

By: Jetton

H.B. No. 4863

A BILL TO BE ENTITLED

AN ACT

relating to contributions to, benefits from, and the administration of the Teacher Retirement System of Texas.

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

SECTION 1. Section 803.202, Government Code, is amended by adding Subsection (d) to read as follows:

(d) A member of the Teacher Retirement System of Texas who is subject to Chapter 826 is eligible to participate in the program provided by this chapter.

SECTION 2. Section 805.0015, Government Code, is amended to read as follows:

Sec. 805.0015. APPLICABILITY. This chapter does not apply to:

(1) a member of the employees retirement system who is subject to Chapter 820; or

(2) a member of the teacher retirement system who is subject to Chapter 826.

SECTION 3. Section 821.001, Government Code, is amended by adding Subdivision (5-a) to read as follows:

(5-a) "Cash balance group member" means a member subject to Chapter 826.

SECTION 4. Sections 822.005(a) and (c), Government Code, are amended to read as follows:

(a) A person may withdraw all of the accumulated

1 contributions credited in the member's savings account if the
2 member:

3 (1) ~~[who]~~ is absent from service except by death or
4 retirement; or

5 (2) is participating in the optional defined
6 contribution plan under Chapter 827 ~~[may withdraw all of the~~
7 ~~accumulated contributions credited to the person in the member~~
8 ~~savings account]~~.

9 (c) Except as provided by Subsection (a)(2), a [A] person is
10 not entitled to withdraw contributions if the person is employed,
11 has applied for employment, or has received a promise of employment
12 with an employer covered by the retirement system.

13 SECTION 5. Section 823.001, Government Code, is amended to
14 read as follows:

15 Sec. 823.001. TYPES OF CREDITABLE SERVICE. The types of
16 service creditable in the retirement system are membership service
17 and, if applicable:

18 (1) prior service;

19 (2) ~~[membership service,~~

20 ~~[3]]~~ military service; and

21 (3) ~~[4]]~~ equivalent membership service.

22 SECTION 6. Subchapter A, Chapter 823, Government Code, is
23 amended by adding Section 823.0015 to read as follows:

24 Sec. 823.0015. PROVISIONS APPLICABLE TO CASH BALANCE GROUP
25 MEMBERS. The following provisions of this chapter do not apply to a
26 cash balance group member:

27 (1) Sections 823.004 and 823.006; and

1 (2) Subchapters D, E, and F.

2 SECTION 7. Section 823.203, Government Code, is amended to
3 read as follows:

4 Sec. 823.203. MEMBERSHIP SERVICE FOR OPTIONAL RETIREMENT
5 PROGRAMS [~~PROGRAM~~]. A member may not establish service credit in
6 the retirement system for any period when the member was
7 participating in the optional defined contribution plan under
8 Chapter 827 or the optional retirement program under Chapter 830.

9 SECTION 8. Sections 824.002(a) and (e), Government Code,
10 are amended to read as follows:

11 (a) The effective date of a member's service retirement is
12 the last day of the later of the following months:

13 (1) any month in a three-month period in which the
14 third month is the month in which the member applies for retirement
15 as provided by Section 824.201 or 826.051;

16 (2) the month in which the member satisfies age and
17 service requirements for service retirement as provided by Section
18 824.202 or 826.052; or

19 (3) the month in which the member's employment in a
20 position included in the coverage of the retirement system ends.

21 (e) Except as provided by Section 823.403(d), if
22 applicable, not later than two months after the later of a member's
23 retirement date or the last day of the month in which the member's
24 application for retirement is submitted, and before the later of
25 the due date for the first monthly annuity payment or the date on
26 which the retirement system issues the first monthly annuity
27 payment, a member applying for service retirement may, after

1 providing notice to the retirement system;

2 (1) ~~re~~ reinstate withdrawn contributions;

3 (2) if applicable, make deposits for military service
4 and equivalent membership service;~~re~~ and

5 (3) receive service credit as provided by this
6 subtitle.

