

1-1 By: Huffman S.B. No. 1664
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

1-8	Yea	Nay	Absent	PNV
1-9	Huffman	X		
1-10	Hughes	X		
1-11	Birdwell	X		
1-12	Creighton	X		
1-13	Estes	X		
1-14	Lucio	X		
1-15	Nelson	X		
1-16	Schwertner	X		
1-17	Zaffirini	X		

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1664 By: Huffman

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

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

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

1-25 SECTION 1. Sections 22.004(b) and (d), Education Code, are
1-26 amended to read as follows:

1-27 (b) A district that does not participate in the program
1-28 described by Subsection (a) shall make available to its employees
1-29 group health coverage provided by a risk pool established by one or
1-30 more school districts under Chapter 172, Local Government Code, or
1-31 under a policy of insurance or group contract issued by an insurer,
1-32 a company subject to Chapter 842, Insurance Code, or a health
1-33 maintenance organization under Chapter 843, Insurance Code. The
1-34 coverage must meet the substantive coverage requirements of Chapter
1-35 1251, Subchapter A, Chapter 1364, and Subchapter A, Chapter 1366,
1-36 Insurance Code, and any other law applicable to group health
1-37 insurance policies or contracts issued in this state. The coverage
1-38 must include major medical treatment but may exclude experimental
1-39 procedures. In this subsection, "major medical treatment" means a
1-40 medical, surgical, or diagnostic procedure for illness or injury.
1-41 The coverage may include managed care or preventive care and must be
1-42 comparable to the basic health coverage provided under Chapter
1-43 1551, Insurance Code. The ~~[board of trustees of the Teacher~~
1-44 ~~Retirement System of Texas shall adopt rules to determine whether a~~
1-45 ~~school district's group health coverage is comparable to the basic~~
1-46 ~~health coverage specified by this subsection. The rules must~~
1-47 ~~provide for consideration of the]~~ following factors shall be
1-48 considered ~~[concerning the district's coverage]~~ in determining
1-49 whether the district's coverage is comparable to the basic health
1-50 coverage specified by this subsection:

1-51 (1) the deductible amount for service provided inside
1-52 and outside of the network;

1-53 (2) the coinsurance percentages for service provided
1-54 inside and outside of the network;

1-55 (3) the maximum amount of coinsurance payments a
1-56 covered person is required to pay;

1-57 (4) the amount of the copayment for an office visit;

1-58 (5) the schedule of benefits and the scope of
1-59 coverage;

1-60 (6) the lifetime maximum benefit amount; and

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

~~(d) Each district [shall report the district's compliance with this section to the executive director of the Teacher Retirement System of Texas not later than March 1 of each even-numbered year in the manner required by the board of trustees of the Teacher Retirement System of Texas. For a district]~~ that does not participate in the program described by Subsection (a) shall prepare a report addressing the district's compliance with this section. The~~[, the]~~ report must be available for review, together with the policy or contract for the group health coverage plan, at the central administrative office of each campus in the district and be posted on the district's Internet website if the district maintains a website, must be based on the district group health coverage plan in effect during the current plan year, and must include:

(1) appropriate documentation of:

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

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

(2) the schedule of benefits;

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

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

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

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

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

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

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

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

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

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

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

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

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

(4) performance pay awarded to an employee by a school

district as part of a total compensation plan approved by the board of trustees of the district and meeting the requirements of Subsection (e);

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

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

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

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

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

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

(11) to the extent required by Sections 3401(h) and 414(u)(12) [414(u)(2)], Internal Revenue Code of 1986, differential wage payments received by an individual from an employer on or after January 1, 2009, while the individual is performing qualified military service as defined by Section 414(u), Internal Revenue Code of 1986.

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

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

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

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

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

(c) On receipt of a certification under Subsection (b) and payment under Subsection (d) of this section, the retirement system shall grant any credit to which a retiree who is a subject of the certification is entitled. Unless a member declines to purchase service credit under this section as provided by Subsection (d-1), an annuity payment may not begin until the retirement system is paid the full cost of the service credit. [The increase in the annuity payment begins with the first payment that becomes due after certification and payment.]

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

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

(2) a direct trustee-to-trustee transfer of funds from:

(A) an eligible deferred compensation plan described by Section 457(b), Internal Revenue Code of 1986, that is maintained by an eligible governmental employer; or

(B) an annuity contract described by Section 403(b), Internal Revenue Code of 1986, that is purchased under a governmental plan.

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

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

(2) revoke the member's retirement as provided by Section 824.005(a) and select a later retirement date that provides the member with sufficient time to complete the purchase of the service credit under this section.

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

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

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

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

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

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

(2) the portion of a deposit made on or after resumption of membership that represents the amount of retirement benefits received;

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

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

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

(6) the portion of a deposit to establish:

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

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

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

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

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

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

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

(3) for distributions occurring on or after January 1, 2007, to a qualified plan described by Section 401(a), Internal

Revenue Code of 1986, if the plan agrees to separately account for:
(A) the amounts transferred and the earnings on
the amounts transferred; and

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

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

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

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

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

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