

By: Huffman  
(Flynn)

S.B. No. 1663

Substitute the following for S.B. No. 1663:

By: Huberty

C.S.S.B. No. 1663

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

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

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

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

22 (c) Notwithstanding any other provision of this code, a  
23 school district or participating charter school may use the sum of  
24 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. Section 825.208(b), Government Code, is amended  
26 to read as follows:

27 (b) The retirement system is exempt from Section 651.002,

1 Chapter 660, and Subchapter K, Chapter 659, to the extent the board  
2 of trustees determines an exemption is necessary for the  
3 performance of fiduciary duties.

4 SECTION 9. 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 10. Section 825.3011(b), Government Code, is  
11 amended to read as follows:

12 (b) Chapter 551 does not require the board of trustees to  
13 confer with one or more employees, consultants, or legal counsel of  
14 the retirement system or with a third party, including  
15 representatives of an issuer of restricted securities or a private  
16 investment fund, in an open meeting if the only purpose of the  
17 conference is to receive information from or question the  
18 employees, consultants, or legal counsel of the retirement system  
19 or the third party relating to:

20 (1) ~~[an]~~ investment transactions or ~~[a]~~ potential  
21 investment transactions if, before conducting the closed meeting, a  
22 majority of ~~[by]~~ the board of trustees in an open meeting vote that  
23 deliberating or conferring in an open meeting would have a  
24 detrimental effect on the position of the retirement system in  
25 negotiations with third parties or put the retirement system at a  
26 competitive disadvantage in the market ~~[in a private investment~~  
27 ~~fund]~~; or



1           (2) the purchase, holding, or disposal of restricted  
2 securities or a private investment fund's investment in restricted  
3 securities if, under Section 552.143, the information discussed  
4 would be confidential and excepted from the requirements of Section  
5 552.021 if the information was included in the records of a  
6 governmental body.

7           SECTION 11. Section 825.306, Government Code, is amended to  
8 read as follows:

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

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

26           (b) Notwithstanding any other law, a requirement to deposit  
27 in or transfer assets from one of the accounts described under

1 Subsection (a) is satisfied by maintaining and reporting the assets  
2 in accordance with that subsection.

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

6 (a) Except as provided by Subsection (a-1), an [An] employer  
7 that fails to remit, before the seventh day after the last day of a  
8 month, all member and employer deposits and documentation of the  
9 deposits required by this subchapter to be remitted by the employer  
10 for the month shall pay to the retirement system, in addition to the  
11 deposits, interest on the unpaid [~~or undocumented~~] amounts at an  
12 annual rate compounded monthly and a late fee in an amount  
13 determined by the retirement system that is based on the size of the  
14 employer and may not exceed \$1,000 for each business day after the  
15 deadline imposed by this subsection that the employer fails to  
16 submit the documentation of the deposits. The cumulative amount of  
17 late fees assessed against an employer under this subsection may  
18 not exceed \$25,000 per reporting period. The rate of interest is  
19 the rate established under Section 825.313(b)(1), plus two percent.  
20 Interest and late fees required under this section are [is]  
21 creditable to the interest account. On request, the retirement  
22 system may grant a waiver of the deadline imposed by this subsection  
23 based on an employer's financial or technological resources. The  
24 retirement system may establish a process for filing an appeal to  
25 reduce or waive a late fee imposed under this subsection.

26 (a-1) This subsection applies only to an employer who  
27 reports the employment of a retiree to the retirement system.

1 Subject to Subsection (a-2), an employer that fails to remit,  
2 before the 11th day after the last day of a calendar month in which a  
3 retiree is employed, the employer deposits required by Section  
4 825.4092(b), documentation of those deposits as required by this  
5 section, and the certified statement of employment required by  
6 Section 824.6022 shall pay to the retirement system, in addition to  
7 the deposits, interest on the unpaid amounts at the annual rate  
8 established under Subsection (a), compounded monthly, and a late  
9 fee in an amount determined by the retirement system for each  
10 business day after the deadline imposed by this subsection that the  
11 employer fails to file the documentation of the deposits and the  
12 certified statement of employment.

