

By: Flynn

H.B. No. 4075

A BILL TO BE ENTITLED

AN ACT

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

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

6 SECTION 1. Sections 22.004(b) and (d), Education Code, are
7 amended to read as follows:

8 (b) A district that does not participate in the program
9 described by Subsection (a) shall make available to its employees
10 group health coverage provided by a risk pool established by one or
11 more school districts under Chapter 172, Local Government Code, or
12 under a policy of insurance or group contract issued by an insurer,
13 a company subject to Chapter 842, Insurance Code, or a health
14 maintenance organization under Chapter 843, Insurance Code. The
15 coverage must meet the substantive coverage requirements of Chapter
16 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366,
17 Insurance Code, and any other law applicable to group health
18 insurance policies or contracts issued in this state. The coverage
19 must include major medical treatment but may exclude experimental
20 procedures. In this subsection, "major medical treatment" means a
21 medical, surgical, or diagnostic procedure for illness or
22 injury. The coverage may include managed care or preventive care
23 and must be comparable to the basic health coverage provided under
24 Chapter 1551, Insurance Code. The ~~[board of trustees of the Teacher~~

1 ~~Retirement System of Texas shall adopt rules to determine whether a~~
2 ~~school district's group health coverage is comparable to the basic~~
3 ~~health coverage specified by this subsection. The rules must~~
4 ~~provide for consideration of the] following factors shall be~~
5 ~~considered [concerning the district's coverage]~~ in determining
6 whether the district's coverage is comparable to the basic health
7 coverage specified by this subsection:

8 (1) the deductible amount for service provided inside
9 and outside of the network;

10 (2) the coinsurance percentages for service provided
11 inside and outside of the network;

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

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

15 (5) the schedule of benefits and the scope of
16 coverage;

17 (6) the lifetime maximum benefit amount; and

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

24 (d) Each district [~~shall report the district's compliance~~
25 ~~with this section to the executive director of the Teacher~~
26 ~~Retirement System of Texas not later than March 1 of each~~
27 ~~even-numbered year in the manner required by the board of trustees~~

1 ~~of the Teacher Retirement System of Texas. For a district]~~ that
2 does not participate in the program described by Subsection (a)
3 shall prepare a report addressing the district's compliance with
4 this section. The~~, the~~ report must be available for review,
5 together with the policy or contract for the group health coverage
6 plan, at the central administrative office of each campus in the
7 district and be posted on the district's Internet website if the
8 district maintains a website, must be based on the district group
9 health coverage plan in effect during the current plan year, and
10 must include:

11 (1) appropriate documentation of:

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

16 (B) a resolution of the board of trustees of the
17 district authorizing a self-insurance plan for district employees
18 and of the district's review of district ability to cover the
19 liability assumed;

20 (2) the schedule of benefits;

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

23 (4) the number of employees covered by the health
24 coverage plan offered by the district; and

25 (5) information concerning the ease of completing the
26 report~~[, as required by the executive director of the Teacher~~
27 ~~Retirement System of Texas, and~~

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

3 SECTION 2. Subchapter A, Chapter 821, Government Code, is
4 amended by adding Section 821.0011 to read as follows:

5 Sec. 821.0011. DETERMINATION OF EMPLOYEE OR INDEPENDENT
6 CONTRACTOR STATUS. In determining whether an individual is an
7 employee or independent contractor of an employer, the retirement
8 system shall use the test applied under common law and any guidance
9 issued by the Internal Revenue Service regarding factors to
10 consider when determining an individual's employment status.

11 SECTION 3. Section 822.201(b), Government Code, is amended
12 to read as follows:

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

14 (1) normal periodic payments of money for service the
15 right to which accrues on a regular basis in proportion to the
16 service performed;

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

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

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

1 (B) the benefit options in the cafeteria plan are
2 limited to one or more options that provide deferred compensation,
3 group health and disability insurance, group term life insurance,
4 dependent care assistance programs, or group legal services plans;

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

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

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

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

16 (8) a merit salary increase made under Section 51.962,
17 Education Code;

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

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

25 (11) to the extent required by Sections 3401(h) and
26 414(u)(12) [~~414(u)(2)~~], Internal Revenue Code of 1986,
27 differential wage payments received by an individual from an

1 employer on or after January 1, 2009, while the individual is
2 performing qualified military service as defined by Section 414(u),
3 Internal Revenue Code of 1986.

4 SECTION 4. Section 823.004(a), Government Code, is amended
5 to read as follows:

6 (a) All credit for military service, out-of-state service,
7 developmental leave, work experience in a career or technological
8 field, and service transferred to the retirement system under
9 Chapter 805 shall be computed on a September 1 through August 31
10 school year. Payments for service described by this section must be
11 completed:

12 (1) not later than two calendar months after the later
13 of the member's retirement date or the last day of the month in
14 which the member submits a retirement application; and

15 (2) before the later of the due date for the member's
16 first monthly annuity payment or the date on which the retirement
17 system issues the first monthly annuity payment to the member.

