

CHAPTER 832

S.B. No. 1093

An Act relating to certain definitions, membership, retirement, revocation of retirement, and effects of employment after retirement under the Teacher Retirement System of Texas; amending Title 110B, Revised Statutes, as amended, by amending Subdivisions (6) and (7), Section 31.001; Subsection (a), Section 32.002; Section 34.002; Section 34.005; and Section 35.305; and by adding a new Subchapter G, and by repealing Subchapter B.

Be it enacted by the Legislature of the State of Texas: ●

SECTION 1. Subdivisions (6) and (7), Section 31.001, Title 110B, Revised Statutes, as amended, are amended to read as follows:

“(6) ‘Employee’ means a person who is employed, as determined by the retirement system, *on other than a temporary basis by an employer for at least one-half time at a regular rate of pay comparable to that of other persons employed in similar positions* [~~with a regular salary on a full-time basis by the governing board of any school district created under the laws of this state, any county school board, the board of trustees, the State Board of Education, the Central Education Agency, the board of regents of any college or university, or any other legally constituted board or agency of any public school~~].

“(7) ‘Employer’ means the state or any of its designated agents or agencies 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 State Board of Education, the Central Education Agency, the board of regents of any college or university, or any other legally constituted board or agency of any public school* [~~those boards and agencies listed in Subdivision (6) of this section~~].”

SECTION 2. Subsection (a), Section 32.002, Title 110B, Revised Statutes, is amended to read as follows:

“(a) An employee of the public school system is not permitted to be a member of the retirement system if the employee:

“(1) executed and filed a waiver of membership prior to the effective date of this subtitle *and has not elected membership pursuant to Subsection (b) of this section*;

“(2) was or is at least 60 years old when first employed *and has not elected membership pursuant to Subsection (c) of this section*;

“(3) is eligible and elects to participate in the optional retirement program under Chapter 36 of this subtitle; [~~or~~]

“(4) is solely employed by a public institution of higher education that as a condition of employment requires the employee to be enrolled as a student in the institution;

“(5) *is solely employed as a noncertified instructor in a program described in Subchapter G, Chapter 13, Education Code; or*

“(6) *has retired under the retirement system and has not been reinstated to membership pursuant to Section 33.502, 34.005, or 34.307 of this subtitle.*”

SECTION 3. Subchapter B, Chapter 32, Title 110B, Revised Statutes, is repealed.

SECTION 4. Section 34.002, Title 110B, Revised Statutes, is amended to read as follows:

“Section 34.002. **EFFECTIVE DATE OF RETIREMENT.** (a) The effective date of a member’s service retirement is the last day of the later of the following months:

“(1) the month in which the member applies for retirement as provided by Section 34.201 of this subtitle; [~~or~~]

“(2) the month in which the member satisfies age and service requirements for service retirement as provided by Section 34.202 of this subtitle; *or*

“(3) *the month in which the member’s employment in a position included in the coverage of the retirement system ends.*

“(b) The effective date of a member’s disability retirement is the last day of the later of the following months:

“(1) the month in which the member applies for retirement as provided by Section 34.301 of this subtitle; or

“(2) the month in which the member’s employment in a position included in the coverage of the retirement system ends.

“(c) For the purposes of this section, a member’s employment in a position covered by the retirement system 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 34.602 of this subtitle for an exception to the loss of monthly benefits required by Section 34.601 of this subtitle.

“(d) A person who works not later than June 15 of a year in order to complete all work required for the school year may be considered to have ended employment on May 31 of that year for the purposes of Subdivision (3) of Subsection (a) of this section.”

SECTION 5. Section 34.005, Title 110B, Revised Statutes, is amended to read as follows:

“Section 34.005. **REVOCAION OF RETIREMENT.** (a) A person who has retired under the retirement system may revoke that retirement by filing with the system a written revocation in a form prescribed by the system. For a revocation to be effective, the retirement system must receive the written revocation before the 46th day after the original date of retirement, and the person must return to the system an amount equal to the amount of benefits received under the original retirement. *The period for revocation of a disability retirement under this subsection shall begin with the date the medical board certifies the disability if such date is later than the date of retirement.*

“(b) A person who has retired under the retirement system revokes that retirement if the person becomes employed in any position in a public school during the first month following that person’s effective date of retirement, or during the first two months following an effective date of retirement established by reliance on Subsection (d) of Section 34.002 of this subtitle, and must return any retirement benefits received under the original retirement.

“(c) A person who revokes a retirement under this section is restored to membership in the retirement system as if that person had never retired.”

