

BILL ANALYSIS

Senate Research Center
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S.B. 706
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Teacher Retirement System of Texas (TRS) is one of the largest public pension systems in the world, and provides services to over 1.6 million current and retired Texas educators. Although TRS is established in the Texas Constitution and is not subject to abolition through the Sunset process, Sunset review provides a valuable opportunity to ensure the system is living up to its promise for retired teachers. During this interim's review, the Sunset Advisory Commission (Sunset) noted improvements that could be made to the accessibility of the system for beneficiaries.

S.B. 706 codifies several of the recommendations that were unanimously approved by Sunset this interim. Some of the major recommendations include:

Altering the penalty for retirees who return to work within 12 months of retiring: instead of forfeiting their entire annuity for a month in which they work more than half-time, as in current law, retirees will only face a dollar-for-dollar reduction based on the number of hours over the limit they worked;

Creating an ombudsman position to assist members in issuing complaints and otherwise interacting with the TRS board;

Requiring TRS to improve its efforts to locate and return contributions to inactive members;

Requiring TRS to create an outreach plan to improve services to members; and

Instituting consolidated reporting requirements and other standard Sunset updates.

As proposed, S.B. 706 amends current law relating to the continuation and functions of the Teacher Retirement System of Texas.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the board of trustees of the Teacher Retirement System of Texas is modified in SECTION 16 (Section 825.521, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 824.002(c), Government Code, as follows:

(c) Provides that, for the purposes of Section 824.002 (Effective Date of Retirement), a member's employment in a position covered by the Teacher Retirement System of Texas (TRS) 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 (Exceptions) for an exception to a reduction or loss, rather than only loss, of monthly benefits required by Section 824.601.

SECTION 2. Amends Section 824.2031(b), Government Code, as follows:

(b) Requires that a determination under Section 824.2031 (Benefit Improvements) be founded on the information in the most recent report of an investment practices and performance evaluation conducted under Section 802.109 (Investment Practices and Performance Reports), rather than of an investment performance audit conducted under Section 825.512 (Investment Practices and Performance Reports), and the application of that information to certain areas of TRS.

SECTION 3. Amends the heading to Subchapter G, Chapter 824, Government Code, to read as follows:

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

SECTION 4. Amends the heading to Section 824.601, Government Code, to read as follows:

Sec. 824.601. REDUCTION OR LOSS OF MONTHLY BENEFITS.

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

(b) Provides that, except as provided by certain subsections, including (b-3) and (b-4), and subject to Subsection (b-2) (relating to requirements for a retiree to be considered employed by a Texas public educational institution), during any month in which a retiree is employed in any position by a Texas public educational institution, the retiree's entitlement to service or disability retirement benefit payments for that month is reduced by an amount equal to the lesser of:

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

(2) the total compensation earned by the retiree for the employment during that month as reported by the retiree's employer, or, if not reported, verified in a manner prescribed by TRS.

Deletes existing text providing that, except as provided by certain subsections, and subject to Subsection (b-2), a retiree is not entitled to service or disability retirement benefit payments, as applicable, for any month in which a retiree is employed in any position by a Texas public educational institution.

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

(b-4) Provides that a retiree under Section 824.302 (Eligibility for Disability Retirement) who is employed in any position by a Texas public educational institution for more than 90 days in a school year is not entitled to disability retirement benefit payments for the months the retiree was employed by the institution unless the retiree qualifies for the exception described by Section 824.602(g) (relating to certain circumstances in which TRS is prohibited from withholding monthly benefit payments to a disability retiree).

(e) Provides that a reduction or loss, rather than a loss, of benefits under Section 824.601 does not extend any period of guaranteed benefits elected pursuant to Section 824.204 (Optional Service Retirement Benefits).

SECTION 6. Amends Sections 824.602(a), (g), and (k), Government Code, as follows:

(a) Prohibits TRS, subject to Section 825.506 (Plan Qualification), from, under Section 824.601, reducing or withholding, rather than withholding, a monthly benefit payment if the retiree is employed in certain positions in a Texas public educational institution.

(g) and (k) Makes conforming changes to these subsections.

SECTION 7. Redesignates Section 824.601(f), Government Code, as Section 824.604, Government Code, and amends it as follows:

Sec. 824.604. RULES. Clarifies that the board of trustees of TRS (board), rather than TRS, may adopt rules necessary for administering Subchapter G. Makes a nonsubstantive change.

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

(b) Requires that the training program for board members provide the person with information regarding:

- (1) the law governing TRS operations, rather than the legislation that created TRS;
- (2) creates this subdivision from existing text and makes nonsubstantive changes;
- (3) the scope of and limitations on the rulemaking authority of the board;
- (4) creates this subdivision from existing text and makes no further changes;
- (5) the requirements of laws relating to open meetings, public information, administrative procedure, and disclosing conflicts-of-interest and the requirements of other laws applicable to members of a state policy-making body in performing their duties; and
- (6) creates this subdivision from existing text and makes a nonsubstantive change.

