described by Section 408(a) or (b), Internal Revenue Code of 1986;

23           (2) to a qualified plan described by Section 403(a),  
24 Internal Revenue Code of 1986;

25           (3) for distributions occurring on or after January 1,  
26 2007, to a qualified plan described by Section 401(a), Internal  
27 Revenue Code of 1986, if the plan separately accounts for:

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

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

6           (4) to an annuity contract described by Section  
7 403(b), Internal Revenue Code of 1986, that agrees to separately  
8 account for amounts transferred and earnings on amounts  
9 transferred, including for the portion of the distribution that is  
10 includable in gross income and the portion of the distribution that  
11 is not includable in gross income.

12           SECTION 17. Section 825.515(a), Government Code, is amended  
13 to read as follows:

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

27           SECTION 18. Section 830.201(h), Government Code, is amended

1 to read as follows:

2 (h) Before November 2 of each even-numbered year, the Texas  
3 Higher Education Coordinating Board [~~board of trustees~~], in  
4 coordination with the Legislative Budget Board, shall certify to  
5 the comptroller for review and adoption an estimate of the amount  
6 necessary to pay the state's contributions to the retirement system  
7 for the following biennium. For qualifying employees under  
8 Subsection (g)(1), the Texas Higher Education Coordinating Board  
9 [~~board of trustees~~] shall include only the amount payable by the  
10 state under Subsection (g)(1) in determining the amount to be  
11 certified.

12 SECTION 19. Sections 22.004(b) and (d), Education Code, are  
13 amended to read as follows:

14 (b) A district that does not participate in the program  
15 described by Subsection (a) shall make available to its employees  
16 group health coverage provided by a risk pool established by one or  
17 more school districts under Chapter 172, Local Government Code, or  
18 under a policy of insurance or group contract issued by an insurer,  
19 a company subject to Chapter 842, Insurance Code, or a health  
20 maintenance organization under Chapter 843, Insurance Code. The  
21 coverage must meet the substantive coverage requirements of Chapter  
22 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366,  
23 Insurance Code, and any other law applicable to group health  
24 insurance policies or contracts issued in this state. The coverage  
25 must include major medical treatment but may exclude experimental  
26 procedures. In this subsection, "major medical treatment" means a  
27 medical, surgical, or diagnostic procedure for illness or

1 injury. The coverage may include managed care or preventive care  
2 and must be comparable to the basic health coverage provided under  
3 Chapter 1551, Insurance Code. In determining [~~The board of~~  
4 ~~trustees of the Teacher Retirement System of Texas shall adopt~~  
5 ~~rules to determine~~] whether a school district's group health  
6 coverage is comparable to the basic health coverage specified by  
7 this subsection, the district shall consider [~~The rules must~~  
8 ~~provide for consideration of~~] the following factors [~~concerning the~~  
9 ~~district's coverage in determining whether the district's coverage~~  
10 ~~is comparable to the basic health coverage specified by this~~  
11 ~~subsection~~]:

12 (1) the deductible amount for service provided inside  
13 and outside of the network;

14 (2) the coinsurance percentages for service provided  
15 inside and outside of the network;

16 (3) the maximum amount of coinsurance payments a  
17 covered person is required to pay;

18 (4) the amount of the copayment for an office visit;

19 (5) the schedule of benefits and the scope of  
20 coverage;

21 (6) the lifetime maximum benefit amount; and

22 (7) verification that the coverage is issued by a  
23 provider licensed to do business in this state by the Texas  
24 Department of Insurance or is provided by a risk pool authorized  
25 under Chapter 172, Local Government Code, or that a district is  
26 capable of covering the assumed liabilities in the case of coverage  
27 provided through district self-insurance.



1           (d) Each [~~district shall report the district's compliance~~  
2 ~~with this section to the executive director of the Teacher~~  
3 ~~Retirement System of Texas not later than March 1 of each~~  
4 ~~even-numbered year in the manner required by the board of trustees~~  
5 ~~of the Teacher Retirement System of Texas. For a]~~ district that  
6 does not participate in the program described by Subsection (a)  
7 shall prepare a report addressing the district's compliance with  
8 this section. The [~~, the~~] report must be available for review,  
9 together with the policy or contract for the group health coverage  
10 plan, at the central administrative office of each campus in the  
11 district and be posted on the district's Internet website if the  
12 district maintains a website, must be based on the district group  
13 health coverage plan in effect during the current plan year, and  
14 must include:

15                   (1) appropriate documentation of:

16                           (A) the district's contract for group health  
17 coverage with a provider licensed to do business in this state by  
18 the Texas Department of Insurance or a risk pool authorized under  
19 Chapter 172, Local Government Code; or

20                           (B) a resolution of the board of trustees of the  
21 district authorizing a self-insurance plan for district employees  
22 and of the district's review of district ability to cover the  
23 liability assumed;

24                   (2) the schedule of benefits;

25                   (3) the premium rate sheet, including the amount paid  
26 by the district and employee;

27                   (4) the number of employees covered by the health

1 coverage plan offered by the district; and

2 (5) information concerning the ease of completing the  
3 report [~~, as required by the executive director of the Teacher  
4 Retirement System of Texas, and~~

5 [~~(6) any other information considered appropriate by  
6 the executive director of the Teacher Retirement System of Texas~~].

7 SECTION 20. Section 1579.255, Insurance Code, is amended to  
8 read as follows:

9 Sec. 1579.255. INTEREST ASSESSED ON LATE PAYMENT OF  
10 CONTRIBUTIONS BY PARTICIPATING ENTITIES. (a) A participating  
11 entity that does not remit to the trustee all contributions  
12 required by this subchapter before the 16th [~~seventh~~] day [~~after~~  
13 ~~the last day~~] of the month shall pay to the Texas school employees  
14 uniform group coverage trust fund:

15 (1) the contributions; and

16 (2) interest on the unpaid amounts at the annual rate  
17 of six percent compounded monthly.

18 (b) The [~~On request, the~~] trustee may grant a waiver of the  
19 deadline imposed by this section based on a participating entity's  
20 financial or technological resources.

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

25 SECTION 22. This Act takes effect September 1, 2015.