

BILL ANALYSIS

Senate Research Center

C.S.H.B. 2644
By: Telford (Armbrister)
State Affairs
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Committee Report (Substituted)

DIGEST

Currently, the Teacher Retirement System of Texas (retirement system) provides retirement benefits to 150,000 annuitants and has more than 660,000 active and deferred vested members. The Legislative Audit Committee commissioned a study during the last interim that recommended changes to the retirement system in order to give it flexibility in administering the insurance plan specified by law. This bill would implement some of those recommended changes. Additionally, this bill would clarify the law, delete unnecessary language, update designations in current law, and provide for the third in a series of ad hoc increases for retirees.

PURPOSE

As proposed, C.S.H.B. 2644 revises and clarifies provisions relating to the systems and programs administered by the Teacher Retirement System of Texas.

RULEMAKING AUTHORITY

Rulemaking authority is granted to the Teacher Retirement System of Texas in SECTIONS 3, 12, and 21 (Sections 823.004(b), 824.101(f), and 824.802(b), Government Code) and to the board of trustees of the Teacher Retirement System of Texas in SECTIONS 31 and 37 (Section 825.517(f), Government Code, and Section 22.004, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 822.005(c), Government Code, to prohibit a person who is employed in a position covered by the Teacher Retirement System of Texas (retirement system), among others, from withdrawing contributions.

SECTION 2. Amends Section 822.201(c), Government Code, to delete text providing that excluded from salary and wages are payments received in the 1995-1996 or a subsequent school year for teaching a driver education and traffic safety course, among other items.

SECTION 3. Amends Section 823.004, Government Code, to authorize the retirement system, by rule, to establish an irrevocable employer pick-up of member contributions as described by Section 414(h)(2) of the Internal Revenue Code of 1986 (26 U.S.C. Section 414(h)(2)) for the purchase of any service credit authorized by law. Makes a conforming change.

SECTION 4. Amends Section 823.202(b), Government Code, to delete reference to membership fees.

SECTION 5. Amends Section 823.301(b), Government Code, to authorize service to be established in one-year increments except as otherwise provided by this subchapter.

SECTION 6. Amends Section 823.3021(d), Government Code, to make a nonsubstantive change.

SECTION 7. Amends Section 823.303, Government Code, to provide that a member who performs military service creditable in the retirement system but who does not establish credit for the service by making the deposits required by Section 823.302 is entitled to credit of a year for each year of military service performed, if the member requests the credit in writing before the later of the date

of application for retirement or the effective date of retirement.

SECTION 8. Amends Sections 823.401(a) and (d), Government Code, to provide that a school receiving funds under 22 U.S.C. Section 2701 is considered a public school for the purposes of this section. Authorizes a member to establish credit under this section by depositing with the retirement system for each year of service claimed a contribution computed at the rate of 12 percent of the full-time rate of the member's annual compensation, plus any additional eligible compensation received, during the first year of service for which the member received membership credit in the retirement system that is both after the service for which credit is sought and after September 1, 1956, among other rates. Makes conforming changes.

SECTION 9. Amends Section 823.402(e), Government Code, to make conforming changes.

SECTION 10. Amends Section 823.501, Government Code, by amending Subsections (b) and (c), and by adding Subsections (e) and (f), to provide that a person eligible to reinstate service credit under this section is one who is a contributing member of the retirement system at the time the service is reinstated, rather than one who resumes membership service in the retirement system. Authorizes a member to reinstate canceled credit under this section by depositing with the retirement system the amount withdrawn or refunded; plus a reinstatement fee of six percent, compounded annually, of the amount withdrawn or refunded from the date of withdrawal or refund to the date of redeposit. Deletes text authorizing the reinstatement of cancelled credit by the depositing of membership fees for the period that membership was terminated. Provides that service credit cancelled by a withdrawal of contributions not authorized by Section 822.005 is required to be reinstated under this section. Authorizes a contributing member to have an account that was terminated by absence from service reactivated by requesting the reactivation in writing. Authorizes the beneficiary of a decedent who was a contributing member at the time of death to have an account that was terminated by the decedent's absence from service reactivated by requesting the reactivation in writing before the first payment of a death benefit.

