

AN ACT

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

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

SECTION 1. Sections 42.260(b) and (c), Education Code, are amended to read as follows:

(b) The ~~[For each year, the commissioner shall certify to each school district or participating charter school the]~~ amount of additional funds to which each school district or participating charter school ~~[the district or school]~~ is entitled due to the increases in formula funding ~~[increase]~~ made by H.B. No. 3343, Acts of the 77th Legislature, Regular Session, 2001, and any subsequent legislation amending the provisions amended by that Act that increase formula funding under Chapter 41 and this chapter to school districts and charter schools is available for purposes of Subsection (c) ~~[to:~~

~~[(1) the equalized wealth level under Section 41.002,~~
~~or~~

~~[(2) the guaranteed level of state and local funds per weighted student per cent of tax effort under Section 42.302].~~

(c) Notwithstanding any other provision of this code, a school district or participating charter school may use the sum of the following amounts ~~[amount]~~ of funds only to pay contributions

1 under a group health coverage plan for district or school
2 employees:

3 (1) ~~[an amount equal to 75 percent of the amount~~
4 ~~certified for the district or school under Subsection (b), or~~
5 ~~[(2) if the following amount is less than the amount~~
6 ~~specified by Subdivision (1), the sum of:~~

7 ~~[(A)]~~ the amount determined by multiplying the
8 amount of \$900 or the amount specified in the General
9 Appropriations Act for that year for purposes of the state
10 contribution under Section 1579.251 ~~[9, Article 3.50-7]~~, Insurance
11 Code, by the number of district or school employees who participate
12 in a group health coverage plan provided by or through the district
13 or school; and

14 (2) ~~[(B)]~~ the difference between the amount necessary
15 for the district or school to comply with Section 1581.052 ~~[3,~~
16 ~~Article 3.50-9]~~, Insurance Code, for the school year and the amount
17 the district or school is required to use to provide health coverage
18 under Section 1581.051, Insurance Code, ~~[2 of that article]~~ for
19 that year.

20 SECTION 2. Section 822.002, Government Code, is amended to
21 read as follows:

22 Sec. 822.002. EXCEPTIONS TO MEMBERSHIP REQUIREMENT.

23 (a) An employee of the public school system is not permitted to be
24 a member of the retirement system if the employee:

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

27 (2) ~~[is solely employed by a public institution of~~

1 ~~higher education that as a condition of employment requires the~~
2 ~~employee to be enrolled as a student in the institution, or~~

3 ~~[(3)]~~ has retired under the retirement system and has
4 not been reinstated to membership pursuant to Section 824.005 or
5 824.307.

6 (b) An employee of a public institution of higher education
7 who is required to be enrolled as a student in the institution as a
8 condition of employment is not permitted to be a member of the
9 retirement system based on that student employment, and
10 compensation paid to the employee for work performed as a student
11 employee is not compensation subject to report and deduction for
12 member contributions or to credit in benefit computations under
13 Section 822.201.

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

17 (a) As an exception to Section 824.101(c), a retiree who
18 selected an optional service retirement annuity under Section
19 824.204(c)(1), (c)(2), or (c)(5) or an optional disability
20 retirement annuity under Section 824.308(c)(1), (c)(2), or (c)(5)
21 and who has received at least one payment under the plan selected
22 may change the optional annuity selection made by the retiree to a
23 standard service or disability retirement annuity as provided for
24 in this section. If the beneficiary of the optional annuity was
25 [is] the spouse [or former spouse] of the retiree when the retiree
26 designated the spouse as beneficiary of the optional annuity, to
27 change from the optional annuity to a standard retirement annuity

1 under this subsection, the spouse or former spouse, as applicable,
2 who was designated~~[7]~~ the beneficiary of the optional annuity must
3 sign a notarized consent to the change~~[7]~~ or a court with
4 jurisdiction over the marriage of ~~[in a divorce proceeding~~
5 ~~involving]~~ the retiree and beneficiary must approve or order the
6 change ~~[in the divorce decree or acceptance of a property~~
7 ~~settlement]~~. The change in plan selection takes effect when the
8 retirement system receives the request to change the plan, provided
9 the signed consent form or court order, as applicable, is
10 subsequently received by the retirement system ~~[it]~~.

11 (a-1) The executive director or the executive director's
12 designee has exclusive authority to determine whether the language
13 in a court order described by Subsection (a) is sufficient to
14 indicate that the court has approved or ordered the change in plan
15 selection. A determination by the executive director or the
16 executive director's designee under this subsection may be appealed
17 only to the board of trustees, except that the board by rule may
18 waive the requirement that an appeal be to the board. An appeal to
19 the board is a contested case under Chapter 2001. The standard of
20 review of an appeal brought under this subsection is by substantial
21 evidence.

