

## **BILL ANALYSIS**

Senate Research Center  
82R7424 KFF-F

S.B. 1669  
By: Duncan  
State Affairs  
4/1/2011  
As Filed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Over the years, statutes controlling the Teacher Retirement System of Texas's (TRS) return-to-work provisions have become increasingly complex and difficult to administer. In general, a retiree of TRS may return to work in a full-time position for up to six months per school year without losing annuity payments; however, there are numerous other exceptions as well. The board and staff of TRS held several public meetings in 2010 to discuss simplifying the law. The actuary of TRS has determined that the provisions of this draft would not change retirement patterns and therefore would not impact the actuarial condition of the trust fund. This bill does not affect the pension surcharges enacted in 2005, which would continue to apply.

This bill continues to allow a retiree of TRS to work in the Texas public education system without loss of a monthly annuity as a substitute, or in a position other than a substitute on no more than a one-half time basis for the month. This bill allows any amount of work without loss of annuity only if the retiree has been separated from service with all Texas public education institutions for 12 full consecutive months immediately after retiring. This bill eliminates other exceptions to the loss of monthly annuity for working in Texas public education, specifically working up to full-time all year as a classroom teacher in an acute shortage area, after a 12-month break in service after retirement; working as a principal or assistant principal up to full-time all year, after a 12-month break in service after retirement; working as a bus driver up to full-time all year; or working as a faculty member in a professional nursing program after a 12-month break in service after retirement.

This bill allows a service retiree who retired before January 1, 2011, to work full-time in the Texas public education system with no loss of monthly annuity payments. This bill creates provisions for a service retiree who retired after January 1, 2011, but before the effective date of this Act, September 1, 2011. Such a service retiree would be permitted to work in the Texas public education system with no loss of annuity if the retiree separates from service for at least 12 full consecutive months after retirement.

As proposed, S.B. 1669 amends current law relating to the resumption of service by retirees under the Teacher Retirement System of Texas.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 824.601, Government Code, by amending Subsection (b) and adding Subsection (b-1), as follows:

- (b) Provides that, except as provided by Subsection (b-1) or Section 824.602 (Exceptions), a retiree is not entitled to service or disability retirement benefit payments, as applicable, for any month in which the retiree is employed in any position by a Texas public educational institution.

(b-1) Provides that Subsection (b) does not apply to a retiree under Section 824.202 (Eligibility for Service Retirement) whose effective date of retirement is on or before January 1, 2011.

SECTION 2. Reenacts Section 824.602(a), Government Code, as amended by Chapters 674 (S.B. 132) and 1359 (S.B. 1691), Acts of the 79th Legislature, Regular Session, 2005, and amends it, as follows:

(a) Prohibits the Teacher Retirement System of Texas (TRS), subject to Section 825.506 (Plan Qualification), under Section 824.601 (Loss of Monthly Benefits), to withhold a monthly benefit payment if the retiree is employed in a Texas public educational institution in certain positions, including 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, rather than if the work occurs in not more than six months of a school year that begins, after the retiree's effective date of retirement.

Deletes existing text prohibiting TRS, subject to Section 825.506, under Section 824.601, to withhold a monthly benefit payment if the retiree is employed in a Texas public educational institution in a position as a classroom teacher on as much as a full-time basis, if the retiree has retired under Section 824.202(a) (relating to the eligibility to retire and receive a standard service retirement annuity) or (a-1) (relating to a person who becomes a member of TRS on or after September 1, 2006, and his or her eligibility to retire and receive a standard service retirement annuity), is certified under Subchapter B (Certification of Educators), Chapter 21 (Educators), Education Code, to teach the subjects assigned, is teaching in an acute shortage area as determined by the board of trustees of a school district as provided by Subsection (m) (requiring the board of trustees by rule to determine whether there are acute shortage areas in the district), and has been separated from service with all public schools for at least 12 months; in a position as a principal, including as an assistant principal, on as much as a full-time basis, if the retiree has retired under Section 824.202(a) or (a-1) without reduction for retirement at an early age, is certified under Subchapter B, Chapter 21, Education Code, to serve as a principal, and has been separated from service with all public schools for at least 12 months; as a bus driver for a school district on as much as a full-time basis, if the retiree has retired under Section 824.202(a) or (a-1), and the retiree's primary employment is as a bus driver; or as a faculty member, during the period beginning with the 2005 fall semester and ending on the last day of the 2015 spring semester, in an undergraduate professional nursing program or graduate professional nursing program, as defined by Section 54.221 (Children of Professional Nursing Program Faculty), Education Code, and if the retiree has been separated from service with all public schools for at least 12 months.

SECTION 3. Amends Section 824.602(g), Government Code, as follows:

(g) Provides that the exceptions provided by Subsections (a)(2) and (a)(3) do not apply to disability retirees. Provides that TRS 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, rather than three consecutive months of the school year;

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

(3) the disability retiree executes on a form and at a time prescribed by TRS 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 loss of monthly benefits, rather than loss of monthly benefits in a school year, under this subsection.

SECTION 4. Amends Section 824.603, Government Code, to provide that employment of a retiree described by Section 824.601(b-1) or 824.602(a) (prohibiting TRS from withholding a monthly benefit payment under certain conditions) does not entitle the retiree to additional service credit, and the retiree so employed is not required to make contributions to the system from compensation for that employment.

SECTION 5. Repealers: Sections 824.602(c) (relating to working any portion of a month counting as working a full month), (d) (relating to ineligibility for certain exceptions), (m), (p) (relating to applying an exception to work performed by a retiree under certain conditions), and (q) (relating to time spent by a retiree attending professional development classes being not considered work), Government Code.

SECTION 6. (a) Entitles a person who resumed employment after retirement and whose benefit payments were suspended under Section 824.601, Government Code, as that section existed before amendment by this Act, to the resumption of monthly benefit payments if the person meets the requirements of Section 824.601(b-1), Government Code, as added by this Act, or Section 824.602, Government Code, as amended by this Act.

(b) Requires TRS to resume making monthly benefit payments to a person described by Subsection (a) of this section on the first payment date occurring on or after the effective date of this Act.

(c) Provides that a person who is entitled to the resumption of monthly benefit payments under this section is not entitled to recover benefit payments not made during the period the person's benefit was suspended under Section 824.601, Government Code, as that section existed before amendment by this Act.

SECTION 7. Provides that, to the extent of any conflict, this Act prevails over another Act of the 82nd Legislature, Regular Session, 2011, relating to nonsubstantive additions to and corrections in enacted codes.

SECTION 8. Effective date: upon passage or September 1, 2011.