

By: Flynn

H.B. No. 4078

A BILL TO BE ENTITLED

AN ACT

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

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

6 SECTION 1. Section 822.002, Government Code, is amended to
7 read as follows:

8 Sec. 822.002. EXCEPTIONS TO MEMBERSHIP REQUIREMENT. (a)
9 An employee of the public school system is not permitted to be a
10 member of the retirement system if the employee:

11 (1) is eligible and elects to participate in the
12 optional retirement program under Chapter 830; or

13 (2) ~~[is solely employed by a public institution of~~
14 ~~higher education that as a condition of employment requires the~~
15 ~~employee to be enrolled as a student in the institution; or~~

16 [(3)] has retired under the retirement system and has
17 not been reinstated to membership pursuant to Section 824.005 or
18 824.307.

19 (b) An employee of a public institution of higher education
20 who is required to be enrolled as a student in the institution as a
21 condition of employment is not permitted to be a member of the
22 retirement system based on that student employment, and
23 compensation paid to the employee for work performed as a student
24 employee is not compensation subject to report and deduction for

1 member contributions or to credit in benefit computations under
2 Section 822.201.

3 SECTION 2. Section 824.1012, Government Code, is amended by
4 amending Subsection (a) and adding Subsection (a-1) to read as
5 follows:

6 (a) As an exception to Section 824.101(c), a retiree who
7 selected an optional service retirement annuity under Section
8 824.204(c)(1), (c)(2), or (c)(5) or an optional disability
9 retirement annuity under Section 824.308(c)(1), (c)(2), or (c)(5)
10 and who has received at least one payment under the plan selected
11 may change the optional annuity selection made by the retiree to a
12 standard service or disability retirement annuity as provided for
13 in this section. If the beneficiary of the optional annuity was
14 [is] the spouse [or former spouse] of the retiree when the retiree
15 designated the spouse as beneficiary of the optional annuity, to
16 change from the optional annuity to a standard retirement annuity
17 under this subsection, the spouse or former spouse, as applicable,
18 who was designated [7] the beneficiary of the optional annuity must
19 sign a notarized consent to the change[7] or a court with
20 jurisdiction over the marriage of [in a divorce proceeding
21 involving] the retiree and beneficiary must approve or order the
22 change [in the divorce decree or acceptance of a property
23 settlement]. The change in plan selection takes effect when the
24 retirement system receives the request to change the plan, provided
25 the signed consent form or court order, as applicable, is
26 subsequently received by the retirement system [it].

27 (a-1) The executive director or the executive director's

1 designee has exclusive authority to determine whether the language
2 in a court order described by Subsection (a) is sufficient to
3 indicate that the court has approved or ordered the change in plan
4 selection. A determination by the executive director or the
5 executive director's designee under this subsection may be appealed
6 only to the board of trustees, except that the board by rule may
7 waive the requirement that an appeal be to the board. An appeal to
8 the board is a contested case under Chapter 2001. The standard of
9 review of an appeal brought under this subsection is by substantial
10 evidence.

11 SECTION 3. Section 824.1013, Government Code, is amended by
12 amending Subsections (b) and (c-1) and adding Subsection (c-2) to
13 read as follows:

14 (b) If the beneficiary designated at the time of the
15 retiree's retirement is the spouse of the retiree at the time of the
16 designation:

17 (1) the spouse must give written, notarized consent to
18 the change;

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

22 (3) a court with jurisdiction over the marriage must
23 approve or order ~~have ordered~~ the change.

24 (c-1) Notwithstanding Subsection (c), a beneficiary
25 designated under this section is entitled on the retiree's death to
26 receive monthly payments of the survivor's portion of the retiree's
27 optional retirement annuity for the remainder of the beneficiary's

1 life if the beneficiary designated at the time of the retiree's
2 retirement is a trust and the beneficiary designated under this
3 section is:

- 4 (1) the sole beneficiary of that trust; or
5 (2) an individual who at the time of the retiree's
6 death is the sole beneficiary of that trust.

7 (c-2) The executive director or the executive director's
8 designee has exclusive authority to determine whether the language
9 in a court order described by Subsection (b) is sufficient to
10 indicate that the court has approved or ordered the change in the
11 designated beneficiary. A determination by the executive director
12 or the executive director's designee under this subsection may be
13 appealed only to the board of trustees, except that the board by
14 rule may waive the requirement that an appeal be to the board. An
15 appeal to the board is a contested case under Chapter 2001. The
16 standard of review of an appeal brought under this subsection is by
17 substantial evidence.

18 SECTION 4. Section 824.402, Government Code, is amended by
19 adding Subsection (a-1) to read as follows:

20 (a-1) In determining under Subsection (a)(4) whether to
21 reduce the optional retirement annuity amount because of early
22 retirement and in determining the amount of that reduction, if
23 applicable, the retirement system shall make the determination as
24 if the member had retired with an additional five years of service
25 credit on the last day of the month preceding the month in which the
26 member dies. The additional five years of service credit used in
27 making a determination under this subsection may not be used to

1 determine the amount of the benefit under Section 824.203 or
2 whether the benefit under this subsection is authorized under
3 Section 824.401.