Makes nonsubstantive changes.

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

SECTION 9. Amends Section 825.006, Government Code, to require the board to be reviewed during the period in which state agencies abolished in 2033, rather than 2021, and every 12th year after that year, are reviewed.

SECTION 10. Amends Subchapter C, Chapter 825, Government Code, by adding Section 825.216, as follows:

Sec. 825.216. OMBUDSMAN. (a) Requires the board, subject to Section 825.506, to designate an ombudsman within TRS to assist members by performing member protection and advocacy functions, including:

- (1) monitoring TRS's interactions with members;
- (2) receiving and reviewing complaints from members;
- (3) taking appropriate action regarding complaints, including conducting investigations of complaints or escalating or reporting complaints to the board;

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

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

(b) Requires the ombudsman designated under this section to regularly submit a report to the board recommending changes to TRS's operations that would benefit members and increase opportunities for the members to participate in TRS's decisions.

SECTION 11. Amends Section 825.308, Government Code, to require TRS to deposit certain monetary contributions into the state contribution account, including retirement annuities, or that portion of annuities, as applicable, rather than only retirement annuities, waived or forfeited in accordance with Section 824.601 or 824.004 (Waiver of Benefits).

SECTION 12. Amends Section 825.4041(f), Government Code, to require TRS, at the end of each school year, to certify certain information to the state auditor, rather than to the commissioner of education and the state auditor, including the name of each employer that is an institution of higher education and has failed to remit, within the period required by Section 825.408 (Interest on Contributions and Fees; Deposits in Trust), all payments required under Section 825.4041 (Employer Payments) for the school year.

SECTION 13. Amends Section 825.405(f), Government Code, as follows:

(f) Requires the commissioner of education, if the commissioner of education receives a certification from TRS regarding unpaid contributions, rather than a certification under Subsection (e) (relating to requiring TRS to certify certain information relating to unpaid member contributions to the commissioner of education), to direct the Comptroller of Public Accounts of the State of Texas (comptroller) to withhold the amount certified, plus interest computed at the rate and in the manner provided by Section 825.408, from the first state money payable to the employer.

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

(b) Provides that, if the member or the member's heirs cannot be found after complying with the policy adopted under Subsection (c), the member's accumulated contributions are forfeited to TRS.

(c) Requires the board to adopt a policy requiring TRS to make all reasonable efforts to locate and notify a member or, if appropriate, the member's heirs of their entitlement to a return of accumulated contributions under Section 825.502 (Payment of Contributions to a Member Absent from Service). Requires that the policy ensure that the:

(1) notice:

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

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

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

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

(B) employs a matrix based on defined factors for determining on a graduated scale the degree and type of additional effort required, and requires those efforts to include contacting the member's designated beneficiary, obtaining information from consumer reporting agencies, and using commercial locating services.

SECTION 15. Amends Sections 825.511(a) and (c), Government Code, as follows:

(a) Requires TRS to maintain a system to promptly and efficiently act on complaints filed with TRS, rather than filed with the system that TRS has authority to resolve. Makes a conforming change.

(c) Requires TRS to periodically notify the complaint parties of the status of the complaint until final disposition unless the notice would jeopardize an investigation.

SECTION 16. Amends Section 825.521, Government Code, as follows:

Sec. 825.521. New heading: DEADLINE TO APPEAL ADMINISTRATIVE DECISION. Requires the board, in adopting rules governing an appeal authorized by law or rule of a determination or decision of TRS by TRS's staff, including a final administrative decision of TRS, to ensure that rules establishing deadlines for filing the appeal afford a member or retiree at least the same amount of time to file the appeal as TRS has to issue the determination or decision. Makes nonsubstantive changes.

SECTION 17. Amends the heading to Subchapter G, Chapter 825, Government Code, to read as follows:

SUBCHAPTER G. OUTREACH TO MEMBERS AND EMPLOYERS

SECTION 18. Amends Section 825.601, Government Code, as follows:

Sec. 825.601. New heading: OUTREACH PLAN. (a) Creates this subsection from existing text. Requires the board to develop and adopt an outreach plan designed to assist each member of TRS, and as appropriate the members' employers, in effectively planning for the member's retirement. Requires that the plan require TRS to:

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

(2) update and develop outreach materials and other information distributed by TRS, including handbooks, brochures, presentations, and handouts, in a manner that complies with Section 802.106(g) (relating to requirements for recording information regarding a member or annuitant of a public retirement system);

(3) update and develop policies governing retirement benefits counseling provided to members by TRS, including policies that:

(A) subject to Section 825.602 (Retirement Benefits Counseling for Individuals), ensure TRS makes group and individual member retirement benefits counseling available throughout this state; and

(B) creates this paragraph from existing text and makes a nonsubstantive change;

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

(5) enhance employer training and establish an Internet portal designed to assist employers to satisfy applicable reporting requirements, to provide general information to individual members on employment after retirement, on enrollment in health insurance benefit plans, and on retirement benefits and retirement planning, and to facilitate other communications or exchanges involving members and TRS; and

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

Deletes existing text including policies that identify the geographic regions of Texas most in need of retirement benefits counseling services and the manner in which that need will be met. Makes nonsubstantive changes.

