By: Lambert, Canales, Paddie, Goldman, Cyrier, et al. H.B. No. 1585

Substitute the following for H.B. No. 1585:

By: Vo C.S.H.B. No. 1585

A BILL TO BE ENTITLED

AN ACT

relating to the operations and functions of the Teacher Retirement System of Texas.

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

SECTION 1. Section 824.002(c), Government Code, is amended to read as follows:

(c) For the purposes of this section, a member's employment in a position covered by the retirement system does not end if the member is on leave of absence or has a contract for future employment in a public school, other than a contract for employment that would, if the retiring member and the employer were to comply with all procedural requirements, qualify under Section 824.602 for an exception to a reduction or [~~the~~] loss of monthly benefits required by Section 824.601.

SECTION 2. Section 824.2031(b), Government Code, is amended to read as follows:

(b) A determination under this section shall be founded on the information in the most recent report of an investment practices and performance evaluation [~~audit~~] conducted under Section 802.109 [~~825.512~~] and the application of that information to:

(1) the present amortization period for liabilities of the retirement system;

(2) the rate of return on retirement system

investments over and above the rate of inflation of the investment portfolio as a whole, of the portion of the investment portfolio entrusted to private investment entities, and of the portion of the investment portfolio entrusted to investment officers who are employees of the retirement system;

(3) economic projections of market conditions and future investment rates of return as reflected in the comptroller's most recent economic forecast and revenue estimate;

(4) the costs, including changes in the amortization period for liabilities of the retirement system, of providing cost-of-living or other increases in benefits to current annuitants; and

(5) an evaluation of the diversity of retirement system investments and whether the portfolio provides low-risk, long-term growth.

SECTION 3. The heading to Subchapter G, Chapter 824, Government Code, is amended to read as follows:

SUBCHAPTER G. REDUCTION OR LOSS OF BENEFITS ON RESUMPTION OF SERVICE

SECTION 4. The heading to Section 824.601, Government Code, is amended to read as follows:

Sec. 824.601. REDUCTION OR LOSS OF MONTHLY BENEFITS.

SECTION 5. Section 824.601, Government Code, is amended by amending Subsections (b) and (e) and adding Subsections (b-3) and (b-4) to read as follows:

(b) Except as provided by Subsection (b-1), (b-3), or (b-4), or Section 824.602 and subject to Subsection (b-2), during [~~a~~

~~retiree is not entitled to service or disability retirement benefit payments, as applicable, for~~] any month in which a [~~the~~] retiree is employed in any position by a Texas public educational institution, the retiree's entitlement to service or disability retirement benefit payments for that month is reduced by an amount equal to the lesser of:

(1) the retiree's benefit payment for that month; or

(2) the total compensation earned by the retiree for the employment during that month:

(A) as reported by the retiree's employer; or

(B) if not reported, verified in a manner prescribed by the retirement system.

(b-3) If the total compensation earned by a retiree is not reported or verified under Subsection (b)(2), the retiree's entitlement to service or disability retirement benefit payments for that month is reduced by an amount equal to the retiree's benefit payment for that month.

(b-4) A retiree under Section 824.302 who is employed in any position by a Texas public educational institution for more than 90 days in a school year is not entitled to disability retirement benefit payments for the remaining months of the school year during which the retiree continues to be employed by an institution unless the retiree qualifies for the exception described by Section 824.602(g).

(e) A reduction or loss [~~Loss~~] of benefits under this section does not extend any period of guaranteed benefits elected pursuant to Section 824.204.

SECTION 6. Sections 824.602(a), (g), and (k), Government Code, are amended to read as follows:

(a) Subject to Section 825.506, the retirement system may not, under Section 824.601, reduce or withhold a monthly benefit payment if the retiree is employed in a Texas public educational institution:

(1) as a substitute only with pay not more than the daily rate of substitute pay established by the employer and, if the retiree is a disability retiree, the employment has not exceeded a total of 90 days in the school year;

(2) in a position, other than as a substitute, on no more than a one-half time basis for the month;

(3) in one or more positions on as much as a full-time basis, if the retiree has been separated from service with all Texas public educational institutions for at least 12 full consecutive months after the retiree's effective date of retirement; or

(4) in a position, other than as a substitute, on no more than a one-half time basis for no more than 90 days in the school year, if the retiree is a disability retiree.

