

BILL ANALYSIS

Senate Research Center
76R11227 GCH-D

C.S.S.B. 1128
By: Armbrister
State Affairs
4/19/1999
Committee Report (Substituted)

DIGEST

Currently, the Teacher Retirement System of Texas stipulates certain provisions, including financial conditions of membership. This bill would set forth revised guidelines for the administration of systems and programs of the Teacher Retirement System of Texas.

PURPOSE

As proposed, C.S.S.B. 1128 sets forth guidelines for the administration of systems and programs of the Teacher Retirement System of Texas.

RULEMAKING AUTHORITY

Rulemaking authority is granted to Teacher Retirement System of Texas in SECTION 24 (Section 3(a), Article 305 - 4A, Chapter 3E, Insurance Code) and to the board of trustees of the Teacher Retirement System of Texas in SECTIONS 9 and 27 (Sections 824.2045(g), 618.004(a), and 618.006, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 822.201, Government Code, by amending Subsection (b), and adding Subsection (e), to redefine "salary and wages." Requires a total compensation plan to: describe all elements of compensation received by all employees of any agents or agencies in the state responsible for public education, including the governing board of any school district created under the laws of this state, any county school board, the board of trustees, the board of regents of any college or university, or any other legally constituted board or agency of any public school, but excluding the State Board of Education, the Texas Education Agency, and the State Board for Educator Certification (employer); provide at least one type of performance pay to classroom teachers employed by the employer; identify each type of performance pay, the performance criteria of and the classes of employees eligible for each type of performance pay; contain information regarding the amount of each qualifying employee's pay; contain performance criteria for earning performance pay that preclude the exercise of discretion for awarding the pay on any basis other than an evaluation of employee or group performance or availability of funding; and satisfy any other requirements adopted by the Teacher Retirement System of Texas (retirement system).

SECTION 2. Amends Chapter 823A, Government Code, by adding Section 823.006, as follows:

Sec. 823.006. PERMISSIVE SERVICE CREDIT RESTRICTIONS. Defines "nonqualified service" and "permissive service credit." Subjects the purchase of permissive service credit by a person who first becomes a member of the retirement system after August 31, 2000 to Subsection (d) and all other applicable requirements of this subtitle. Subjects the purchase by any person of permissive service credit, first made available December 31, 1997, to Subsection (d) and all other applicable requirements of this subtitle. Prohibits a member from purchasing more than five years of permissive service credit for nonqualified service, and from purchasing service credit for nonqualified service before the member has at least five years of membership service credit, under a circumstance described by Subsection (b) or (c).

SECTION 3. Amends Chapter 823C, Government Code, by adding Section 823.203, as follows:

Sec. 823.203. MEMBERSHIP SERVICE FOR OPTIONAL RETIREMENT PROGRAM. Prohibits a member from establishing service credit in the retirement system for any period when the member was participating in the optional program.

SECTION 4. Amends Sections 823.501(b) and (f), Government Code, to provide that a member, rather than contributing member, of the retirement system at the time service is reinstated is eligible to reinstate service credit under this section. Makes conforming changes.

SECTION 5. Amends Section 824.101(c), Government Code, to prohibit a designation of beneficiary from being made, except as provided by Section 824.1013.

SECTION 6. Amends Section 824.1011(a), Government Code, to authorize a person who marries after retirement to replace the annuity by selecting an optional retirement annuity and designating the person's spouse as beneficiary before the second, rather than first, anniversary of marriage.

SECTION 7. Redesignates Section 824.1012, Government Code, as added by Chapter 1416, Acts of the 75th Legislature, Regular Session, 1997, as Section 824.1013, as follows:

Sec. 824.1013. CHANGE OF BENEFICIARY AFTER RETIREMENT. Redesignated from existing Section 824.1012.

SECTION 8. Amends Sections 824.203(a) and (e), Government Code, to provide that the standard service retirement annuity is computed on the basis of the member's average annual compensation three years of service times 2.2, rather than two, percent for each year of service credit in the retirement system whether consecutive or not. Makes a conforming change.