SECTION 11. Amends Section 823.502(c), Government code, to make conforming changes.

SECTION 12. Amends Section 824.101, Government Code, by amending Subsections (c) and (d), and by adding Subsections (f) and (g), as follows:

(c) Authorizes only one person to be designated as beneficiary of an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5), and a designation of beneficiary under any, rather than either, of those options may not be made, changed, or revoked, except as provided by Sections 824.1011 and 824.1012, after a certain date.

(d) Provides that unless a contrary intention is clearly indicated by a written designation of beneficiary and except as otherwise provided by this section, rather than law, the most recent designation of beneficiary by a member or annuitant applies to all benefits payable on the death of the member or annuitant.

(f) Sets forth regulations relating to a beneficiary designation, change in beneficiary, or revocation of beneficiary.

(g) Sets forth regulations relation to revocation of a designated beneficiary because of divorce.

SECTION 13. Amends Section 824.1011(a), Government Code, to authorize a retiree who is receiving a standard service or disability retirement annuity under Section 824.203 or 824.304(b) and who marries after the date of the person's retirement to replace the annuity by selecting an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5) or under Section 824.308(c)(1), (c)(2), or (c)(5), as applicable, among other conditions.

SECTION 14. Amends Chapter 824B, Government Code, by adding Section 824.1012, as follows:

Sec. 824.1012. CHANGE OF BENEFICIARY AFTER RETIREMENT. Sets forth regulations relating to a retiree, who is receiving an optional retirement annuity under Section 824.204(c)(1), (c)(2), or (c)(5) or Section 824.308 (c)(1), (c)(2), or (c)(5), being authorized to change the designated beneficiary for the benefits payable after the retiree's death.

SECTION 15. Amends Sections 824.202(a) and (c), Government Code, to provide that a member is eligible to retire and receive a standard service retirement annuity if, among other options, the sum of the member's age and amount of service credit in the retirement system equal the number 80. Revises the table setting forth the reduced retirement annuity certain members are eligible to receive upon retirement.

SECTION 16. Amends Section 824.203(d), Government Code, to prohibit the standard service retirement annuity from being less than \$150 a month, rather than being less than \$6.50 a month for each year of service credit or, for a member who is at least 65 years old at the time of retirement, less than the greater of \$6.50 a month for each year of service credit, or \$150 a month.

SECTION 17. Amends Section 824.204(d), to require a reduced annuity of a retiree who has elected an optional service retirement annuity under Subsection (c)(1), (c)(2), or (c)(5), under certain conditions, to be increased to the standard service retirement annuity that the retiree would otherwise be entitled to receive if the retiree had not selected that annuity option.

SECTION 18. Amends Section 824.304, Government Code, by amending Subsection (b) and by adding Subsection (d), to delete text requiring the retirement system to pay a certain person for the duration of the disability a disability retirement annuity in an amount equal to the greater of \$6.50 a month for each year of service credit on the date of retirement, among other values. Provides that the minimum benefits provided by this section are subject to reduction in the same manner as other benefits because of the selection of an optional retirement annuity.

SECTION 19. Amends Sections 824.404(b), (c), and (d), Government Code, as follows:

(b) Authorizes the beneficiary, if the designated beneficiary is the spouse or a dependent parent of the decedent, to elect to receive for life a monthly benefit of \$200, rather than \$150, beginning immediately or on the date the beneficiary becomes 65 years old, whichever is later.

(c) Authorizes the designated beneficiary, if the designate beneficiary is the spouse of the decedent and has one or more children less than 18 years old or has custody of one or more children of the decedent who are less than 18 years old, to elect to receive a monthly benefit of \$300, rather than \$250, payable until the youngest child becomes 18 years old; and when the youngest child has attained the age of 18, monthly benefit for life of \$200, rather than \$150, beginning on the date the beneficiary becomes 65 years old.