4 SECTION 5. Section 824.503(f), Government Code, is amended
5 to read as follows:

6 (f) The designated beneficiary of a disability retiree is
7 eligible to receive the benefits described by this section if the
8 retiree:

9 (1) retires on or after September 1, 1992; and

10 (2) dies while receiving disability retirement
11 benefits under Section 824.304 [~~824.304(b)~~].

12 SECTION 6. Section 824.601, Government Code, is amended by
13 amending Subsection (b) and adding Subsection (b-2) to read as
14 follows:

15 (b) Except as provided by Subsection (b-1) or Section
16 824.602 and subject to Subsection (b-2), a retiree is not entitled
17 to service or disability retirement benefit payments, as
18 applicable, for any month in which the retiree is employed in any
19 position by a Texas public educational institution.

20 (b-2) A retiree is considered to be employed by a Texas
21 public educational institution for purposes of Subsection (b) if
22 the retiree performs duties or provides services for or on behalf of
23 the institution that an employee of the institution would otherwise
24 perform or provide and:

25 (1) the retiree waives, defers, or forgoes
26 compensation from the institution for the performance of the duties
27 or provision of the services at any time during the 12 consecutive

1 calendar months after the retiree's effective date of retirement,
2 notwithstanding any other law, including Sections 824.602(a)(1),
3 (a)(2), and (a)(4);

4 (2) the retiree performs the duties or provides the
5 services for or on behalf of the institution as an independent
6 contractor at any time during the 12 consecutive calendar months
7 after the retiree's effective date of retirement; or

8 (3) the retiree, as a volunteer without compensation,
9 performs the same duties or provides the same services for an
10 institution that the retiree performed or provided immediately
11 before retiring and the retiree has an agreement to perform those
12 duties or provide those services after the 12 consecutive calendar
13 months after the retiree's effective date of retirement.

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

16 (b) The retirement system is exempt from Section 651.002,
17 Chapter 660, and Subchapter K, Chapter 659, to the extent the board
18 of trustees determines an exemption is necessary for the
19 performance of fiduciary duties.

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

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

26 SECTION 9. Section 825.3011(b), Government Code, is amended
27 to read as follows:

1 (b) Chapter 551 does not require the board of trustees to
2 confer with one or more employees, consultants, or legal counsel of
3 the retirement system or with a third party, including
4 representatives of an issuer of restricted securities or a private
5 investment fund, in an open meeting if the only purpose of the
6 conference is to receive information from or question the
7 employees, consultants, or legal counsel of the retirement system
8 or the third party relating to:

9 (1) ~~[an]~~ investment transactions or ~~[a]~~ potential
10 investment transactions if, before conducting the closed meeting, a
11 majority of [by] the board of trustees in an open meeting vote that
12 deliberating or conferring in an open meeting would have a
13 detrimental effect on the position of the retirement system in
14 negotiations with third parties or put the retirement system at a
15 competitive disadvantage in the market ~~[in a private investment~~
16 ~~fund]~~; or

17 (2) the purchase, holding, or disposal of restricted
18 securities or a private investment fund's investment in restricted
19 securities if, under Section 552.143, the information discussed
20 would be confidential and excepted from the requirements of Section
21 552.021 if the information was included in the records of a
22 governmental body.

23 SECTION 10. Section 825.306, Government Code, is amended to
24 read as follows:

25 Sec. 825.306. CREDITING SYSTEM ASSETS. (a) The assets of
26 the retirement system shall be maintained and reported in a manner
27 that reflects the source of the assets or the purpose for which the

1 assets are held, using appropriate ledgers and subledgers, in
2 accordance with generally accepted accounting principles
3 prescribed by the Governmental Accounting Standards Board or its
4 successor. In addition, the maintenance and reporting of the
5 assets must be in compliance with applicable tax law and consistent
6 with any fiduciary duty owed with respect to the trust. In the
7 alternative, the assets may be credited, according to the purpose
8 for which they are held, to one of the following accounts:

- 9 (1) member savings account;
- 10 (2) state contribution account;
- 11 (3) retired reserve account;
- 12 (4) interest account;
- 13 (5) expense account; or
- 14 (6) deferred retirement option account.

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

19 SECTION 11. Section 825.408, Government Code, is amended by
20 amending Subsection (a) and adding Subsections (a-1) and (a-2) to
21 read as follows:

22 (a) Except as provided by Subsection (a-1), an [An] employer
23 that fails to remit, before the seventh day after the last day of a
24 month, all member and employer deposits and documentation of the
25 deposits required by this subchapter to be remitted by the employer
26 for the month shall pay to the retirement system, in addition to the
27 deposits, interest on the unpaid [~~or undocumented~~] amounts at an

1 annual rate compounded monthly and a late fee in an amount
2 determined by the retirement system for each day after the deadline
3 imposed by this subsection that the employer fails to submit the
4 documentation of the deposits. The rate of interest is the rate
5 established under Section 825.313(b)(1), plus two percent.
6 Interest and late fees required under this section are [~~is~~]
7 creditable to the interest account. On request, the retirement
8 system may grant a waiver of the deadline imposed by this subsection
9 based on an employer's financial or technological resources.

