

CHAPTER 113

H.B. No. 1581

AN ACT

relating to certain employment of disability retirees of the Teacher Retirement System of Texas.

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

SECTION 1. Section 824.602, Government Code, is amended to read as follows:

Sec. 824.602. EXCEPTIONS. (a) The retirement system may not, under Section 824.601, 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, if the 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, if:

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

(B) the work occurs in no more than six months of the school year; and

(C) the retiree executes on a form and within any deadline 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; or

(4) in a position, other than as a substitute, on no more than a one-half time basis for no more than 90 days in the school year, if the retiree is a disability retiree.

(b) Working [~~as a substitute~~] any portion of a day counts as working a full day for the purposes of Subsection (a)(1) or (a)(4).

(c) Working any portion of a month counts as working a full month for the purposes of Subsection (a)(3).

(d) A retiree who has elected to avoid loss of monthly benefits in a school year pursuant to Subsection (a)(3) is not eligible during that school year for any other exceptions to loss of benefits provided in this section. If a retiree elects the exemption provided in Subsection (a)(3) for a school year, the retirement system must include any previous employment during the school year, including any employment that relied upon the exemptions in Subsection (a)(1) or (a)(2), in determining whether and when the retiree has exceeded six months of employment in the school year.

(e) 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 Subsection (a)(2) or (a)(4) for that or any other employment in a public educational institution.

(f) The retirement system shall include any employment during the school year, including any employment that relied on the exemption provided by Subsection (a)(1) or (a)(4), in determining whether and when a disability retiree has exceeded 90 days of employment in the school year.

(g) The exceptions provided by Subsections (a)(2) and (a)(3) do not apply to disability retirees. The retirement system 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 of the school year;

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

(3) the disability retiree executes on a form and at a time prescribed by the retirement system 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 in a school year under this subsection.

(h) [~~g~~] A disability retiree is not entitled to service credit for service during a trial period under Subsection (g) [~~f~~] if the retiree is restored to active service.

(i) [~~h~~] Section 824.005(b), concerning revocation of retirement on certain reemployment, applies to employment described in Subsection (a) or (g) [~~f~~].

(j) [~~i~~] The board of trustees shall adopt rules governing the employment of a substitute and defining "one-half time basis."

(k) [~~j~~] 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 increase has been caused by the exception to loss of benefits for employment after retirement provided by Subsection (a)(3). 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 will be accepted from retirees, other than from those who have previously relied on the exception in retiring under this subtitle. A retiree may be considered to have relied on 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 2. 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 by the House on April 7, 1993: Yeas 142, Nays 0, 1 present, not voting; passed by the Senate on May 3, 1993: Yeas 31, Nays 0.

Approved May 9, 1993.

Effective May 9, 1993.