

1-1 By: Huffman S.B. No. 1663  
 1-2 (In the Senate - Filed March 9, 2017; March 22, 2017, read  
 1-3 first time and referred to Committee on State Affairs;  
 1-4 April 5, 2017, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 9, Nays 0; April 5, 2017,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1663 By: Huffman

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to contributions to, benefits from, late fees imposed by,  
 1-22 and the administration of systems and programs administered by the  
 1-23 Teacher Retirement System of Texas.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 822.002, Government Code, is amended to  
 1-26 read as follows:

1-27 Sec. 822.002. EXCEPTIONS TO MEMBERSHIP REQUIREMENT.

1-28 (a) An employee of the public school system is not permitted to be  
 1-29 a member of the retirement system if the employee:

1-30 (1) is eligible and elects to participate in the  
 1-31 optional retirement program under Chapter 830; or

1-32 (2) ~~[is solely employed by a public institution of  
 1-33 higher education that as a condition of employment requires the  
 1-34 employee to be enrolled as a student in the institution; or~~

1-35 ~~[(3)]~~ has retired under the retirement system and has  
 1-36 not been reinstated to membership pursuant to Section 824.005 or  
 1-37 824.307.

1-38 (b) An employee of a public institution of higher education  
 1-39 who is required to be enrolled as a student in the institution as a  
 1-40 condition of employment is not permitted to be a member of the  
 1-41 retirement system based on that student employment, and  
 1-42 compensation paid to the employee for work performed as a student  
 1-43 employee is not compensation subject to report and deduction for  
 1-44 member contributions or to credit in benefit computations under  
 1-45 Section 822.201.

1-46 SECTION 2. Section 824.1012, Government Code, is amended by  
 1-47 amending Subsection (a) and adding Subsection (a-1) to read as  
 1-48 follows:

1-49 (a) As an exception to Section 824.101(c), a retiree who  
 1-50 selected an optional service retirement annuity under Section  
 1-51 824.204(c)(1), (c)(2), or (c)(5) or an optional disability  
 1-52 retirement annuity under Section 824.308(c)(1), (c)(2), or (c)(5)  
 1-53 and who has received at least one payment under the plan selected  
 1-54 may change the optional annuity selection made by the retiree to a  
 1-55 standard service or disability retirement annuity as provided for  
 1-56 in this section. If the beneficiary of the optional annuity was  
 1-57 [is] the spouse [or former spouse] of the retiree when the retiree  
 1-58 designated the spouse as beneficiary of the optional annuity, to  
 1-59 change from the optional annuity to a standard retirement annuity  
 1-60 under this subsection, the spouse or former spouse, as applicable,

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

2-10 (a-1) The executive director or the executive director's  
2-11 designee has exclusive authority to determine whether the language  
2-12 in a court order described by Subsection (a) is sufficient to  
2-13 indicate that the court has approved or ordered the change in plan  
2-14 selection. A determination by the executive director or the  
2-15 executive director's designee under this subsection may be appealed  
2-16 only to the board of trustees, except that the board by rule may  
2-17 wave the requirement that an appeal be to the board. An appeal to  
2-18 the board is a contested case under Chapter 2001. The standard of  
2-19 review of an appeal brought under this subsection is by substantial  
2-20 evidence.

2-21 SECTION 3. Section 824.1013, Government Code, is amended by  
2-22 amending Subsections (b) and (c-1) and adding Subsection (c-2) to  
2-23 read as follows:

2-24 (b) If the beneficiary designated at the time of the  
2-25 retiree's retirement is the spouse of the retiree at the time of the  
2-26 designation:

2-27 (1) the spouse must give written, notarized consent to  
2-28 the change;

2-29 (2) if the parties divorce after the designation, the  
2-30 former spouse who was designated beneficiary must give written,  
2-31 notarized consent to the change; or

2-32 (3) a court with jurisdiction over the marriage must  
2-33 approve or order ~~[have ordered]~~ the change.

2-34 (c-1) Notwithstanding Subsection (c), a beneficiary  
2-35 designated under this section is entitled on the retiree's death to  
2-36 receive monthly payments of the survivor's portion of the retiree's  
2-37 optional retirement annuity for the remainder of the beneficiary's  
2-38 life if the beneficiary designated at the time of the retiree's  
2-39 retirement is a trust and the beneficiary designated under this  
2-40 section is:

2-41 (1) the sole beneficiary of that trust; or

2-42 (2) an individual who at the time of the retiree's  
2-43 death is the sole beneficiary of that trust.