SECTION 9. Amends Chapter 824C, Government Code, by adding Section 824.2045, as follows:

Sec. 824.2045. PARTIAL LUMP-SUM OPTION. Authorizes a member who is eligible for an unreduced service retirement annuity and is not participating in the deferred retirement option plan under Subchapter I to select a standard service retirement annuity or an optional service retirement annuity described by Section 824.204, together with a partial lump-sum distribution. Prohibits the amount of the lump-sum distribution from exceeding the sum of 36 months of a standard service retirement annuity computed without regard to this section. Requires the service retirement annuity selected by the member to be actuarially reduced to reflect the lump-sum option and is required to be actuarially equivalent to a standard or optional service retirement annuity without the partial lump-sum distribution. Requires the annuity and lump-sum to be computed to result in no actuarial loss to the retirement system. Authorizes the retiring member to choose a lump sum equal to 12 months of standard service retirement annuity and payable at the same time that the first monthly payment of the annuity is paid, a lump sum equal to 24 months of standard annuity payable in one or two annual payments, or a lump sum equal to 36 months of a standard annuity and payable in one, two, or three annual payments. Provides that the amount of the lump-sum distribution will be deducted from any amounts payable under Section 824.503. Authorizes the partial lump-sum option under this section to be elected only once and prohibits an election by a retiree. Provides that a member retiring under the proportionate retirement program under Chapter 803 is not eligible for the partial lump-sum option. Authorizes the board appointed under this subtitle to administer the retirement system (board of trustees) to adopt rules for the implementation of this section.

SECTION 10. Amends Section 824.502, Government Code, to authorize a designated beneficiary of a disability retiree who has not selected an optional annuity under Section 824.308 to select a benefit under Section 824.402.

SECTION 11. Amends Sections 824.602(a) and (d), Government Code, to prohibit the retirement system from withholding a monthly benefit payment if the retiree is employed in a Texas public educational institution on a full-time basis if the work occurs in not more than six months of a school year that begins after the retiree's date of retirement. Provides that a retiree to whom Subsection (a)(3) applies is not eligible for any other exceptions to loss of benefits during that school year, rather than a retiree who has elected to avoid loss of monthly benefits in a school year. Requires the retirement system to include previous employment in determining whether the retiree has exceeded six months of employment if a retiree is employed under, rather than elects, the exemption provided in Subsection (a)(3). Deletes provisions regarding employment circumstances which prohibit the retirement system from withholding monthly benefit payments. Makes a conforming change.

SECTION 12. Amends Section 824.804(a), Government Code, to require the retirement system to

transfer monthly from the retired reserve account to an account for the member in the deferred retirement option account an amount equal to 61 percent, rather than 79 percent, of the amount the member would have received that month under a standard service retirement annuity if the member had retired under the multiplier currently in effect, rather than on the effective date of plan participation.

SECTION 13. Amends Section 825.103(a), Government Code, to authorize the board of trustees to delegate responsibility, discretion, and authority to certain persons, agencies, and entities in a manner that a prudent person would delegate. Requires the board of trustees to act in the best interest of the members and beneficiaries of the retirement system in deciding whether and how to delegate responsibility, discretion, and authority.