(d) Authorizes a guardian, if the designated beneficiary or beneficiaries are the decedent's dependent children who are less than 18 years old, to elect to receive for term a monthly benefit of \$300, rather than \$250, payable as long as two or more children are less than 18 years old; and a monthly benefit of \$200, rather than \$150, payable as long as only one child is less than 18 years old.

SECTION 20. Amends Section 824.602, Government Code, by adding Subsection (1), to provide that this subchapter does not apply to payments under Section 824.804(b).

SECTION 21. Amends Chapter 824, Government Code, by adding Subchapter I, as follows:

SUBCHAPTER I. DEFERRED RETIREMENT OPTION PLAN

Sec. 824.801. DEFINITION. Defines "plan".

Sec. 824.802. PARTICIPATION IN PLAN. Sets forth the guidelines relating to an election

to participate in the deferred retirement option plan (plan) by a certain contributing member.

Sec. 824.803. COMPUTATION OF PARTICIPANT'S SERVICE AND ANNUITY. Sets forth guidelines relating to a person's participation in the plan and computation of that person's service and annuity for purposes of the plan.

Sec. 824.804. BENEFITS UNDER PLAN. Sets forth guidelines relating to the various benefits a participating person may receive under the plan under certain conditions.

Sec. 824.805. TERMINATION OF PARTICIPATION IN PLAN. Sets forth guidelines relating to a participating person's terminating participation in the plan.

Sec. 824.806. BENEFITS FOR SERVICE AFTER PLAN PARTICIPATION. Sets forth guidelines relating to eligible service credit accrued by participation in the plan.

Sec. 824.807. INTEREST. Sets forth guidelines relating to interest credited to a member's account in the deferred retirement system option account.

SECTION 22. Amends Section 825.206, Government Code, by adding Subsection (f), to require an actuarial audit to be performed in conjunction with an actuarial experience study or at least once every five years. Requires the audit to include certain information.

SECTION 23. Amends Section 825.207, Government Code, as follows:

Sec. 825.207. New heading: COMPTROLLER. Provides that except as provided by Section 825.302 or 825.303 or by Subsection (e), the comptroller, rather than the state treasurer, is the custodian of all securities and cash of the retirement system. Makes conforming and nonsubstantive changes.

SECTION 24. Amends Sections 825.209(a), (b), and (c), Government Code, to require the comptroller to give a surety bond in an amount of at least \$50,000. Authorizes the board of trustees of the retirement system (board of trustees) to require any trustee or employee of the board of trustees to give a surety bond in an amount determined by the board of trustees and to increase the minimum amount of a bond required by Subsection (a) or (b). Deletes text excluding the executive director of the board of trustees from being required by the board of trustees to give a surety bond. Makes conforming changes.

SECTION 25. Amends Section 825.301(a), Government Code, to require the board of trustees of the retirement system (board of trustees) to invest and reinvest assets of the retirement system without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. Provides that investment decisions are subject to the standard provided in the Texas Trust Code by Section 113.056(a), Property Code.

SECTION 26. Amends Section 825.306, Government Code, to require the retirement system to be credited to the deferred retirement option account, among other accounts. Makes conforming changes.

SECTION 27. Amends Chapter 825D, Government Code, by adding Section 825.3121, as follows:

Sec. 825.3121. DEFERRED RETIREMENT OPTION ACCOUNT. Requires the retirement system to deposit in the deferred retirement option account the amounts required to be deposited in the account by Section 824.804(a) and interest as required by Section 824.807. Requires the retirement system to pay from the account all benefits accrued during participation in the deferred retirement option plan.