(g) The exceptions provided by Subsections (a)(2) and (a)(3) do not apply to disability retirees. The retirement system nevertheless may not withhold a monthly benefit payment under Section 824.601 if:

(1) a disability retiree is employed in a Texas public educational institution in a position, other than as a substitute, for a period not to exceed three consecutive months;

(2) the work occurs in a period, designated by the

disability retiree, of no more than three consecutive months;

(3) the disability retiree executes on a form and at a time prescribed by the retirement system a written election to have this exception apply on a one-time trial basis in determining whether benefits are to be suspended for the months of employment after retirement and in determining whether a disability retiree is no longer mentally or physically incapacitated for the performance of duty; and

(4) the disability retiree has not previously elected to avoid a reduction or loss of monthly benefits under this subsection.

(k) The actuary designated by the board of trustees shall, in investigating the experience of the members of the system, note any significant increase in early age retirements and determine the extent to which any increase has been caused by the exception to a reduction or loss of benefits for employment after retirement provided by Subsection (a)(3). If the actuary certifies in writing to the retirement system that sound actuarial funding of the retirement system's benefits is endangered by continuation of this exception, the board of trustees may determine that no further elections of the exception will be accepted from retirees, other than from those who have previously relied on the exception in retiring under this subtitle. A retiree may be considered to have relied on this exception only if retirement occurred on or after May 31, 1985, but before the date the board of trustees acknowledges receipt of such certification and if the retiree has first elected to receive benefits under the exception not later than two years

after the retiree's effective date of retirement.

SECTION 7. Section 824.601(f), Government Code, is redesignated as Section 824.604, Government Code, and amended to read as follows:

Sec. 824.604. RULES. [~~(f)~~] The board of trustees [~~system~~] may adopt rules necessary for administering this subchapter.

SECTION 8. Section 825.0041, Government Code, is amended by amending Subsection (b) and adding Subsection (d) to read as follows:

(b) The [~~A~~] training program must provide the person with information regarding:

(1) the law governing [~~legislation that created the~~] retirement system operations; [~~and the system's~~]

(2) the programs, functions, rules, and budget of the system;

(3) the scope of and limitations on the rulemaking authority of the board of trustees;

(4) [~~(2)~~] the results of the most recent formal audit of the system;

(5) [~~(3)~~] the requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts-of-interest [~~conflicts of interest~~]; and

(B) other laws applicable to members of a state policy-making body in performing their duties; and

(6) [~~(4)~~] any applicable ethics policies adopted by the system or the Texas Ethics Commission.

(d) The executive director of the retirement system shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each member of the board of trustees. Each member of the board of trustees shall sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SECTION 9. Section 825.006, Government Code, is amended to read as follows:

Sec. 825.006. SUNSET PROVISION. The board of trustees of the Teacher Retirement System of Texas is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state agencies abolished in 2033 [~~2021~~], and every 12th year after that year, are reviewed.

SECTION 10. Subchapter C, Chapter 825, Government Code, is amended by adding Section 825.216 to read as follows:

Sec. 825.216. OMBUDSMAN. (a) Subject to Section 825.506, the board of trustees shall designate an ombudsman within the retirement system to assist members and retirees by performing member and retiree protection and advocacy functions, including:

(1) monitoring the system's interactions with members and retirees;

(2) receiving and reviewing complaints from members or retirees;

(3) taking appropriate action regarding complaints, including conducting investigations of complaints or escalating or

reporting complaints to the board;

(4) informing a member or retiree and the board of the results of the ombudsman's review or investigation of the member's or retiree's complaint; and

(5) recommending corrective actions to the board as determined necessary by the ombudsman to resolve complaints.

(b) The ombudsman designated under this section shall regularly submit a report to the board of trustees recommending changes to the retirement system's operations that would benefit members and retirees and increase opportunities for the members and retirees to participate in the system's decisions.

SECTION 11. Section 825.308, Government Code, is amended to read as follows:

Sec. 825.308. STATE CONTRIBUTION ACCOUNT. The retirement system shall deposit in the state contribution account:

(1) all state contributions to the retirement system required by Section 825.404;

(2) amounts from the interest account as provided by Section 825.313(b)(2);

(3) retirement annuities, or that portion of annuities, as applicable, waived or forfeited in accordance with Section 824.601 or 824.004;

(4) fees collected under Section 825.403(h);

(5) fees and interest for reinstatement of service credit or establishment of membership service credit as provided by Section 823.501;

(6) the portion of a deposit required by Section

823.302 to establish military service credit that represents a fee; and

(7) employer contributions required under Section 825.4092.