7 SECTION 9. Section 824.1011(a), Government Code, is amended
8 to read as follows:

9 (a) A retiree who is receiving a standard service or
10 disability retirement annuity under Section 824.203 or 824.304(b)
11 or a cash balance annuity under Subchapter B, Chapter 826, and who
12 marries after the date of the person's retirement may replace the
13 annuity by selecting an optional retirement annuity under Section
14 824.204(c)(1), (c)(2), or (c)(5) or under Section 824.308(c)(1),
15 (c)(2), or (c)(5), as applicable, and designating the person's
16 spouse as beneficiary before the second anniversary of the marriage
17 in the same manner as an annuity selection and designation of
18 beneficiary may be made before retirement.

19 SECTION 10. Subchapter C, Chapter 824, Government Code, is
20 amended by adding Section 824.2005 to read as follows:

21 Sec. 824.2005. INAPPLICABILITY OF SUBCHAPTER TO CASH
22 BALANCE GROUP MEMBERS. This subchapter does not apply to a cash
23 balance group member.

24 SECTION 11. Section 824.203, Government Code, is amended by
25 amending Subsection (a) and adding Subsection (e) to read as
26 follows:

27 (a) Except as provided by Subsections (c), ~~and~~ (d), and

1 (e), the standard service retirement annuity is an amount computed
2 on the basis of the member's average annual compensation for the
3 five years of service, whether or not consecutive, in which the
4 member received the highest annual compensation, times 2.3 percent
5 for each year of service credit in the retirement system.

6 (e) For a member who retires on or after September 1, 2024,
7 and whose five highest years of compensation under the retirement
8 system include one or more years in which the member's compensation
9 exceeded \$100,000, the maximum amount that may be used for any year
10 in computing the member's average annual compensation under
11 Subsection (a) is \$100,000. The board of trustees by rule may, in
12 the board's discretion, from time to time adjust the limit on member
13 compensation prescribed by this subsection to reflect the rate of
14 growth of inflation in this state.

15 SECTION 12. Subchapter G, Chapter 824, Government Code, is
16 amended by adding Section 824.6005 to read as follows:

17 Sec. 824.6005. INAPPLICABILITY OF SUBCHAPTER TO CASH
18 BALANCE GROUP MEMBERS. This subchapter does not apply to a cash
19 balance group member.

20 SECTION 13. Sections 825.307(a) and (b), Government Code,
21 are amended to read as follows:

22 (a) The retirement system shall deposit in a member's
23 individual account in the member savings account, as applicable:

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

26 (2) the portion of a deposit made on or after
27 resumption of membership that represents the amount of retirement

1 benefits received;

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

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

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

9 (6) the portion of a deposit to establish:

10 (A) equivalent membership service credit
11 required by Section 823.401(d), 823.402(e), 823.403(d),
12 823.404(c), or 823.406(b) or former Section 823.405; or

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

15 (7) interest earned on money in the account as
16 provided by:

17 (A) Subsections (b) and (c) and Section
18 825.313(c); or

19 (B) Sections 826.102 and 826.103.

20 (b) Except as provided by Section 826.102 or 826.103,
21 interest [~~Interest~~] on a member's contribution is earned monthly
22 and computed at the rate of two percent a year. Except as provided
23 by Subsection (c), interest is computed based on the mean balance in
24 the member's account during that fiscal year and shall be credited
25 on August 31 of each year.

26 SECTION 14. Section 825.309, Government Code, is amended by
27 adding Subsection (c) to read as follows:

1 (c) This section does not apply to a cash balance group
2 member.

3 SECTION 15. Section 825.311, Government Code, is amended to
4 read as follows:

5 Sec. 825.311. INTEREST ACCOUNT. Except as provided by
6 Section 826.102 or 826.103, in [In] the interest account the
7 retirement system shall:

8 (1) deposit all income, interest, and dividends from
9 deposits and investments of assets of the retirement system;

10 (2) accumulate net capital gains and losses resulting
11 from the sale, call, maturity, conversion, or recognition of
12 changes in carrying values of investments of the retirement system;
13 and

14 (3) accumulate net income or losses from other
15 investments.