SECTION 28. Amends Section 825.410, Government Code, as follows:

Sec. 825.410. New heading: PAYROLL DEDUCTIONS OR INSTALLMENT

PAYMENTS FOR SPECIAL SERVICE CREDIT. (a) Authorizes payments to establish special service credit as authorized in certain sections to be made in a lump sum by a monthly payroll deduction in an amount not less than one-twelfth of the contribution required to establish at least one year of service credit, or in equal monthly installments over a period not to exceed the lesser of the number of years of credit to be purchased or 60 months. Deletes text in reference to Sections 823.202 and 823.402, Government Code. Prohibits the member, if the retirement system refunds payments pursuant to this subsection, from being permitted to use the installment method of payment or the payroll deduction method, as applicable, for the same service for three years after the date of the refund. Provides that a member who requests and receives a refund of installment payments also is not permitted to use the same method for payment for the same service for three years after the date of the refund. Makes conforming changes.

(b) Requires the retirement system to credit a member's payments under this section to a suspense account in the trust fund until the sum of the payments equals the amount required for one year of service credit, at which time the retirement system shall deposit the payments in the appropriate accounts in the trust fund and grant the applicable amount of service credit. Makes conforming changes.

(c) Requires all installment and payroll deduction payments to be made on or before the service retirement date or the last day of the month in which the member's application for service retirement is submitted, whichever is later, or before the 31st day following the date on which the medical board certifies a member's disability. Makes conforming changes.

(d)-(e) Makes conforming and nonsubstantive changes.

(f) Makes no changes.

(g)-(i) Makes conforming and nonsubstantive changes.

(j) Authorizes payments to establish service credit by a member who plans to retire in less than a year to be made by payroll deduction for a period determined by the retirement system.

(k) Requires each member to establish a payroll deduction plan to facilitate the payroll deductions authorized by this section and to cooperate with the retirement system in implementing the payroll deduction method of payment for service credit.

SECTION 29. Amends Section 825.512(e), Government Code, to require the retirement system to submit an annual investment performance report no later than the 45th day after the end of, rather than the 25th day of the month following, each fiscal year to certain government officials, committees, and government boards.

SECTION 30. Amends Chapter 825F, Government Code, by adding Section 825.516, as follows:

Sec. 825.516. NONPROFIT ASSOCIATION DUES. Authorizes a retiree who is receiving an annuity from the retirement system to request the system to withhold from the retiree's monthly annuity payment membership dues for a nonprofit association of retired school employees in this state. Requires the request for withholding to be on a form provided by the retirement system. Requires the retirement system, after the retirement system receives a request authorized by this section, to make the requested deductions until the earlier of the date the annuity is terminated; or the first payment of the annuity after the date the system receives a written request signed by the retiree canceling the request for the withholding. Requires the retirement system to send all dues withheld under this section to the nonprofit association after each monthly payment of annuities.

SECTION 31. Amends Chapter 825F, Government Code, by adding Section 825.517, as follows:

Sec. 825.517. EXCESS BENEFIT ARRANGEMENT. Sets forth guidelines relating to the creation of a separate, nonqualified, unfunded excess benefit arrangement outside of the trust fund of the retirement system.

SECTION 32. Amends the heading of Article 3.50-4, Insurance Code, as follows:

ARTICLE 3.50-4. New heading: TEXAS PUBLIC SCHOOL EMPLOYEES
GROUP INSURANCE PROGRAM

SECTION 33. Amends Sections 7A(a) and (e), Article 3.50-4, Insurance Code, to authorize, rather than prohibit, a public school district from offering an alternative health benefit plan to its active employees during the period of its participation in the program if the Teacher Retirement System of Texas (trustee) approves the plan as providing contributions, participation, and a design that are in accordance with sound group benefit underwriting principles. Requires each participating school district to contribute for each district employee covered by the program an amount equal to no less than 75 percent of the cost for the employee only of the plans of group coverages authorized by the trustee for active employees. Requires the district to certify to the trustee the amount the district will contribute monthly toward the cost of coverage. Requires the trustee to determine if the amount is sufficient to underwrite the plan for the district based on sound group benefit underwriting principles. Provides that a determination by the trustee under this subsection is final. Deletes text setting forth a limitation upon a school district's contribution.