2-44 (c-2) The executive director or the executive director's  
2-45 designee has exclusive authority to determine whether the language  
2-46 in a court order described by Subsection (b) is sufficient to  
2-47 indicate that the court has approved or ordered the change in the  
2-48 designated beneficiary. A determination by the executive director  
2-49 or the executive director's designee under this subsection may be  
2-50 appealed only to the board of trustees, except that the board by  
2-51 rule may waive the requirement that an appeal be to the board. An  
2-52 appeal to the board is a contested case under Chapter 2001. The  
2-53 standard of review of an appeal brought under this subsection is by  
2-54 substantial evidence.

2-55 SECTION 4. Section 824.402, Government Code, is amended by  
2-56 adding Subsection (a-1) to read as follows:

2-57 (a-1) In determining under Subsection (a)(4) whether to  
2-58 reduce the optional retirement annuity amount because of early  
2-59 retirement and in determining the amount of that reduction, if  
2-60 applicable, the retirement system shall make the determination as  
2-61 if the member had retired with an additional five years of service  
2-62 credit on the last day of the month preceding the month in which the  
2-63 member dies. The additional five years of service credit used in  
2-64 making a determination under this subsection may not be used to  
2-65 determine the amount of the benefit under Section 824.203 or  
2-66 whether the benefit under this subsection is authorized under  
2-67 Section 824.401.

2-68 SECTION 5. Section 824.503(f), Government Code, is amended  
2-69 to read as follows:

3-1 (f) The designated beneficiary of a disability retiree is  
3-2 eligible to receive the benefits described by this section if the  
3-3 retiree:

3-4 (1) retires on or after September 1, 1992; and  
3-5 (2) dies while receiving disability retirement  
3-6 benefits under Section 824.304 [~~824.304(b)~~].

3-7 SECTION 6. Section 824.601, Government Code, is amended by  
3-8 amending Subsection (b) and adding Subsection (b-2) to read as  
3-9 follows:

3-10 (b) Except as provided by Subsection (b-1) or Section  
3-11 824.602 and subject to Subsection (b-2), a retiree is not entitled  
3-12 to service or disability retirement benefit payments, as  
3-13 applicable, for any month in which the retiree is employed in any  
3-14 position by a Texas public educational institution.

3-15 (b-2) A retiree is considered to be employed by a Texas  
3-16 public educational institution for purposes of Subsection (b) if  
3-17 the retiree performs duties or provides services for or on behalf of  
3-18 the institution that an employee of the institution would otherwise  
3-19 perform or provide and:

3-20 (1) the retiree waives, defers, or forgoes  
3-21 compensation from the institution for the performance of the duties  
3-22 or provision of the services at any time during the 12 consecutive  
3-23 calendar months after the retiree's effective date of retirement,  
3-24 notwithstanding any other law, including Sections 824.602(a)(1),  
3-25 (a)(2), and (a)(4);

3-26 (2) the retiree performs the duties or provides the  
3-27 services for or on behalf of the institution as an independent  
3-28 contractor at any time during the 12 consecutive calendar months  
3-29 after the retiree's effective date of retirement; or

3-30 (3) the retiree, as a volunteer without compensation,  
3-31 performs the same duties or provides the same services for an  
3-32 institution that the retiree performed or provided immediately  
3-33 before retiring and the retiree has an agreement to perform those  
3-34 duties or provide those services after the 12 consecutive calendar  
3-35 months after the retiree's effective date of retirement.

3-36 SECTION 7. Section 825.208(b), Government Code, is amended  
3-37 to read as follows:

3-38 (b) The retirement system is exempt from Section 651.002,  
3-39 Chapter 660, and Subchapter K, Chapter 659, to the extent the board  
3-40 of trustees determines an exemption is necessary for the  
3-41 performance of fiduciary duties.

3-42 SECTION 8. Section 825.212, Government Code, is amended by  
3-43 adding Subsection (d) to read as follows:

3-44 (d) Notwithstanding any other law, all personal financial  
3-45 disclosures made by employees of the retirement system under this  
3-46 section, including a rule or policy adopted under this section, are  
3-47 confidential and excepted from the requirements of Section 552.021.