SECTION 12. Section 825.4041(f), Government Code, is amended to read as follows:

(f) At the end of each school year, the retirement system shall certify to the [~~commissioner of education and to the~~] state auditor:

(1) the name of each employer that is an institution of higher education and has failed to remit, within the period required by Section 825.408, all payments required under this section for the school year; and

(2) the amounts of the unpaid required payments.

SECTION 13. Section 825.405(f), Government Code, is amended to read as follows:

(f) If the commissioner of education receives a certification from the retirement system regarding unpaid contributions [~~under Subsection (e)~~], the commissioner shall direct the comptroller of public accounts to withhold the amount certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the employer. The amount withheld shall be deposited to the credit of the appropriate accounts of the retirement system.

SECTION 14. Section 825.502, Government Code, is amended by amending Subsection (b) and adding Subsection (c) to read as follows:

(b) If the member or the member's heirs cannot be found after complying with the policy adopted under Subsection (c), the member's accumulated contributions are forfeited to the retirement system. The retirement system shall credit the amount forfeited to the retired reserve account.

(c) The board of trustees shall adopt a policy requiring the retirement system to make all reasonable efforts to locate and notify a member or, if appropriate, the member's heirs of their entitlement to a return of accumulated contributions under this section. The policy must ensure that the:

(1) notice:

(A) provides information on how a member or the member's heirs, as appropriate, may withdraw the accumulated contributions, including information on how to effectuate a withdrawal through an election to receive a direct rollover of the contributions to an eligible retirement plan; and

(B) is initially sent to the member by certified mail, return receipt requested, at the last known address of the member according to the system's records; and

(2) procedure used to locate a member or the member's heirs:

(A) requires, at a minimum, that the system conduct Internet searches to determine a current and accurate mailing address of the member or the member's heir and send a notice that complies with Subdivision (1) to the member or the member's heir, as applicable, by certified mail, return receipt requested; and

(B) employs a matrix based on defined factors for determining on a graduated scale the degree and type of additional effort required, and those efforts must include:

(i) contacting the member's designated beneficiary;

(ii) obtaining information from consumer reporting agencies; and

(iii) using commercial locating services.

SECTION 15. Sections 825.511(a) and (c), Government Code, are amended to read as follows:

(a) The retirement system shall maintain a system to promptly and efficiently act on complaints filed with the retirement system [~~that the system has authority to resolve~~]. The retirement system shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(c) The retirement system shall periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

SECTION 16. Section 825.521, Government Code, is amended to read as follows:

Sec. 825.521. DEADLINE TO APPEAL [~~FINAL~~] ADMINISTRATIVE DECISION. In adopting rules governing an [~~the~~] appeal authorized by law or rule of a determination or decision of the retirement system by the system's staff, including a final administrative decision of the [~~retirement~~] system, the board of trustees shall

ensure that rules establishing deadlines for [~~the~~] filing the [~~of an~~] appeal afford a member or retiree at least the same amount of time to file the [~~an~~] appeal as the retirement system has to issue the determination or [~~retirement system's~~] decision.

SECTION 17. The heading to Subchapter G, Chapter 825, Government Code, is amended to read as follows:

SUBCHAPTER G. OUTREACH TO MEMBERS AND EMPLOYERS [~~MEMBER SERVICES~~]

SECTION 18. Section 825.601, Government Code, is amended to read as follows:

Sec. 825.601. OUTREACH PLAN [~~POLICIES GOVERNING RETIREMENT BENEFITS COUNSELING~~]. (a) The board of trustees shall develop and adopt an outreach plan designed to assist each member of the system, and as appropriate the members' employers, in effectively planning for the member's retirement. The plan must require the retirement system to:

(1) identify and implement ways to improve communication between the system and the system's members and employers;

(2) update and develop outreach materials and other information distributed by the system, including handbooks, brochures, presentations, and handouts, in a manner that complies with Section 802.106(g);

(3) update and develop policies governing retirement benefits counseling provided to members by the system, including[~~. The~~] policies that [~~must~~]:

(A) subject to Section 825.602, ensure [~~(1) address the manner in which~~] the [~~retirement~~] system makes group

and individual member retirement benefits counseling available throughout the state;

[~~(2) identify the geographic regions of the state most in need of retirement benefits counseling services and the manner in which that need will be met;~~] and

(B) [~~(3)~~] clarify that the retirement system does not provide financial or legal advice;

(4) provide at least annually to each member of the system, regardless of whether the member is vested in the system, an estimate of the member's retirement benefits;

(5) enhance employer training and establish an Internet portal designed to assist employers to:

(A) satisfy applicable reporting requirements;

(B) provide general information to individual members on:

(i) employment after retirement;

(ii) enrollment in health insurance benefit plans; and

(iii) retirement benefits and retirement planning; and

(C) facilitate other communications or exchanges involving members and the retirement system; and

(6) design and implement methods for maintaining up-to-date contact information for members and beneficiaries based on best practices for outreach.