(b) Requires the board, in developing the outreach plan, to solicit input through surveys or other means from members of TRS, employers, and other stakeholders, including appropriate advisory groups.

(c) Requires TRS to review and update the outreach plan adopted under this section once every five years.

SECTION 19. Amends Section 825.602(b), Government Code, to require TRS to provide retirement benefits counseling for individual members in different geographic regions of Texas, including regions outside of Austin, and in person or by phone, at the election of the member. Makes nonsubstantive changes.

SECTION 20. Amends Subchapter A, Chapter 1575, Insurance Code, by adding Section 1575.010, as follows:

Sec. 1575.010. INFORMATION REGARDING APPEALS. Requires TRS to develop and distribute informational materials to individuals enrolled in a health benefit plan offered under the Texas Public School Employees Group Insurance Program regarding:

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

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

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

SECTION 21. Amends Section 1575.453, Insurance Code, as follows:

Sec. 1575.453. STUDY AND REPORT BY TRUSTEE. (a) Requires TRS to study the operation and administration of Chapter 1575 (Texas Public School Employees Group Benefits Program), including, among other subject areas, reviewing the group coverages provided to and the benefits and services being received by individuals covered under this chapter. Makes nonsubstantive changes.

(b) Requires TRS to report annually to the legislature and the Texas Department of Insurance, rather than at each regular session, on the operation and administration of this chapter.

SECTION 22. Amends Subchapter A, Chapter 1579, Insurance Code, by adding Section 1579.010, as follows:

Sec. 1579.010. INFORMATION REGARDING APPEALS. Requires TRS to develop and distribute informational materials to individuals enrolled in a health coverage plan provided under Chapter 1579 (Texas School Employees Uniform Group Health Coverage) regarding an enrollee's right to appeal denial of an adverse determination, as defined by Section 4201.002, to an independent review organization; the procedures for appealing to an independent review organization; and the assistance available from TRS in navigating the procedures for appeal.

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

(c) Requires TRS every 12, rather than six, months to submit to the comptroller and the Legislative Budget Board a report regarding any cost savings achieved in the program through implementation of the prior authorization requirement of Section 1579.106 (Prior Authorization for Certain Drugs). Makes a conforming change.

(d) Provides that, in the report under Subsection (c), TRS:

(1) is authorized to include any cost savings achieved in the program for coverage of prescribed drugs that are not included in the categories listed in Subsection (b) (relating to the requirement of the prior authorization for coverage of certain drugs under a health coverage plan for governmental employees) for which prior authorization is required by a health coverage plan provided under Chapter 1579; and

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

SECTION 24. (1) Repealer: Section 802.109(j) (relating to providing that a report of an evaluation by TRS and an investment report that includes TRS satisfies the requirements of Section 825.512), Government Code.

(2) Repealer: Section 825.405(e) (relating to the requirement that TRS certify to the commissioner of education certain information relating to unpaid contributions), Government Code.

(3) Repealer: Section 825.512 (Investment Practices and Performance Reports), Government Code.

(4) Repealer: Section 1575.452 (Annual Report), Insurance Code.

SECTION 25. Makes application of Sections 824.601 and 824.602, Government Code, as amended by this Act, prospective.

SECTION 26. (a) Provides that, except as provided by Subsection (b) of this section, Section 825.0041, Government Code, as amended by this Act, applies to a member of the board appointed before, on, or after the effective date of this Act.

(b) Provides that a member of the board who, before the effective date of this Act, completed the training program required by Section 825.0041, Government Code, as that law existed before the effective date of this Act, is only required to complete additional training on the subjects added by this Act to the training program required by Section 825.0041, Government Code. Prohibits a board member described by this subsection from voting, deliberating, or being counted as a member in attendance at a meeting of the board held on or after December 1, 2021, until the member completes the additional training.

SECTION 27. Requires TRS, as soon as practicable after the effective date of this Act, but not later than December 1, 2021, to implement the outreach plan required by Section 825.601, Government Code, as amended by this Act.

SECTION 28. Effective date: upon passage or September 1, 2021.