16 SECTION 16. Section 825.402, Government Code, is amended to
17 read as follows:

18 Sec. 825.402. RATE OF CERTAIN MEMBER CONTRIBUTIONS. The
19 rate of contributions for each member of the retirement system,
20 other than a cash balance group member, is:

21 (1) five percent of the member's annual compensation
22 or \$180, whichever is less, for service rendered after August 31,
23 1937, and before September 1, 1957;

24 (2) six percent of the first \$8,400 of the member's
25 annual compensation for service rendered after August 31, 1957, and
26 before September 1, 1969;

27 (3) six percent of the member's annual compensation

1 for service rendered after August 31, 1969, and before the first day
2 of the 1977-78 school year;

3 (4) 6.65 percent of the member's annual compensation
4 for service rendered after the last day of the period described by
5 Subdivision (3) and before September 1, 1985;

6 (5) 6.4 percent of the member's annual compensation
7 for service rendered after August 31, 1985, and before September 1,
8 2014;

9 (6) 6.7 percent of the member's annual compensation
10 for service rendered after August 31, 2014, and before September 1,
11 2015;

12 (7) 7.2 percent of the member's annual compensation
13 for service rendered after August 31, 2015, and before September 1,
14 2016;

15 (8) 7.7 percent of the member's annual compensation
16 for service rendered after August 31, 2016, and before September 1,
17 2017;

18 (9) for compensation paid on or after September 1,
19 2017, and before September 1, 2019, the lesser of:

20 (A) 7.7 percent of the member's annual
21 compensation; or

22 (B) a percentage of the member's annual
23 compensation equal to 7.7 percent reduced by one-tenth of one
24 percent for each one-tenth of one percent that the state
25 contribution rate for the fiscal year to which the compensation
26 relates is less than the state contribution rate established for
27 the 2015 fiscal year;

1 (10) for compensation paid on or after September 1,
2 2019, and before September 1, 2021, the lesser of:

3 (A) 7.7 percent of the member's annual
4 compensation; or

5 (B) a percentage of the member's annual
6 compensation equal to 7.7 percent reduced by one-tenth of one
7 percent for each one-tenth of one percent that the state
8 contribution rate for the fiscal year to which the compensation
9 relates is less than the state contribution rate established for
10 that fiscal year under Section 825.404(a-2);

11 (11) for compensation paid on or after September 1,
12 2021, and before September 1, 2023, the lesser of:

13 (A) eight percent of the member's annual
14 compensation; or

15 (B) a percentage of the member's annual
16 compensation equal to eight percent reduced by one-tenth of one
17 percent for each one-tenth of one percent that the state
18 contribution rate for the fiscal year to which the compensation
19 relates is less than the state contribution rate established for
20 that fiscal year under Section 825.404(a-2); and

21 (12) for compensation paid on or after September 1,
22 2023, the lesser of:

23 (A) 8.25 percent of the member's annual
24 compensation; or

25 (B) a percentage of the member's annual
26 compensation equal to 8.25 percent reduced by one-tenth of one
27 percent for each one-tenth of one percent that the state

1 contribution rate for the fiscal year to which the compensation
2 relates is less than the state contribution rate established for
3 that fiscal year under Section 825.404(a-2).

4 SECTION 17. Section 825.403(a), Government Code, is amended
5 to read as follows:

6 (a) Each payroll period, each employer shall deduct from the
7 compensation of each member employed by the employer the amount
8 required by Section 825.402 or 826.101, as applicable.

9 SECTION 18. Sections 825.404(b) and (e), Government Code,
10 are amended to read as follows:

11 (b) Before November 2 of each even-numbered year, the board
12 of trustees, in coordination with the Legislative Budget Board,
13 shall certify to the comptroller of public accounts for review and
14 adoption an estimate of the amount necessary to pay the state's
15 contributions to the retirement system for the following biennium,
16 including the amount necessary to pay the state's contributions
17 under the optional defined contribution plan under Chapter 827.

18 For qualifying employees under Subsection (a-1)(1), the board of
19 trustees shall include only the amount payable by the state under
20 Subsection (a-1)(1) in determining the amount to be certified.

21 (e) All money appropriated by the state to the retirement
22 system shall be paid to the state contribution account in equal
23 monthly installments as provided by Section 403.093(c), except for
24 the payment of the state's contributions under Section 827.108(a).