22 SECTION 4. Section [824.1013](#), Government Code, is amended by
23 amending Subsections (b) and (c-1) and adding Subsection (c-2) to
24 read as follows:

25 (b) If the beneficiary designated at the time of the
26 retiree's retirement is the spouse of the retiree at the time of the
27 designation:

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

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

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

8 (c-1) Notwithstanding Subsection (c), a beneficiary
9 designated under this section is entitled on the retiree's death to
10 receive monthly payments of the survivor's portion of the retiree's
11 optional retirement annuity for the remainder of the beneficiary's
12 life if the beneficiary designated at the time of the retiree's
13 retirement is a trust and the beneficiary designated under this
14 section is:

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

16 (2) an individual who at the time of the retiree's
17 death is the sole beneficiary of that trust.

18 (c-2) The executive director or the executive director's
19 designee has exclusive authority to determine whether the language
20 in a court order described by Subsection (b) is sufficient to
21 indicate that the court has approved or ordered the change in the
22 designated beneficiary. A determination by the executive director
23 or the executive director's designee under this subsection may be
24 appealed only to the board of trustees, except that the board by
25 rule may waive the requirement that an appeal be to the board. An
26 appeal to the board is a contested case under Chapter 2001. The
27 standard of review of an appeal brought under this subsection is by

1 substantial evidence.

2 SECTION 5. Section 824.402, Government Code, is amended by
3 adding Subsection (a-1) to read as follows:

4 (a-1) In determining under Subsection (a)(4) whether to
5 reduce the optional retirement annuity amount because of early
6 retirement and in determining the amount of that reduction, if
7 applicable, the retirement system shall make the determination as
8 if the member had retired with an additional five years of service
9 credit on the last day of the month preceding the month in which the
10 member dies. The additional five years of service credit used in
11 making a determination under this subsection may not be used to
12 determine the amount of the benefit under Section 824.203 or
13 whether the benefit under this subsection is authorized under
14 Section 824.401.

15 SECTION 6. Section 824.503(f), Government Code, is amended
16 to read as follows:

17 (f) The designated beneficiary of a disability retiree is
18 eligible to receive the benefits described by this section if the
19 retiree:

- 20 (1) retires on or after September 1, 1992; and
21 (2) dies while receiving disability retirement
22 benefits under Section 824.304 [~~824.304(b)~~].

23 SECTION 7. Section 824.601, Government Code, is amended by
24 amending Subsection (b) and adding Subsection (b-2) to read as
25 follows:

26 (b) Except as provided by Subsection (b-1) or Section
27 824.602 and subject to Subsection (b-2), a retiree is not entitled

1 to service or disability retirement benefit payments, as
2 applicable, for any month in which the retiree is employed in any
3 position by a Texas public educational institution.

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

9 (1) the retiree waives, defers, or forgoes
10 compensation from the institution for the performance of the duties
11 or provision of the services at any time during the 12 consecutive
12 calendar months after the retiree's effective date of retirement,
13 notwithstanding any other law, including Sections 824.602(a)(1),
14 (a)(2), and (a)(4);

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

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

25 SECTION 8. SUNSET PROVISION. Section 825.006, Government
26 Code, is amended to read as follows:

27 Sec. 825.006. SUNSET PROVISION. The board of trustees of the

1 Teacher Retirement System of Texas is subject to review under
2 Chapter 325 (Texas Sunset Act), but is not abolished under that
3 chapter. The board shall be reviewed during the period in which
4 state agencies abolished in 2025 [~~2019~~], and every 12th year after
5 that year, are reviewed.

6 SECTION 9. Section 825.208(b), Government Code, is amended
7 to read as follows:

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

12 SECTION 10. Section 825.212, Government Code, is amended by
13 adding Subsection (d) to read as follows:

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

18 SECTION 11. Section 825.3011(b), Government Code, is
19 amended to read as follows:

20 (b) Chapter 551 does not require the board of trustees to
21 confer with one or more employees, consultants, or legal counsel of
22 the retirement system or with a third party, including
23 representatives of an issuer of restricted securities or a private
24 investment fund, in an open meeting if the only purpose of the
25 conference is to receive information from or question the
26 employees, consultants, or legal counsel of the retirement system
27 or the third party relating to:

1 (1) ~~[an]~~ investment transactions or ~~[a]~~ potential
2 investment transactions if, before conducting the closed meeting, a
3 majority of [by] the board of trustees in an open meeting vote that
4 deliberating or conferring in an open meeting would have a
5 detrimental effect on the position of the retirement system in
6 negotiations with third parties or put the retirement system at a
7 competitive disadvantage in the market ~~[in a private investment~~
8 ~~fund]~~; or

9 (2) the purchase, holding, or disposal of restricted
10 securities or a private investment fund's investment in restricted
11 securities if, under Section 552.143, the information discussed
12 would be confidential and excepted from the requirements of Section
13 552.021 if the information was included in the records of a
14 governmental body.