SECTION 34. Amends Section 8, Article 3.50-4, Insurance Code, as follows:

Sec. 8. New heading: PURCHASE OF GROUP HEALTH CARE BENEFITS. Provides that the trustee has authority to establish one or more plans that are self-insured. Authorizes the coverages, rather than group insurance coverages, provided under the plan or plans to include, among other items, long-term care coverage. Authorizes the trustee to contract for and make available to all retirees, dependents, surviving spouses, and surviving dependent children optional group health benefit plans, rather than group health insurance benefit plans, in addition to the basic plans. Deletes existing Subsection (f). Deletes text authorizing contracts between the trustee and carriers for the group insurance pool to provide for renegotiation. Requires each contract to be based on the terms and conditions agreed on between the trustee and the entity, rather than carrier or carriers, selected to provide the coverage, rather than insurance coverage, and benefits. Requires any contract for group benefits, rather than group insurance, awarded by the trustee to meet the minimum benefit and financial standards adopted by the trustee. Requires the rules to require that prospective bidders provide information, for each area consisting of a county and all adjacent counties, on the number and types of qualified providers willing to participate in the coverage or plan for which the bid is made. Authorizes the rules to provide criteria to determine qualified providers. Requires the trustee to consider the information before awarding a contract but may not require a bidder to demonstrate a minimum standard of provider participation. Authorizes the trustee to contract directly with health care providers, including health maintenance organizations, preferred provider organizations, carriers, administrators, and other qualified vendors, to provide benefits in the program. Deletes text regarding certain benefits. Makes conforming and nonsubstantive changes.

SECTION 35. Amends Section 15(c), Article 3.50-4, Insurance Code, to delete text prohibiting expenses from exceeding a certain amount.

SECTION 36. Amends Section 16(b), Article 3.50-4, Insurance Code, to require the state to contribute as the state's contribution to the fund each fiscal year an amount equal to .50 percent of the salary of each active employee. Authorizes the state to contribute amounts in addition to the contribution required by this subsection. Deletes Subsections (b)(1)-(5).

SECTION 37. Amends Section 22.004, Education Code, as follows:

Sec. 22.004. GROUP HEALTH BENEFITS FOR SCHOOL EMPLOYEES. (a) Redefines "major medical treatment." Requires the board of trustees to adopt rules to determine

whether a school district's group health coverage is comparable to the basic health coverage specified by this subsection. Requires the rules to provide for consideration of certain factors concerning the district's coverage in determining whether the district's coverage is comparable to the basic health coverage specified by this subsection.

(b) Makes a conforming change.

(c) Requires each district to report, rather than to certify, the district's compliance with this subsection to the executive director of the retirement system (executive director) no later than November 1 of each year in the manner required by the board of trustees. Requires the report to be based on the district group health coverage plan in effect on November 1 and to include certain information. Makes conforming changes.

(d) Requires the executive director, based on the criteria prescribed by Subsection (a), to certify whether a district's coverage is comparable to the basic health coverage provided under the Texas Uniform Group Insurance Benefits Act (Article 3.50-2, V.T.C.S.). Requires the executive director, under certain conditions, to report certain information to the district and to the Legislative Budget Board. Requires the executive director to submit a report to the legislature by January 1 of each odd-numbered year describing the status of each district's group health coverage program based on the information contained in the report required by Subsection (c) and the certification required by this section.

(e)-(g). Makes conforming changes.

SECTION 38. (a) Requires the retirement system to adjust the monthly benefits of a person who retired under a service retirement annuity after April 30, 1987, but before September 1, 1997, to the amount that the person would have received if Section 824.202, Government Code, as amended by this Act, had been in effect on the effective date of the person's retirement.

(b) Requires the benefit recomputation under this section to include the appropriate reduction to an actuarial equivalent for any optional retirement annuity selected under Section 824.204, Government Code, at the time of retirement.

(c) Provides that any adjustment required by this section becomes effective with the monthly benefit payable at the end of September 1997.

SECTION 39. (a) Provides that monthly payments of a death or retirement benefit annuity by the retirement system are increased beginning with the payment due at the end of September 1997.

(b) Provides that the increase does not apply to payments under Section 824.304(a), 824.404, or 824.501, Government Code.