SECTION 6. Chapter 34, Title 110B, Revised Statutes, as amended, is amended by adding a new Subchapter G to read as follows:

“SUBCHAPTER G. LOSS OF BENEFITS UPON RESUMPTION OF SERVICE

“Section 34.601. **LOSS OF MONTHLY BENEFITS.** *Except as provided by Section 34.602 of this subtitle, a retiree shall not be 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. A Texas public educational institution, for the purposes of this subchapter, is any entity included in the definition of ‘employer’ or ‘public school’ in Section 31.001 of this subtitle or any entity in whose employment the retiree has earned credit as a member of the retirement system. Loss of benefits under this section shall not extend any period of guaranteed benefits elected pursuant to Section 34.204 of this subtitle.*

“Section 34.602. **EXCEPTIONS.** (a) *The retirement system shall not, under Section 34.601 of this subtitle, withhold a monthly benefit payment if the retiree is employed in a Texas public educational institution:*

“(1) *as a substitute only with pay not more than the daily rate of substitute pay established by the employer, provided that such employment has not exceeded a total of 120 days in the school year or, for a disability retiree, 90 days in the school year;*

“(2) *in a position, other than as a substitute, on no more than a one-half time basis for the month; or*

“(3) *in one or more positions on as much as a full-time basis provided that:*

“(A) *the work occurs in a school year that begins after the retiree’s effective date of retirement;*

“(B) *the work occurs in a period, designated by the retiree in advance, of no more than five consecutive months between September and June, inclusive, of the school year;*

“(C) *the retiree executes on a form prescribed by the retirement system a written election to have this exception apply for the school year in determining whether benefits are to be suspended for employment after retirement;*

“(D) *there is a prospective employer who endorses the retiree’s election with a certification that the contemplated employment after retirement is in the best interests of the employer;*

“(E) *the election form is executed on or before the retiree’s first date of employment under the election during the school year; and*

“(F) the retiree has not been previously employed during the school year in a Texas public educational institution in a position described in Paragraph (1) or (2) of this subsection.

“(b) Working as a substitute any portion of a day counts as working a full day for the purposes of Subdivision (1) of Subsection (a) of this section.

“(c) A retiree who has elected to avoid loss of monthly benefits in a school year pursuant to Subdivision (3) of Subsection (a) of this section is not eligible during that school year for any other exceptions to loss of benefits provided in this section.

“(d) A retiree working as a substitute in a month is not eligible for an exception to a loss of benefits for that month pursuant to Subdivision (2) of Subsection (a) of this section for that or any other employment in a public educational institution.

“(e) The exceptions provided by Subdivisions (2) and (3) of Subsection (a) of this section do not apply to disability retirees.

“(f) Subsection (b) of Section 34.005 of this subtitle concerning revocation of retirement upon certain reemployment applies to employment described in Subsection (a) of this section.

“(g) The board of trustees shall adopt rules governing the employment of a substitute and defining ‘one-half time basis.’

“(h) The actuary designated by the board of trustees shall, in investigating the experience of the members of the system, note any significant increase in early age retirements and determine the extent to which any such increase has been caused by the exception to loss of benefits for employment after retirement provided by Subdivision (3) of Subsection (a) of this section. If the actuary certifies in writing to the retirement system that sound actuarial funding of the retirement system’s benefits is endangered by continuation of this exception, the board of trustees may determine that no further elections of the exception shall be accepted from retirees, other than from those who have previously relied upon the exception in retiring under this subtitle. A retiree may be considered to have relied upon this exception only if retirement occurred on or after May 31, 1985, but before the date the board of trustees acknowledges receipt of such certification and if the retiree has first elected to receive benefits under the exception not later than two years after the retiree’s effective date of retirement.

“Section 34.603. EXCLUSION FROM CREDIT. Employment of a retiree described by Subsection (a) of Section 34.602 of this subtitle does not entitle a retiree to additional service credit, and the retiree so employed is not required to make contributions to the system from compensation for that employment. Such employment shall not be considered in applying the provisions of Section 33.502 of this subtitle.”

SECTION 7. Section 35.305, Title 110B, Revised Statutes, as amended, is amended to read as follows:

“Section 35.305. STATE CONTRIBUTION ACCOUNT. The retirement system shall deposit in the state contribution account:

“(1) all state contributions to the retirement system required by Section 35.404 of this subtitle;

“(2) amounts from the interest account as provided by Section 35.310(b)(5) of this subtitle;

“(3) retirement annuities waived or forfeited in accordance with Section 34.601 ~~{32-102(b)}~~ or 34.004 of this subtitle;

“(4) fees collected under Section 35.403(h) of this subtitle;

“(5) fees and interest for reinstatement of service credit or establishment of membership service credit as provided by Section 33.202, 33.501, or 33.502 of this subtitle;

“(6) the portion of a deposit required by Section 33.302 of this subtitle to establish military service credit that represents a fee; and

“(7) the portion of a deposit required by Section 33.401(e) of this subtitle to establish out-of-state service credit that represents a fee.”

SECTION 8. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 25, 1985, by the following vote: Yeas 28, Nays 0; passed the House on May 17, 1985, by the following vote: Yeas 131, Nays 3, one present not voting.

Approved: June 15, 1985

Effective: Immediately