15 SECTION 12. Section 825.306, Government Code, is amended to
16 read as follows:

17 Sec. 825.306. CREDITING SYSTEM ASSETS. (a) The assets of
18 the retirement system shall be maintained and reported in a manner
19 that reflects the source of the assets or the purpose for which the
20 assets are held, using appropriate ledgers and subledgers, in
21 accordance with generally accepted accounting principles
22 prescribed by the Governmental Accounting Standards Board or its
23 successor. In addition, the maintenance and reporting of the
24 assets must be in compliance with applicable tax law and consistent
25 with any fiduciary duty owed with respect to the trust. In the
26 alternative, the assets may be credited, according to the purpose
27 for which they are held, to one of the following accounts:

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

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

11 SECTION 13. Section 825.408, Government Code, is amended by
12 amending Subsection (a) and adding Subsections (a-1) and (a-2) to
13 read as follows:

14 (a) Except as provided by Subsection (a-1), an [An] employer
15 that fails to remit, before the seventh day after the last day of a
16 month, all member and employer deposits and documentation of the
17 deposits required by this subchapter to be remitted by the employer
18 for the month shall pay to the retirement system, in addition to the
19 deposits, interest on the unpaid [or undocumented] amounts at an
20 annual rate compounded monthly and a late fee in an amount
21 determined by the retirement system that is based on the size of the
22 employer and may not exceed \$1,000 for each business day after the
23 deadline imposed by this subsection that the employer fails to
24 submit the documentation of the deposits. The cumulative amount of
25 late fees assessed against an employer under this subsection may
26 not exceed \$25,000 per reporting period. The rate of interest is
27 the rate established under Section 825.313(b)(1), plus two percent.

1 Interest and late fees required under this section are [~~is~~]
2 creditable to the interest account. On request, the retirement
3 system may grant a waiver of the deadline imposed by this subsection
4 based on an employer's financial or technological resources. The
5 retirement system may establish a process for filing an appeal to
6 reduce or waive a late fee imposed under this subsection.

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

21 (a-2) If a retiree described by Subsection (a-1) performs
22 work in the month of August, the employer must remit the employer
23 deposits, documentation of those deposits, and the certified
24 statement of employment before the seventh day of September.

25 SECTION 14. 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 15. Section 825.519, Government Code, is amended to
27 read as follows:

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

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

14 (1) sending the information to an e-mail address of
15 the member or retiree furnished to the retirement system by an
16 employer covered by the retirement system; or

17 (2) directing the member or retiree through a written
18 notice or e-mail to an Internet website address to access the
19 information.

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

25 SECTION 16. Section 1575.402(a), Insurance Code, is amended
26 to read as follows:

27 (a) The Retirees Advisory Committee is composed of the

1 following seven [~~nine~~] members appointed by the trustee:

- 2 (1) one member who is an active school administrator;
- 3 (2) one member who is a retired school administrator;
- 4 (3) two members who are active teachers; and
- 5 (4) three members who are retired teachers[~~+~~
- 6 [~~(5) one member who is an active member of the~~
- 7 ~~auxiliary personnel of a school district; and~~
- 8 [~~(6) one member who is a retired member of the~~
- 9 ~~auxiliary personnel of a school district]~~.

10 SECTION 17. Section 1575.403(b), Insurance Code, is amended

11 to read as follows:

12 (b) The [~~Five members' terms, including the~~] terms of the

13 active school administrator, one active teacher, and two retired

14 teachers[~~, and the retired member of the auxiliary personnel,~~

15 expire February 1, 2002, and every fourth year after that date.

16 SECTION 18. Section 824.402, Government Code, as amended by

17 this Act, applies only to benefits payable on the death of a member

18 of the Teacher Retirement System of Texas who dies:

- 19 (1) on or after the effective date of this Act; or
- 20 (2) before the effective date of this Act if the
- 21 benefits payable on the death of the member have not commenced on
- 22 the effective date of this Act.

23 SECTION 19. Section 824.601, Government Code, as amended by

24 this Act, applies to a retiree of the Teacher Retirement System of

25 Texas regardless of whether the person retired from employment

26 before, on, or after the effective date of this Act.

27 SECTION 20. The changes in law made by this Act to Sections

1 1575.402 and 1575.403, Insurance Code, regarding the composition
2 and terms of the Retirees Advisory Committee, do not affect the
3 entitlement of a member serving on the committee immediately before
4 the effective date of this Act to continue to serve as a member of
5 the committee for the remainder of the member's term. As the terms
6 of committee members expire or as vacancies occur on the committee,
7 the Teacher Retirement System of Texas shall appoint members to the
8 committee as necessary to comply with Sections 1575.402 and
9 1575.403, Insurance Code, as amended by this Act.

10 SECTION 21. This Act takes effect September 1, 2017, except
11 that Section 825.212, Government Code, as amended by this Act,
12 takes effect immediately if this Act receives a vote of two-thirds
13 of all the members elected to each house, as provided by Section 39,
14 Article III, Texas Constitution. If this Act does not receive the
15 vote necessary for immediate effect, Section 825.212, Government
16 Code, as amended by this Act, takes effect September 1, 2017.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 1663 passed the Senate on April 19, 2017, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendments on May 28, 2017, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1663 passed the House, with amendments, on May 24, 2017, by the following vote: Yeas 144, Nays 0, three present not voting.

Chief Clerk of the House

Approved:

Date

Governor