SECTION 14. Amends Section 825.301, Government Code, to define “securities.” Authorizes the board of trustees to contract with multiple professional, rather than private, investment managers to assist the board of trustees in investing. Sets forth requirements for eligibility for appointment under this subsection. Authorizes an investment manager to be authorized to invest, manage, acquire, or dispose of investments or interests in investments on behalf of the retirement system. Requires the board of trustees to exercise care in appointing investment managers, in establishing the scope and terms of the delegation, and in reviewing an investment manager’s compliance with the terms of the delegation. Requires the board of trustees to adopt policies and procedures for monitoring the performance of the board of trustees’ investment managers. Provides that the board of trustees, an individual member of the board of trustees, and employees of the retirement system, are not liable for the acts of an investment manager to whom fiduciary responsibilities have been properly delegated. Requires the board of trustees to develop written strategies, policies, and guidelines concerning the investment of assets of the retirement system. Authorizes the board of trustees to adopt a statement that makes certain provisions regarding expected rates of return, allocation goals, delegation of authority, and reports. Requires the board of trustees to review, modify and reaffirm any statement adopted under this subsection. Requires a professional investment manager appointed under Subsection (b) to acknowledge the assumption of fiduciary responsibilities, in writing. Requires an investment manager to perform its responsibilities with care in the manner that a prudent person would use in an activity of similar character and in accordance with the documents governing the delegation of responsibilities by the board of trustees. Provides that a professional investment manager assuming fiduciary responsibilities is considered to agree to be governed by the laws of this state and under the jurisdiction of the courts of this state. Exempts professionals, agents, and consultants selected by the retirement system from the requirements of Chapters 2155, 2156, and 2254 that would be otherwise be applicable to the retirement system. Deletes text requiring the comparison of certain assents with other public funds. Deletes text authorizing the objective to address rates of return.

SECTION 15. Amends the heading of Section 825.303, Government Code, as follows:

Sec. 825.303. New heading: SECURITIES CUSTODY AND SECURITIES LENDING

SECTION 16. Amends Section 825.303(a), Government Code, to authorize the retirement system to select one or more commercial banks, depository trust companies, or other entities to act independently of the custodian and lend the securities under rules of the board of trustees and as required by this section.

SECTION 17. Amends Section 825.405(c), Government Code, to require employers to monthly report to the retirement system on a certain form regarding the total amount of salary paid and total amount of employer contributions due, and retain certain information for each employee as determined by the retirement system. Deletes a provision regarding an employer’s form.

SECTION 18. Amends Section 825.406(c), Government Code, to require employers to monthly report in a certain form a certification of the total amount of salary paid from federal funds and private grants and the total amounts provided by the funds and grants for state contributions, and requires employers to retain certain information. Makes conforming changes.

SECTION 19. Amends Section 825.407(c), Government Code, to require certain designated disbursing officers to submit a certification of the total amount of salary paid from noneducational and general funds and the total amount of employer contributions due under this section, and retain certain information. Deletes a provision regarding a certification of employer contributions. Makes conforming changes.

SECTION 20. Amends Section 825.408(a), Government Code, to require an employing district to pay

undocumented amounts if the district fails to remit documentation of deposits required by this subchapter.

SECTION 21. Amends Section 825.515, Government Code, to require the retirement system to maintain records identifying types of positions held by members. Requires types of positions to be identified a certain way. Deletes a provision regarding certain information as to records required to be kept. Deletes a provision regarding cooperation with the commissioner of education. Deletes a provision requiring the retirement system to provide information to the commissioner of education. Makes conforming changes.

SECTION 22. Amends Sections 825.516(a) and (b), Government Code, to authorize a retiree to request the retirement system to withhold certain membership dues for a statewide association whose membership includes at least five percent of all retirees of the retirement system. Authorizes the retirement system to make requested deductions until certain situations arise.

SECTION 23. Amends Section 16A(d), Article 3.50-4, Insurance Code, to require employers to report a certification of the total amount of salary paid from federal funds and private grants and the total amounts provided by the funds and grants for state contributions for employees, and retain the name of each employee, rather than the designation as active employee, and other certain information. Makes conforming changes.

SECTION 24. Amends Chapter 3E, Insurance Code, by adding Article 3.50-4A, as follows:

ART. 3.50-4A. INSURANCE FOR SCHOOL DISTRICT EMPLOYEES AND RETIREES

Sec. 1. DEFINITIONS. Defines “employee,” “retiree,” and “trustee.”