3-48 SECTION 9. Section 825.3011(b), Government Code, is amended  
3-49 to read as follows:

3-50 (b) Chapter 551 does not require the board of trustees to  
3-51 confer with one or more employees, consultants, or legal counsel of  
3-52 the retirement system or with a third party, including  
3-53 representatives of an issuer of restricted securities or a private  
3-54 investment fund, in an open meeting if the only purpose of the  
3-55 conference is to receive information from or question the  
3-56 employees, consultants, or legal counsel of the retirement system  
3-57 or the third party relating to:

3-58 (1) [an] investment transactions or [a] potential  
3-59 investment transactions if, before conducting the closed meeting, a  
3-60 majority of [by] the board of trustees in an open meeting vote that  
3-61 deliberating or conferring in an open meeting would have a  
3-62 detrimental effect on the position of the retirement system in  
3-63 negotiations with third parties or put the retirement system at a  
3-64 competitive disadvantage in the market [in a private investment  
3-65 fund]; or

3-66 (2) the purchase, holding, or disposal of restricted  
3-67 securities or a private investment fund's investment in restricted  
3-68 securities if, under Section 552.143, the information discussed  
3-69 would be confidential and excepted from the requirements of Section

4-1 552.021 if the information was included in the records of a  
4-2 governmental body.

4-3 SECTION 10. Section 825.306, Government Code, is amended to  
4-4 read as follows:

4-5 Sec. 825.306. CREDITING SYSTEM ASSETS. (a) The assets of  
4-6 the retirement system shall be maintained and reported in a manner  
4-7 that reflects the source of the assets or the purpose for which the  
4-8 assets are held, using appropriate ledgers and subledgers, in  
4-9 accordance with generally accepted accounting principles  
4-10 prescribed by the Governmental Accounting Standards Board or its  
4-11 successor. In addition, the maintenance and reporting of the  
4-12 assets must be in compliance with applicable tax law and consistent  
4-13 with any fiduciary duty owed with respect to the trust. In the  
4-14 alternative, the assets may be credited, according to the purpose  
4-15 for which they are held, to one of the following accounts:

- 4-16 (1) member savings account;
- 4-17 (2) state contribution account;
- 4-18 (3) retired reserve account;
- 4-19 (4) interest account;
- 4-20 (5) expense account; or
- 4-21 (6) deferred retirement option account.

4-22 (b) Notwithstanding any other law, a requirement to deposit  
4-23 in or transfer assets from one of the accounts described under  
4-24 Subsection (a) is satisfied by maintaining and reporting the assets  
4-25 in accordance with that subsection.

4-26 SECTION 11. Section 825.408, Government Code, is amended by  
4-27 amending Subsection (a) and adding Subsections (a-1) and (a-2) to  
4-28 read as follows:

4-29 (a) Except as provided by Subsection (a-1), an [An] employer  
4-30 that fails to remit, before the seventh day after the last day of a  
4-31 month, all member and employer deposits and documentation of the  
4-32 deposits required by this subchapter to be remitted by the employer  
4-33 for the month shall pay to the retirement system, in addition to the  
4-34 deposits, interest on the unpaid [~~or undocumented~~] amounts at an  
4-35 annual rate compounded monthly and a late fee in an amount  
4-36 determined by the retirement system that is based on the size of the  
4-37 employer and may not exceed \$1,000 for each business day after the  
4-38 deadline imposed by this subsection that the employer fails to  
4-39 submit the documentation of the deposits. The cumulative amount of  
4-40 late fees assessed against an employer under this subsection may  
4-41 not exceed \$25,000 per reporting period. The rate of interest is  
4-42 the rate established under Section 825.313(b)(1), plus two percent.  
4-43 Interest and late fees required under this section are [~~is~~]  
4-44 creditable to the interest account. On request, the retirement  
4-45 system may grant a waiver of the deadline imposed by this subsection  
4-46 based on an employer's financial or technological resources. The  
4-47 retirement system may establish a process for filing an appeal to  
4-48 reduce or waive a late fee imposed under this subsection.

4-49 (a-1) This subsection applies only to an employer who  
4-50 reports the employment of a retiree to the retirement system.  
4-51 Subject to Subsection (a-2), an employer that fails to remit,  
4-52 before the 11th day after the last day of a calendar month in which a  
4-53 retiree is employed, the employer deposits required by Section  
4-54 825.4092(b), documentation of those deposits as required by this  
4-55 section, and the certified statement of employment required by  
4-56 Section 824.6022 shall pay to the retirement system, in addition to  
4-57 the deposits, interest on the unpaid amounts at the annual rate  
4-58 established under Subsection (a), compounded monthly, and a late  
4-59 fee in an amount determined by the retirement system for each  
4-60 business day after the deadline imposed by this subsection that the  
4-61 employer fails to file the documentation of the deposits and the  
4-62 certified statement of employment.