25 SECTION 19. The heading to Section 825.4092, Government
26 Code, is amended to read as follows:

27 Sec. 825.4092. EMPLOYER CONTRIBUTIONS FOR CERTAIN EMPLOYED

1 RETIREES.

2 SECTION 20. Section 825.4092(a), Government Code, is
3 amended to read as follows:

4 (a) This section applies to an employer who reports to the
5 retirement system the employment of a retiree other than a retiree
6 under Chapter 826.

7 SECTION 21. Subtitle C, Title 8, Government Code, is
8 amended by adding Chapters 826 and 827 to read as follows:

9 CHAPTER 826. CASH BALANCE BENEFIT

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 826.001. DEFINITION. In this chapter, "accumulated
12 account balance" means the total of amounts in a member's
13 individual account in the member savings account, including:

14 (1) amounts deducted from the compensation of the
15 member;

16 (2) other member deposits required to be placed in the
17 member's individual account; and

18 (3) interest credited to amounts in the member's
19 individual account, including interest and gain sharing interest
20 credited in accordance with Sections 826.102 and 826.103,
21 respectively.

22 Sec. 826.002. APPLICABILITY. (a) Except as provided by
23 Subsection (b), this chapter applies only to a member who:

24 (1) was hired on or after September 1, 2024; and

25 (2) was not a member on the date the member was hired.

26 (b) A person described by Subsection (a) may make a one-time
27 election to cease membership in the retirement system and begin

1 participation in the optional defined contribution plan under
2 Chapter 827. For purposes of Chapter 827, a person who makes an
3 election under this subsection is considered hired on the date
4 immediately following the date the person's membership in the
5 retirement system terminates. The election must be on a form and in
6 the manner prescribed by the board of trustees.

7 Sec. 826.003. CONFLICT OF LAW. To the extent of a conflict
8 between this chapter, including a rule adopted by the retirement
9 system under authority of this chapter, and any other law, this
10 chapter prevails.

11 Sec. 826.004. RULES. The board of trustees may adopt rules
12 necessary to implement this chapter.

13 SUBCHAPTER B. CASH BALANCE BENEFITS

14 Sec. 826.051. APPLICATION FOR CASH BALANCE BENEFIT. (a) A
15 member may apply for a cash balance annuity by filing an application
16 for retirement with the board of trustees.

17 (b) An application for a cash balance annuity may not be
18 made:

19 (1) after the date the member wishes to retire; or
20 (2) more than 90 days before the date the member wishes
21 to retire.

22 Sec. 826.052. ELIGIBILITY FOR CASH BALANCE BENEFIT. A
23 member is eligible to retire and receive a cash balance annuity if
24 the member:

25 (1) is at least 65 years old and has five years of
26 service credit in the retirement system; or

27 (2) is at least 62 years old, has at least five years

of service credit in the retirement system, and the sum of the member's age and amount of service credit in the retirement system, including months of age and credit, equals or exceeds the number 80.

Sec. 826.053. CASH BALANCE BENEFITS FOR MEMBERS. (a) The state match for the cash balance benefit for service credited to the retirement system is an amount computed by multiplying the member's accumulated account balance by 150 percent.

(b) The retirement system shall compute a member's cash balance annuity under this section by taking the sum of the member's accumulated account balance and the state match computed under Subsection (a) and annuitizing that amount over the life expectancy of the member as of the effective date of the member's retirement using mortality and other tables adopted by the board of trustees for that purpose under Section 825.105.

Sec. 826.054. DEATH AND DISABILITY BENEFITS.

(a) Notwithstanding any other law, a member subject to this chapter, a retiree receiving a cash balance annuity under this chapter, or the beneficiary of a member or retiree described by this subsection, who qualifies for a death or survivor benefit annuity or a disability retirement annuity under Chapter 824 is entitled to a cash balance annuity under Section 826.053 instead of the annuity otherwise provided under Chapter 824.

(b) The board of trustees may enter into contracts to provide additional death and disability benefits under this chapter.

SUBCHAPTER C. CONTRIBUTIONS AND INTEREST

Sec. 826.101. COLLECTION OF MEMBER CONTRIBUTIONS. Each

payroll period, each employer shall cause to be deducted from the compensation of a member subject to this chapter a contribution of 8.25 percent of the compensation of the member.