Sec. 2. INSURANCE COVERAGE. Requires the retirement system to contract with authorized life insurance carriers to offer employees and retirees optional permanent life coverage. Requires the retirement system to contract with carriers authorized to provide long-term health care insurance to offer employees and retirees optional long-term coverage which is required to cover home, community and institutional care. Requires the retirement system to contract with carriers authorized to provide disability insurance to offer employees optional insurance against loss of salary because of disability. Subjects a contract under this section to competitive bidding. Requires insurance coverage to be made available during certain periods.

Sec. 3. ADMINISTRATION. Requires the retirement system to adopt rules for the selection of contractors which are required to perform certain tasks and account for certain premiums. Authorizes TRS to adopt rules necessary for the administration of the program.

Sec. 4. PARTICIPATION IN COVERAGE. Requires the retirement system to offer coverages to employees through employers and to retirees through the administration of the retirement system. Provides that the full costs of premiums are the responsibility of the enrollees. Requires a participating employee to pay premiums by payroll deduction in a manner provided by the retirement system. Requires a participating retiree to pay premiums by deduction from monthly retirement annuity.

Sec. 5. SCHOOL DISTRICT EMPLOYEES AND RETIREES OPTIONAL INSURANCE TRUST FUND. Provides that the school district employees and retirees optional insurance trust fund (fund) is created outside the state treasury to be held by the Texas Treasury Safekeeping Trust Company and administered by the retirement system. Requires premiums, amounts recovered under contracts, and investment and depository income to be credited to the fund. Authorizes money in the fund to be used only for the certain purposes. Authorizes the retirement system to invest the fund in a certain manner.

SECTION 25. Amends Title 6A, Government Code, by adding Chapter 618, as follows:

CHAPTER 618. ANNUITIES OR INVESTMENTS FOR EDUCATIONAL EMPLOYEES

Sec. 618.001. DEFINITION. Defines “retirement system.”

Sec. 618.002. ESTABLISHMENT OF PLAN. Requires the board of trustees to be the trustee of a plan to be established under this chapter to offer contributing members of the retirement

system the opportunity to purchase annuities or other investments authorized by Section 403(b) of the Internal Revenue Code of 1986.

Sec. 618.003. ADMINISTRATION OF PLAN. Requires the board of trustees to contract with one or more persons to administer the plan.

Sec. 618.004. SELECTION OF VENDORS AND PRODUCTS. Requires the board of trustees to adopt rules for the selection of companies to provide investment products under the plan. Requires the rules to provide for the selection of vendors of a variety of investment products authorized under Section 403(b) of the Internal Revenue Code of 1986. Requires the board of trustees to select vendors under the process it adopts by rule. Provides that a vendor or investment product having an ownership or financial interest in a contractor selected by the retirement system to administer the plan is not qualified to be selected. Sets forth the required basis for the board of trustees selection of vendors or investment products. Authorizes the board of trustees to determine the minimum and maximum number of vendors and investment products that may be offered under the plan.

Sec. 618.005. ELIGIBILITY AND ELECTION TO PARTICIPATE. Provides that a contributing member of the retirement system is eligible to participate in the plan. Provides that participation is in addition to participation as a contributing member of the retirement system. Authorizes a person eligible to participate in the plan to elect to participate on a form prescribed by and filed with the retirement system. Requires a participant to execute a salary reduction agreement under which contributions for the purchase of investment products under the plan are deducted from the participant's salary.

Sec. 618.006. RULES. Authorizes the retirement system to adopt other rules for the administration of the plan under this chapter.

SECTION 26. Amends Sections 22.004(c) and (d), Education Code, to require each district to report to the executive director of the retirement system no later than March, rather than November 1 of each even-numbered year, regarding the group health coverage plan in effect during the preceding plan year, rather than on November 1. Requires the executive director of the retirement system to submit a report to the legislator no later than September 1 of each even-numbered year, rather than January 1 of each odd-numbered year.

