

By: Lucio, et al.

S.B. No. 706

A BILL TO BE ENTITLED

AN ACT

relating to the continuation 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

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

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

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

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

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

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

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

22 Sec. 824.601. REDUCTION OR LOSS OF MONTHLY BENEFITS.

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

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

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

7 (1) the retiree's benefit payment for that month; or
8 (2) the total compensation earned by the retiree for
9 the employment during that month:

10 (A) as reported by the retiree's employer; or
11 (B) if not reported, verified in a manner
12 prescribed by the retirement system.

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

18 (b-4) A retiree under Section 824.302 who is employed in any
19 position by a Texas public educational institution for more than 90
20 days in a school year is not entitled to disability retirement
21 benefit payments for the months the retiree was employed by the
22 institution unless the retiree qualifies for the exception
23 described by Section 824.602(g).

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

27 SECTION 6. Sections 824.602(a), (g), and (k), Government

1 Code, are amended to read as follows:

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

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

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

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

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

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

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

26 (2) the work occurs in a period, designated by the
27 disability retiree, of no more than three consecutive months;

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

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

11 (k) The actuary designated by the board of trustees shall,
12 in investigating the experience of the members of the system, note
13 any significant increase in early age retirements and determine the
14 extent to which any increase has been caused by the exception to a
15 reduction or loss of benefits for employment after retirement
16 provided by Subsection (a)(3). If the actuary certifies in writing
17 to the retirement system that sound actuarial funding of the
18 retirement system's benefits is endangered by continuation of this
19 exception, the board of trustees may determine that no further
20 elections of the exception will be accepted from retirees, other
21 than from those who have previously relied on the exception in
22 retiring under this subtitle. A retiree may be considered to have
23 relied on this exception only if retirement occurred on or after May
24 31, 1985, but before the date the board of trustees acknowledges
25 receipt of such certification and if the retiree has first elected
26 to receive benefits under the exception not later than two years
27 after the retiree's effective date of retirement.

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

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

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

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

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

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

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

17 (4) [~~(2)~~] the results of the most recent formal audit
18 of the system;

19 (5) [~~(3)~~] the requirements of:

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

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

25 (6) [~~(4)~~] any applicable ethics policies adopted by
26 the system or the Texas Ethics Commission.

27 (d) The executive director of the retirement system shall

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

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

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

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

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

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

22 (2) receiving and reviewing complaints from members;

23 (3) taking appropriate action regarding complaints,
24 including conducting investigations of complaints or escalating or
25 reporting complaints to the board;

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

1 and

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

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

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

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

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

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

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

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

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

24 (6) the portion of a deposit required by Section
25 823.302 to establish military service credit that represents a fee;

26 and

27 (7) employer contributions required under Section

1 825.4092.

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

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

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

11 (2) the amounts of the unpaid required payments.

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

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

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

25 (b) If the member or the member's heirs cannot be found
26 after complying with the policy adopted under Subsection (c), the
27 member's accumulated contributions are forfeited to the retirement

1 system. The retirement system shall credit the amount forfeited to
2 the retired reserve account.

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

8 (1) notice:

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

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

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

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

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

- 1 (i) contacting the member's designated
- 2 beneficiary;
- 3 (ii) obtaining information from consumer
- 4 reporting agencies; and
- 5 (iii) using commercial locating services.

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

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

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

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

20 Sec. 825.521. DEADLINE TO APPEAL [~~FINAL~~] ADMINISTRATIVE
21 DECISION. In adopting rules governing an [~~the~~] appeal authorized
22 by law or rule of a determination or decision of the retirement
23 system by the system's staff, including a final administrative
24 decision of the [~~retirement~~] system, the board of trustees shall
25 ensure that rules establishing deadlines for [~~the~~] filing the [~~of~~
26 ~~an~~] appeal afford a member or retiree at least the same amount of
27 time to file the [~~an~~] appeal as the retirement system has to issue

1 the determination or [~~retirement system's~~] decision.

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

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

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

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

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

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

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

23 (A) subject to Section 825.602, ensure [~~(1)~~
24 ~~address the manner in which~~] the [~~retirement~~] system makes group
25 and individual member retirement benefits counseling available
26 throughout the state;

27 [~~(2) identify the geographic regions of the state most~~

1 ~~in need of retirement benefits counseling services and the manner~~
2 ~~in which that need will be met;~~] and

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

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

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

10 (A) satisfy applicable reporting requirements;

11 (B) provide general information to individual
12 members on:

13 (i) employment after retirement;

14 (ii) enrollment in health insurance
15 benefit plans; and

16 (iii) retirement benefits and retirement
17 planning; and

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

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

23 (b) In developing the outreach plan, the board of trustees
24 shall solicit input through surveys or other means from members of
25 the system, employers, and other stakeholders, including
26 appropriate advisory groups.

27 (c) Once every five years, the retirement system shall

1 review and update the outreach plan adopted under this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 SECTION 24. The following provisions are repealed:

- 17 (1) Section 802.109(j), Government Code;
18 (2) Section 825.405(e), Government Code;
19 (3) Section 825.512, Government Code; and
20 (4) Section 1575.452, Insurance Code.

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

25 SECTION 26. (a) Except as provided by Subsection (b) of
26 this section, Section 825.0041, Government Code, as amended by this
27 Act, applies to a member of the board of trustees of the Teacher

1 Retirement System of Texas appointed before, on, or after the
2 effective date of this Act.

3 (b) A member of the board of trustees of the Teacher
4 Retirement System of Texas who, before the effective date of this
5 Act, completed the training program required by Section 825.0041,
6 Government Code, as that law existed before the effective date of
7 this Act, is only required to complete additional training on the
8 subjects added by this Act to the training program required by
9 Section 825.0041, Government Code. A board member described by
10 this subsection may not vote, deliberate, or be counted as a member
11 in attendance at a meeting of the board held on or after December 1,
12 2021, until the member completes the additional training.

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

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