(b) In developing the outreach plan, the board of trustees shall solicit input through surveys or other means from members of

the system, employers, and other stakeholders, including appropriate advisory groups.

(c) Once every five years, the retirement system shall review and update the outreach plan adopted under this section.

SECTION 19. Section 825.602(b), Government Code, is amended to read as follows:

(b) The retirement system shall provide retirement benefits counseling for individual members:

(1) in different geographic regions of this state, including regions outside of Austin; and

(2) in person or by phone, at the election of the member.

SECTION 20. Subchapter A, Chapter 1575, Insurance Code, is amended by adding Section 1575.010 to read as follows:

Sec. 1575.010. INFORMATION REGARDING APPEALS. The trustee shall develop and distribute informational materials to individuals enrolled in a health benefit plan offered under the group program regarding:

(1) the enrollee's right to appeal denial of an adverse determination, as defined by Section 4201.002, to an independent review organization;

(2) the procedures for appealing to an independent review organization; and

(3) the assistance available from the trustee in navigating the procedures for appeal.

SECTION 21. Section 1575.453, Insurance Code, is amended to read as follows:

Sec. 1575.453. STUDY AND REPORT BY TRUSTEE. (a) The trustee shall study the operation and administration of this chapter, including:

(1) conducting surveys and preparing reports on financing group coverages and health benefit plans available to participants; [~~and~~]

(2) studying the experience and projected cost of coverage; and

(3) reviewing the group coverages provided to and the benefits and services being received by individuals covered under this chapter.

(b) The trustee shall report annually to the legislature and the department [~~at each regular session~~] on the operation and administration of this chapter.

SECTION 22. Subchapter A, Chapter 1579, Insurance Code, is amended by adding Section 1579.010 to read as follows:

Sec. 1579.010. INFORMATION REGARDING APPEALS. The trustee shall develop and distribute informational materials to individuals enrolled in a health coverage plan provided under this chapter regarding:

(1) an enrollee's right to appeal denial of an adverse determination, as defined by Section 4201.002, to an independent review organization;

(2) the procedures for appealing to an independent review organization; and

(3) the assistance available from the trustee in navigating the procedures for appeal.

SECTION 23. Section 1579.106, Insurance Code, is amended by amending Subsection (c) and adding Subsection (d) to read as follows:

(c) Every 12 [~~six~~] months the trustee shall submit to the comptroller and the Legislative Budget Board a report regarding any cost savings achieved in the program through implementation of the prior authorization requirement of this section. The report must cover the previous 12-month [~~six-month~~] period.

(d) In the report under Subsection (c), the trustee:

(1) may include any cost savings achieved in the program for coverage of prescribed drugs that are not included in the categories listed in Subsection (b) for which prior authorization is required by a health coverage plan provided under this chapter; and

(2) considering cost and medical necessity, shall identify any categories of prescribed drugs in addition to the categories listed in Subsection (b) for which requiring prior authorization could achieve cost savings.

SECTION 24. The following provisions are repealed:

(1) Section 802.109(j), Government Code;

(2) Section 825.405(e), Government Code;

(3) Section 825.512, Government Code; and

(4) Section 1575.452, Insurance Code.

SECTION 25. Sections 824.601 and 824.602, Government Code, as amended by this Act, apply only to a benefit payment made by the Teacher Retirement System of Texas that becomes payable on or after the effective date of this Act.

SECTION 26. (a) Except as provided by Subsection (b) of this section, Section 825.0041, Government Code, as amended by this Act, applies to a member of the board of trustees of the Teacher Retirement System of Texas appointed before, on, or after the effective date of this Act.

(b) A member of the board of trustees of the Teacher Retirement System of Texas who, before the effective date of this Act, completed the training program required by Section 825.0041, Government Code, as that law existed before the effective date of this Act, is only required to complete additional training on the subjects added by this Act to the training program required by Section 825.0041, Government Code. A board member described by this subsection may not vote, deliberate, or be counted as a member in attendance at a meeting of the board held on or after December 1, 2021, until the member completes the additional training.

SECTION 27. As soon as practicable after the effective date of this Act, but not later than December 1, 2021, the Teacher Retirement System of Texas shall implement the outreach plan required by Section 825.601, Government Code, as amended by this Act.

SECTION 28. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.