SECTION 27. Sets forth a formula for increases in monthly payments of a death or retirement benefit annuity by the retirement system, including on or after September 1, 1997, but before September 1, 1998 to be 2 percent. Requires the retirement system to increase each annuity payable by the retirement system on September 1, 1999, other than an annuity under Section 824.304(a), 824.404, or 824.501, Government Code, by 10 percent, which is a benefit equivalent to the benefit provided by using a 2.2 percent multiplier for computing annuities.

SECTION 28. Authorizes a certain person to replace the annuity by selecting an optional annuity and designating a certain person as beneficiary before September 1, 2000, if the person has married after the effective date of this Act. Authorizes a certain person who retired before September 1, 1992, to replace the annuity by selecting an optional annuity before September 1, 2001. Requires an optional annuity to be actuarially reduced according to the ages of the retiree and the designated beneficiary at the time the annuity is selected.

SECTION 29. Effective date: September 1, 1999.

SECTION 30. Emergency clause.

SUMMARY OF COMMITTEE CHANGES

SECTION 1.

Amends Section 822.201, Government Code, to set forth requirements for a total compensation plan. Deletes proposed amendment to Section 822.002(a).

SECTION 2.

Adds Chapter 823A, Government Code, to set forth guidelines for the purchase of permissive service credit. Deletes proposed Section 822.0025, Government Code.

SECTION 8.

Amends Sections 824.203(a) and (e), Government Code, to provide that the standard service retirement annuity is computed on the basis of the member's average annual compensation three years of service times 2.2 percent for each year of service credit in the retirement system whether consecutive or not. Deletes proposed amendment to Section 824.202, Government Code. Makes a conforming change.

SECTION 10.

Amends Section 824.502, Government Code, to authorize a designated beneficiary of a disability retiree who has not selected an optional annuity under Section 824.308 to select a benefit under Section 824.402. Deletes proposed amendment to Section 824.304, Government Code.

SECTION 12.

Amends Section 824.804(a), Government Code, to require the retirement system to transfer monthly from the retired reserve account to an account for the member in the deferred retirement option account an amount equal to 61 percent of the amount the member would have received that month under a standard service retirement annuity if the member had retired under the multiplier currently in effect. Deletes proposed amendments to Sections 824.802(a), 824.804(a), and 824.805, Government Code.

SECTION 13.

Amends Section 825.103(a), Government Code, to authorize the board of trustees to delegate responsibility, discretion, and authority to certain persons, agencies, and entities in a certain manner. Requires the board of trustees to act in the best interest of the members and beneficiaries of the retirement system in deciding whether and how to delegate responsibility, discretion, and authority.

SECTION 14.

Amends Section 825.301, Government Code, to define "securities." Authorizes the board of trustees to contract with multiple professional investment managers to assist the board of trustees in investing. Sets forth provisions regarding the appointment, use, and review of investment managers by the retirement system.

SECTION 15.

Amends the heading of Section 825.303, Government Code.

SECTION 16.

Amends Section 825.303(a), Government Code, to authorize the retirement system to select one or more commercial banks, depository trust companies, or other entities to act independently of the custodian and lend the securities under rules of the board of trustees and as required by this section.

SECTION 25.

Amends Title 6A, Government Code, by adding Chapter 618, to set forth guidelines for the establishment and administration of a plan to offer contributing members of the retirement system

the opportunity to purchase annuities or other investments authorized by Section 403(b) of the Internal Revenue Code of 1986.

SECTION 27.

Sets forth a formula for increases in monthly payments of a death or retirement benefit annuity by the retirement system, including on or after September 1, 1997, but before September 1, 1998 to be 2 percent. Requires the retirement system to increase each annuity payable by the retirement system on September 1, 1999, other than an annuity under Section 824.304(a), 824.404, or 824.501, Government Code, by 10 percent, which is a benefit equivalent to the benefit provided by using a 2.2 percent multiplier for computing annuities.

SECTION 28.

Requires an optional annuity to be actuarially reduced according to the ages of the retiree and the designated beneficiary at the time the annuity is selected.