4-63 (a-2) If a retiree described by Subsection (a-1) performs  
4-64 work in the month of August, the employer must remit the employer  
4-65 deposits, documentation of those deposits, and the certified  
4-66 statement of employment before the seventh day of September.

4-67 SECTION 12. Section 825.410(a), Government Code, is amended  
4-68 to read as follows:

4-69 (a) Payments to establish special service credit as

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

5-26 SECTION 13. Section 825.519, Government Code, is amended to  
 5-27 read as follows:

5-28 Sec. 825.519. ELECTRONIC INFORMATION. (a) The retirement  
 5-29 system may provide confidential information electronically to  
 5-30 members or other participants or employers and receive information  
 5-31 electronically from those persons, including by use of an  
 5-32 electronic signature or certification in a form acceptable to the  
 5-33 retirement system. An unintentional disclosure to, or unauthorized  
 5-34 access by, a third party related to the transmission or receipt of  
 5-35 information under this section is not a violation by the retirement  
 5-36 system of any law, including a rule relating to the protection of  
 5-37 confidential information.

5-38 (b) The retirement system may provide to a member or retiree  
 5-39 any information that is required to be provided, distributed, or  
 5-40 furnished under Section 802.106(a), (b), (d), or (e) by:

5-41 (1) sending the information to an e-mail address of  
 5-42 the member or retiree furnished to the retirement system by an  
 5-43 employer covered by the retirement system; or

5-44 (2) directing the member or retiree through a written  
 5-45 notice or e-mail to an Internet website address to access the  
 5-46 information.

5-47 (c) The retirement system may provide to an active member of  
 5-48 the retirement system the information that is required to be  
 5-49 provided under Section 802.106(c) by sending the information to an  
 5-50 e-mail address specified by the member for the purpose of receiving  
 5-51 confidential information.

5-52 SECTION 14. Section 1575.402(a), Insurance Code, is amended  
 5-53 to read as follows:

5-54 (a) The Retirees Advisory Committee is composed of the  
 5-55 following seven [~~nine~~] members appointed by the trustee:

5-56 (1) one member who is an active school administrator;

5-57 (2) one member who is a retired school administrator;

5-58 (3) two members who are active teachers; and

5-59 (4) three members who are retired teachers[~~+~~

5-60 [~~(5) one member who is an active member of the~~  
 5-61 ~~auxiliary personnel of a school district; and~~

5-62 [~~(6) one member who is a retired member of the~~  
 5-63 ~~auxiliary personnel of a school district].~~

5-64 SECTION 15. Section 1575.403(b), Insurance Code, is amended  
 5-65 to read as follows:

5-66 (b) The [~~Five members' terms, including the~~] terms of the  
 5-67 active school administrator, one active teacher, and two retired  
 5-68 teachers[~~, and the retired member of the auxiliary personnel,]~~  
 5-69 expire February 1, 2002, and every fourth year after that date.

6-1 SECTION 16. Section 824.402, Government Code, as amended by  
6-2 this Act, applies only to a member of the Teacher Retirement System  
6-3 of Texas who dies on or after the effective date of this Act.

6-4 SECTION 17. Section 824.601, Government Code, as amended by  
6-5 this Act, applies to a retiree of the Teacher Retirement System of  
6-6 Texas regardless of whether the person retired from employment  
6-7 before, on, or after the effective date of this Act.

6-8 SECTION 18. The changes in law made by this Act to Sections  
6-9 1575.402 and 1575.403, Insurance Code, regarding the composition  
6-10 and terms of the Retirees Advisory Committee, do not affect the  
6-11 entitlement of a member serving on the committee immediately before  
6-12 the effective date of this Act to continue to serve as a member of  
6-13 the committee for the remainder of the member's term. As the terms  
6-14 of committee members expire or as vacancies occur on the committee,  
6-15 the Teacher Retirement System of Texas shall appoint members to the  
6-16 committee as necessary to comply with Sections 1575.402 and  
6-17 1575.403, Insurance Code, as amended by this Act.

6-18 SECTION 19. This Act takes effect September 1, 2017, except  
6-19 that Section 825.212, Government Code, as amended by this Act,  
6-20 takes effect immediately if this Act receives a vote of two-thirds  
6-21 of all the members elected to each house, as provided by Section 39,  
6-22 Article III, Texas Constitution. If this Act does not receive the  
6-23 vote necessary for immediate effect, Section 825.212, Government  
6-24 Code, as amended by this Act, takes effect September 1, 2017.

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