10 (a-1) This subsection applies only to an employer who
11 reports the employment of a retiree to the retirement system.
12 Subject to Subsection (a-2), an employer that fails to remit,
13 before the 11th day after the last day of a calendar month in which a
14 retiree is employed, the employer deposits required by Section
15 825.4092(b), documentation of those deposits as required by this
16 section, and the certified statement of employment required by
17 Section 824.6022 shall pay to the retirement system, in addition to
18 the deposits, interest on the unpaid amounts at the annual rate
19 established under Subsection (a), compounded monthly, and a late
20 fee for each day after the deadline imposed by this subsection that
21 the employer fails to file the documentation of the deposits and the
22 certified statement of employment.

23 (a-2) If a retiree described by Subsection (a-1) performs
24 work in the month of August, the employer must remit the employer
25 deposits, documentation of those deposits, and the certified
26 statement of employment not later than the seventh day of
27 September.

1 SECTION 12. Section 825.410(a), Government Code, is amended
2 to read as follows:

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

1 ~~service for three years after the date of the refund.]~~

2 SECTION 13. Section 825.519, Government Code, is amended to
3 read as follows:

4 Sec. 825.519. ELECTRONIC INFORMATION. (a) The retirement
5 system may provide confidential information electronically to
6 members or other participants or employers and receive information
7 electronically from those persons, including by use of an
8 electronic signature or certification in a form acceptable to the
9 retirement system. An unintentional disclosure to, or unauthorized
10 access by, a third party related to the transmission or receipt of
11 information under this section is not a violation by the retirement
12 system of any law, including a rule relating to the protection of
13 confidential information.

14 (b) The retirement system may provide to a member or retiree
15 any information that is required to be provided, distributed, or
16 furnished under Section 802.106(a), (b), (d), or (e) by:

17 (1) sending the information to an e-mail address the
18 member or retiree furnished to an employer covered by the
19 retirement system; or

20 (2) directing the member or retiree through a written
21 notice or e-mail to an Internet website address to access the
22 information.

23 (c) The retirement system may provide to an active member of
24 the retirement system the information that is required to be
25 provided under Section 802.106(c) by sending the information to an
26 e-mail address specified by the member for the purpose of receiving
27 confidential information.

1 SECTION 14. Section 1575.402(a), Insurance Code, is amended
2 to read as follows:

3 (a) The Retirees Advisory Committee is composed of the
4 following seven [~~nine~~] members appointed by the trustee:

5 (1) one member who is an active school administrator;

6 (2) one member who is a retired school administrator;

7 (3) two members who are active teachers; and

8 (4) three members who are retired teachers[~~+~~

9 [~~(5) one member who is an active member of the~~
10 ~~auxiliary personnel of a school district; and~~

11 [~~(6) one member who is a retired member of the~~
12 ~~auxiliary personnel of a school district]~~.

13 SECTION 15. Section 1575.403(b), Insurance Code, is amended
14 to read as follows:

15 (b) The [~~Five members' terms, including the~~] terms of the
16 active school administrator, one active teacher, and two retired
17 teachers[~~, and the retired member of the auxiliary personnel,~~
18 expire February 1, 2002, and every fourth year after that date.

19 SECTION 16. Section 824.402, Government Code, as amended by
20 this Act, applies only to a member of the Teacher Retirement System
21 of Texas who retires on or after the effective date of this Act.

22 SECTION 17. Section 824.601, Government Code, as amended by
23 this Act, applies to a retiree of the Teacher Retirement System of
24 Texas regardless of whether the person retired from employment
25 before, on, or after the effective date of this Act.

26 SECTION 18. The changes in law made by this Act to Sections
27 1575.402 and 1575.403, Insurance Code, regarding the composition

1 and terms of the Retirees Advisory Committee, do not affect the
2 entitlement of a member serving on the committee immediately before
3 the effective date of this Act to continue to serve as a member of
4 the committee for the remainder of the member's term. As the terms
5 of committee members expire or as vacancies occur on the board, the
6 Teacher Retirement System of Texas shall appoint members to the
7 committee as necessary to comply with Sections [1575.402](#) and
8 [1575.403](#), Insurance Code, as amended by this Act.

9 SECTION 19. This Act takes effect September 1, 2017, except
10 that Section [825.212](#), Government Code, as amended by this Act,
11 takes effect immediately if this Act receives a vote of two-thirds
12 of all the members elected to each house, as provided by Section 39,
13 Article III, Texas Constitution. If this Act does not receive the
14 vote necessary for immediate effect, Section [825.212](#), Government
15 Code, as amended by this Act, takes effect September 1, 2017.