(c) Sets forth the table to be used in computing the amount of the monthly increase.

SECTION 40. Provides that changes in law made by this Act in Section 822.201(c), Government Code, applies to all determinations of compensation that are made on or after the effective date of this Act for the purpose of computing an annuity that begins on or after that date or making contributions for the purchase of service credit on or after that date.

SECTION 41. Requires an employee of the Baylor College of Dentistry who is not a faculty member, who was transferred to the Texas A&M University System under Chapter 403, Acts of the 74th Legislature, Regular Session, 1995, who previous to the transfer was a participant in a retirement program similar to the optional retirement program established under Chapter 830, Government Code, and who at the time of transfer elected to participate in the optional retirement program rather than the retirement system to continue participation in that program as if the person were eligible for participating beginning on the first day of employment with the Texas A&M University System.

SECTION 42. Provides that notwithstanding Section 824.6021, Government Code, as added by this Act, a person who retired before September 1, 1997, is not subject to a loss of benefits under that section for the first 90 days of employment on or after September 1, 1997, or for the first 90 days of a contract that occur on or after that date.

SECTION 43. Effective date: September 1, 1997. Provides that the amendment made by this Act to Sec. 22.004, Education Code, applies beginning with the 1998-99 school year.

SECTION 45. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 3.

Amends Section 823.004, Government Code, by adding Subsection (b). Redesignates existing SECTIONS 3-8 as SECTIONS 4-9, respectively.

SECTION 10.

Amends Section 823.501, Government Code, by revising proposed Subsection (f). Originally set forth in SECTION 9.

SECTION 11.

Originally set forth in SECTION 10.

SECTION 12.

Amends Section 824.101, Government Code, by amending Subsections (c) and (d) and by adding Subsections (f) and (g).

SECTION 13.

Originally set forth in SECTION 11.

SECTION 14.

Amends Chapter 824B, Government Code, by adding Section 824.1012, relating to change of beneficiary after retirement.

SECTIONS 15-18.

Originally set forth as SECTIONS 12-15.

SECTION 19.

Amends Section 824.404, Government Code, to revise Subsections (b)-(d).

SECTION 20.

Amends Section 824.602, Government Code, by adding Subsection (l).

SECTION 21.

Amends Chapter 824, Government Code, by adding Subchapter I, relating to deferred retirement option plan.

SECTION 22-24.

Originally set forth in SECTIONS 16-18.

SECTION 25.

Amends Section 824.301, Government Code, to revise Subsection (a).

SECTION 26.

Amends Section 825.306, Government Code, to revise provisions relating to crediting system assets.

SECTION 27.

Amends Chapter 825D, Government Code, by adding Section 825.3121, relating to deferred retirement option account.

SECTION 28.

Amends Section 825.410, Government Code, to revise provisions relating to payroll deductions or installment payments for special service credit.

SECTIONS 29-30.

Originally set forth in SECTIONS 20-21.

SECTION 31.

Amends Chapter 825F, Government Code, by adding Section 825.517, relating to excess benefit arrangement.

SECTION 32-33.

Originally set forth in SECTIONS 22-23.

SECTION 34.

Amends Section 8, Article 3.50-4, Insurance Code, by revising proposed changes to Subsection (i). Originally set forth in SECTION 24.

SECTIONS 35-36.

Originally set forth in SECTIONS 25-26.

SECTION 37.

Amends Section 22.004, Education Code, to revise provisions relating to group health benefits for school employees.

SECTION 38.

Sets forth session law relating to certain benefits received under the Teacher Retirement System of Texas.

SECTIONS 39-40.

Originally set forth in SECTIONS 27-28.

SECTION 41.

Sets forth session law relating to certain employees of the Baylor College of Dentistry.

SECTION 42.

Sets forth session law relating to certain retired employees.

SECTIONS 43-44.

Originally set forth in SECTIONS 29-30. Omits SECTION 28, setting forth session law relating to changes in law made by this Act to Section 822.201(c), Government Code.