18 SECTION 5. Section 823.403, Government Code, is amended by
19 amending Subsections (c) and (d) and adding Subsection (d-1) to
20 read as follows:

21 (c) On receipt of a certification under Subsection (b) and
22 payment under Subsection (d) of this section, the retirement system
23 shall grant any credit to which a retiree who is a subject of the
24 certification is entitled. An annuity payment may not be increased
25 until the retirement system is paid the full cost of the service
26 credit. [~~The increase in the annuity payment begins with the first~~
27 ~~payment that becomes due after certification and payment.~~]

1 (d) In order to receive credit, the member shall pay to the
2 retirement system at the time service credit is granted under this
3 section the actuarial present value of the additional standard
4 retirement annuity benefits under the option selected by the member
5 that would be attributable to the conversion of the unused state
6 personal or sick leave into the service credit based on rates and
7 tables recommended by the actuary and adopted by the board of
8 trustees. Except as provided by this subsection, the retirement
9 system must receive the payment for service credit under this
10 section not later than the 90th day after the date the retirement
11 system issues a cost statement for the purchase of service credit
12 under this section. The retirement system may grant a member a
13 one-time extension of not more than 30 days to complete the purchase
14 of the service credit if the purchase is made by:

15 (1) a direct rollover distribution from another
16 eligible retirement plan; or

17 (2) a direct trustee-to-trustee transfer from:

18 (A) an eligible deferred compensation plan
19 described by Section 457(b), Internal Revenue Code of 1986; or

20 (B) an individual account plan consisting of an
21 annuity contract described by Section 403(b), Internal Revenue Code
22 of 1986.

23 (d-1) A member who fails to make the payment described by
24 Subsection (d) within the time prescribed by that subsection may:

25 (1) decline to purchase service credit under this
26 section and maintain the member's effective date of retirement; or

27 (2) revoke the member's retirement as provided by

1 Section 824.005(a) and select a later retirement date that provides
2 the member with sufficient time to complete the purchase of the
3 service credit under this section.

4 SECTION 6. Sections 824.002(e) and (f), Government Code,
5 are amended to read as follows:

6 (e) Except as provided by Section 823.403(d), if
7 applicable, not [Not] later than two months after the later of a
8 member's retirement date or the last day of the month in which the
9 member's application for retirement is submitted, and before the
10 later of the due date for the first monthly annuity payment or the
11 date on which the retirement system issues the first monthly
12 annuity payment, a member applying for service retirement may,
13 after providing notice to the retirement system, reinstate
14 withdrawn contributions, make deposits for military service and
15 equivalent membership service, and receive service credit as
16 provided by this subtitle.

17 (f) An effective retirement date may not be changed after it
18 is established except by revocation of retirement under Section
19 824.005 [~~and retirement at a later date~~].

20 SECTION 7. Section 825.307(a), Government Code, is amended
21 to read as follows:

22 (a) The retirement system shall deposit in a member's
23 individual account in the member savings account:

24 (1) the amount of contributions to the retirement
25 system that is deducted from the member's compensation;

26 (2) the portion of a deposit made on or after
27 resumption of membership that represents the amount of retirement

1 benefits received;

2 (3) the portion of a deposit to reinstate service
3 credit previously canceled that represents the amount withdrawn or
4 refunded;

5 (4) the portion of a deposit to establish military
6 service credit required by Section 823.302(c);

7 (5) the portion of a deposit to establish USERRA
8 credit required by Section 823.304(c);

9 (6) the portion of a deposit to establish:

10 (A) equivalent membership service credit
11 required by Section 823.401(d), 823.402(e) [~~823.402(e)(1) or~~
12 ~~(e)(2)~~], 823.403(d), [~~or~~] 823.404(c), or 823.406(b) or former
13 Section 823.405; or

14 (B) unreported service credit or compensation
15 required by Section 825.403(h); and

16 (7) [~~(6)~~] interest earned on money in the account as
17 provided by Subsections (b) and (c) and Section 825.313(c).

18 SECTION 8. Section 825.509(b-1), Government Code, is
19 amended to read as follows:

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

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

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

3 (3) for distributions occurring on or after January 1,
4 2007, to a qualified plan described by Section 401(a), Internal
5 Revenue Code of 1986, if the plan separately accounts for:

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

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

11 (4) to an annuity contract described by Section
12 403(b), Internal Revenue Code of 1986, that agrees to separately
13 account for amounts transferred and earnings on amounts
14 transferred, including for the portion of the distribution that is
15 includable in gross income and the portion of the distribution that
16 is not includable in gross income.

17 SECTION 9. Section 830.201(h), Government Code, is amended
18 to read as follows:

19 (h) Before November 2 of each even-numbered year, the Texas
20 Higher Education Coordinating Board [~~board of trustees~~], in
21 coordination with the Legislative Budget Board, shall certify to
22 the comptroller for review and adoption an estimate of the amount
23 necessary to pay the state's contributions to the retirement system
24 for the following biennium. For qualifying employees under
25 Subsection (g)(1), the Texas Higher Education Coordinating Board
26 [~~board of trustees~~] shall include only the amount payable by the
27 state under Subsection (g)(1) in determining the amount to be

1 certified.

2 SECTION 10. This Act takes effect September 1, 2017.