Sec. 826.102. ANNUAL INTEREST ADJUSTMENT. Each fiscal year, the retirement system shall deposit for a member subject to this chapter an amount equal to four percent of the member's accumulated account balance deposited into the member's individual account in the member savings account.

Sec. 826.103. GAIN SHARING INTEREST ADJUSTMENT. (a) Each fiscal year and subject to Subsection (b), the retirement system shall compute the gain sharing interest rate by:

(1) determining the average return on the investment of the system's cash and securities during the preceding five fiscal years, expressed as a percentage rate;

(2) subtracting four percentage points from the percentage rate determined under Subdivision (1); and

(3) multiplying the resulting difference under Subdivision (2) by 50 percent.

(b) Subject to Subsection (c), in addition to the amount deposited under Section 826.102, each fiscal year, the retirement system shall:

(1) deposit into each member's individual account in the member savings account an amount equal to the gain sharing interest rate determined under Subsection (a) for the fiscal year multiplied by the member's accumulated account balance; and

(2) recalculate the annuity of a retiree or annuitant under this chapter by multiplying the annuity by an amount equal to

1 the gain sharing interest rate determined under Subsection (a).

2 (c) The gain sharing interest rate applied under Subsection
3 (b) may not be less than zero or more than three percent.

4 (d) Subsection (b) applies only to a retiree or annuitant
5 who is receiving a cash balance annuity under Section 826.053.

6 CHAPTER 827. OPTIONAL DEFINED CONTRIBUTION PLAN

7 SUBCHAPTER A. GENERAL PROVISIONS

8 Sec. 827.001. DEFINITIONS. In this chapter:

9 (1) "Optional defined contribution plan" means the
10 plan established under this chapter.

11 (2) "Qualified plan" means an employees' deferred
12 compensation plan qualified under Section 403(b), Internal Revenue
13 Code of 1986, and regulations adopted under that section.

14 Sec. 827.002. EXCESS BENEFIT ARRANGEMENT. The retirement
15 system may establish a governmental excess benefit arrangement as
16 provided by Section 415(m), Internal Revenue Code of 1986, and
17 regulations adopted under that section, for the purpose of
18 providing to participants in the optional defined contribution plan
19 any portion of a participant's benefits that would otherwise be
20 payable under the terms of the plan except for the limitation on
21 benefits imposed by Section 415, Internal Revenue Code of 1986, and
22 regulations adopted under that section.

23 Sec. 827.003. RULES. The board of trustees shall adopt any
24 rules necessary to administer this chapter.

25 SUBCHAPTER B. AUTHORITY TO ESTABLISH PLAN

26 Sec. 827.051. ESTABLISHMENT OF PLAN; ADMINISTRATION. (a)
27 The retirement system shall establish and administer an optional

defined contribution plan that is a qualified plan and under which a person eligible for cash balance group membership under Chapter 826 may elect to pay contributions to the optional defined contribution plan for the purchase of investment products selected by the person from among products that are authorized to be provided under a qualified plan and that are offered by a single vendor authorized to provide the products in this state and selected by the board of trustees under Subsection (b).

(b) The board of trustees shall adopt rules for the selection of companies that may provide investment products under the optional defined contribution plan. The rules must provide for the selection of a single vendor that must provide a variety of investment products authorized for a qualified plan. The vendor must offer at least one product that provides a set of target date funds based on portfolios that automatically rebalance over time. The board of trustees shall rebid the contract to provide investment products at least once every five years.

(c) A provider of investment products is exempt from the payment of franchise or premium taxes on products issued under the optional defined contribution plan.

SUBCHAPTER C. PLAN REQUIREMENTS

Sec. 827.101. ELIGIBILITY AND ELECTION TO PARTICIPATE IN PLAN. (a) Instead of participating as a member of the retirement system under Chapter 826, a person who holds a position included in the coverage of the retirement system is eligible to participate in the optional defined contribution plan unless the person is participating in the optional retirement program under Chapter 830.

1 (b) Participation in the optional defined contribution plan
2 is an alternative to participation as a contributing member of the
3 retirement system for the same period.