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

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

19 (a) Payments to establish special service credit as  
20 authorized under this subtitle, other than service credit that may  
21 only be determined and paid for at the time of retirement such as  
22 unused leave as authorized by Section 823.403, may be made in a lump  
23 sum by a monthly payroll deduction in an amount not less than  
24 one-twelfth of the contribution required to establish at least one  
25 year of service credit, or in equal monthly installments over a  
26 period not to exceed the lesser of the number of years of credit to  
27 be purchased or 60 months. Installment and payroll deduction

1 payments are due on the first day of each calendar month in the  
2 payment period. If an installment or payroll deduction payment is  
3 not made in full within 60 days after the due date, the retirement  
4 system may refund all installment or payroll deduction payments  
5 less fees paid on the lump sum due when installment or payroll  
6 deduction payments began. Partial payment of an installment or  
7 payroll deduction payment may be treated as nonpayment. A check  
8 returned for insufficient funds or a closed account shall be  
9 treated as nonpayment. When two or more consecutive monthly  
10 payments have a returned check, a refund may be made. [~~If the~~  
11 ~~retirement system refunds payments pursuant to this subsection, the~~  
12 ~~member is not permitted to use the installment method of payment or~~  
13 ~~the payroll deduction method, as applicable, for the same service~~  
14 ~~for three years after the date of the refund. A member who requests~~  
15 ~~and receives a refund of installment or payroll deduction payments~~  
16 ~~also is not permitted to use the same method of payment for the same~~  
17 ~~service for three years after the date of the refund.]~~

18 SECTION 14. Section 825.519, Government Code, is amended to  
19 read as follows:

20 Sec. 825.519. ELECTRONIC INFORMATION. (a) The retirement  
21 system may provide confidential information electronically to  
22 members or other participants or employers and receive information  
23 electronically from those persons, including by use of an  
24 electronic signature or certification in a form acceptable to the  
25 retirement system. An unintentional disclosure to, or unauthorized  
26 access by, a third party related to the transmission or receipt of  
27 information under this section is not a violation by the retirement

1 system of any law, including a rule relating to the protection of  
2 confidential information.

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

6 (1) sending the information to an e-mail address of  
7 the member or retiree furnished to the retirement system by an  
8 employer covered by the retirement system; or

9 (2) directing the member or retiree through a written  
10 notice or e-mail to an Internet website address to access the  
11 information.

12 (c) The retirement system may provide to an active member of  
13 the retirement system the information that is required to be  
14 provided under Section 802.106(c) by sending the information to an  
15 e-mail address specified by the member for the purpose of receiving  
16 confidential information.

17 SECTION 15. Section 1575.402(a), Insurance Code, is amended  
18 to read as follows:

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

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

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

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

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

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

27 [~~(6) one member who is a retired member of the~~

1 ~~auxiliary personnel of a school district].~~

2 SECTION 16. Section 1575.403(b), Insurance Code, is amended  
3 to read as follows:

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

8 SECTION 17. Section 824.402, Government Code, as amended by  
9 this Act, applies only to benefits payable on the death of a member  
10 of the Teacher Retirement System of Texas who dies:

- 11 (1) on or after the effective date of this Act; or  
12 (2) before the effective date of this Act if the  
13 benefits payable on the death of the member have not commenced on  
14 the effective date of this Act.

15 SECTION 18. Section 824.601, Government Code, as amended by  
16 this Act, applies to a retiree of the Teacher Retirement System of  
17 Texas regardless of whether the person retired from employment  
18 before, on, or after the effective date of this Act.

19 SECTION 19. The changes in law made by this Act to Sections  
20 1575.402 and 1575.403, Insurance Code, regarding the composition  
21 and terms of the Retirees Advisory Committee, do not affect the  
22 entitlement of a member serving on the committee immediately before  
23 the effective date of this Act to continue to serve as a member of  
24 the committee for the remainder of the member's term. As the terms  
25 of committee members expire or as vacancies occur on the committee,  
26 the Teacher Retirement System of Texas shall appoint members to the  
27 committee as necessary to comply with Sections 1575.402 and

1 1575.403, Insurance Code, as amended by this Act.

2 SECTION 20. This Act takes effect September 1, 2017, except  
3 that Section 825.212, Government Code, as amended by this Act,  
4 takes effect immediately if this Act receives a vote of two-thirds  
5 of all the members elected to each house, as provided by Section 39,  
6 Article III, Texas Constitution. If this Act does not receive the  
7 vote necessary for immediate effect, Section 825.212, Government  
8 Code, as amended by this Act, takes effect September 1, 2017.