4 (c) Except as provided by Section 826.002(b), a person
5 eligible to participate in the optional defined contribution plan
6 may elect to participate in the plan not later than the 90th day
7 after the date the person begins service in a position included in
8 the coverage of the retirement system. The election must be on a
9 form and in the manner prescribed by the board of trustees. If a
10 person does not make an election as provided by this subsection, the
11 person is considered to have elected to begin or continue
12 participation as a member of the retirement system under Chapter
13 826.

14 (d) Except as provided by Section 827.105, an election made
15 under this section is irrevocable.

16 Sec. 827.102. EFFECT OF EMPLOYMENT CHANGES. A person
17 participating in the optional defined contribution plan continues
18 to participate in the plan when the person changes employment to
19 another position included in the coverage of the retirement system.

20 Sec. 827.103. WITHDRAWAL OF RETIREMENT SYSTEM
21 CONTRIBUTIONS. A person who participates in the optional defined
22 contribution plan may withdraw benefits attributable to
23 contributions in the manner and with the effect provided by
24 Subchapter A, Chapter 822.

25 Sec. 827.104. IMMEDIATE VESTING OF BENEFITS; TERMINATION OF
26 PARTICIPATION. (a) Benefits in the optional defined contribution
27 plan that are attributable to a participant's contribution under

1 Section 827.108(a) vest in the participant immediately.

2 (b) Benefits in the optional defined contribution plan that
3 are attributable to the state's contribution under Section
4 827.108(a) vest in a participant immediately.

5 (c) A person terminates participation in the optional
6 defined contribution plan, without losing any vested benefits, by:

7 (1) death;

8 (2) retirement;

9 (3) termination of employment in all positions
10 included in the coverage of the retirement system; or

11 (4) election to participate as a cash balance group
12 member made in accordance with Section 827.105.

13 (d) The benefits of a product purchased under the optional
14 defined contribution plan become available under the terms of the
15 product but not before the participant terminates participation
16 under Subsection (c) or attains 70-1/2 years of age.

17 (e) Benefits in the optional defined contribution plan that
18 are attributable to the state's contribution under Section
19 827.108(a) that are not vested in a participant who terminates
20 participation shall be used to offset the amount of the state's
21 contribution.

22 Sec. 827.105. ONE-TIME MEMBERSHIP ELECTION; RESUMPTION OF
23 RETIREMENT SYSTEM MEMBERSHIP. (a) A person who is eligible to
24 participate in the optional defined contribution plan may make a
25 one-time election to cease participation in the plan and begin
26 participation as a member of the retirement system under Chapter
27 826. For purposes of Chapter 826, a person who makes an election

1 under this subsection is considered hired on the date immediately
2 following the date the person's participation in the plan
3 terminates. The election must be on a form and in the manner
4 prescribed by the board of trustees.

5 (b) A participant in the optional defined contribution plan
6 is not eligible to begin or resume active membership in the
7 retirement system unless the person terminates participation under
8 Section 827.104 and assumes or resumes, after the month following
9 the month in which the person terminates participation unless
10 subject to Subsection (a), a position included in the coverage of
11 the retirement system. A person who assumes or resumes a position
12 becomes an active member of the retirement system under Chapter 826
13 unless the person elects to resume participation in the optional
14 defined contribution plan in the manner and within the time
15 provided for beginning participation under Section 827.101.

16 Sec. 827.106. CREDITABLE SERVICE. A person may not
17 establish in the retirement system credit for service performed
18 during a period the person was participating in the optional
19 defined contribution plan.

20 Sec. 827.107. INVESTMENT ADVISORY FEES. (a) A participant
21 in the optional defined contribution plan may authorize the payment
22 of investment advisory fees from the amount in the participant's
23 custodial account or product if:

24 (1) the investment advisory fees for each fiscal year
25 do not exceed two percent of the annual value of the participant's
26 custodial account or product as of the last day of that fiscal year;

27 (2) the fees comply with applicable regulations of the

1 Securities and Exchange Commission;

2 (3) the investment advisor to whom the fees are paid is
3 registered with the Securities and Exchange Commission under the
4 Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.)
5 and regulations adopted under that Act and is engaged full-time in
6 the business of providing investment advice;

7 (4) the participant and the investment advisor enter
8 into a contract for services that may be terminated by either party
9 at any time and that provides for the payment of fees as provided by
10 this section; and

11 (5) the retirement system has received an official
12 determination from the Internal Revenue Service that payment of
13 investment advisory fees as prescribed by this section is not a
14 distribution of funds that is prohibited or subject to taxation and
15 penalty under the Internal Revenue Code of 1986 and regulations
16 adopted under that code.

17 (b) The executive director of the retirement system shall
18 request an official determination from the Internal Revenue Service
19 concerning whether the payment of investment advisory fees as
20 prescribed by this section is a distribution of funds that is
21 prohibited or subject to taxation and penalty under the Internal
22 Revenue Code of 1986 and regulations adopted under that code. If
23 the executive director receives an official determination from the
24 Internal Revenue Service as specified by this subsection, the
25 executive director shall file the determination with the secretary
26 of state's office for publication in the Texas Register.

27 Sec. 827.108. CONTRIBUTIONS. (a) A participant in the

optional defined contribution plan shall make contributions to the plan at the same rate that a member of the retirement system is required to contribute under Section 826.101, and the state and each employer shall make contributions to the plan for each participant at the same rate, and in the same manner, as the state and each employer are required to make for contributing members of the retirement system who are subject to Chapter 826.

(b) A participant in the optional defined contribution plan and the participant's employer shall execute an agreement under which the salary of the participant is reduced by the amount of the contribution required by Subsection (a). An agreement under this subsection is irrevocable until the participant terminates participation in the plan under Section 827.104.

(c) Contributions shall be made in the manner provided for cash balance group members under Subchapter E, Chapter 825, as applicable, and Subchapter C, Chapter 826.

Sec. 827.109. HEALTH BENEFIT AND OTHER COVERAGES. A person who participates or who is eligible to participate in the optional defined contribution plan established under this chapter is eligible for health benefits and other coverages under Subtitle H, Title 8, Insurance Code, and Subchapter D, Chapter 22, Education Code, if applicable, to the same extent as a person who is a member or who is eligible to be a member of the retirement system.

SECTION 22. Section 830.002(b), Government Code, is amended to read as follows:

(b) Participation in the optional retirement program is an alternative to active membership in the retirement system or

1 participation in the optional defined contribution plan under
2 Chapter 827.

3 SECTION 23. Sections 830.102(a) and (d), Government Code,
4 are amended to read as follows:

5 (a) A person included in the coverage ~~[member]~~ of the
6 retirement system who is eligible ~~[to participate in the optional~~
7 ~~retirement program]~~ may elect to ~~[continue as a member of the~~
8 ~~retirement system or to]~~ participate in the optional retirement
9 program.

10 (d) An eligible person who does not elect to participate in
11 the optional retirement program is considered to have chosen to
12 continue membership in the retirement system or to participate in
13 the optional defined contribution plan under Chapter 827, as
14 applicable.

15 SECTION 24. Section 830.106, Government Code, is amended to
16 read as follows:

17 Sec. 830.106. ELIGIBILITY FOR RESUMPTION OF MEMBERSHIP OR
18 PARTICIPATION IN OPTIONAL DEFINED CONTRIBUTION PLAN. A
19 participant in the optional retirement program is not eligible for
20 membership in the retirement system or participation in the
21 optional defined contribution plan under Chapter 827 unless the
22 person:

23 (1) terminates employment covered by the optional
24 retirement program; and

25 (2) becomes employed in the public school system or
26 with a state agency in a position that is not eligible for
27 participation in the optional retirement program.

1 SECTION 25. (a) The Teacher Retirement System of Texas
2 shall offer participation in the optional defined contribution plan
3 described by Chapter 827, Government Code, as added by this Act,
4 beginning September 1, 2024.

5 (b) The change in law made by this Act applies only to a
6 period of service described by Section 827.101(c), Government Code,
7 as added by this Act, that begins on or after September 1, 2024.

8 SECTION 26. This Act takes effect immediately if it
9 receives a vote of two-thirds of all the members elected to each
10 house, as provided by Section 39, Article III, Texas Constitution.
11 If this Act does not receive the vote necessary for immediate
12 effect, this Act takes effect September 1, 2023.