

CHAPTER 812

H.B. No. 2711

AN ACT

relating to the administration of, benefits payable by, eligibility for benefits payable by, and credit under programs administered by, the Teacher Retirement System of Texas; prohibiting certain interests in contracts; and providing for the sunset review of the system.

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

SECTION 1. Section 821.001, Government Code, is amended by adding Subdivisions (18) and (19) to read as follows:

(18) "Alternate payee" has the meaning assigned that term by Section 804.001.

(19) "Beneficiary" means the person or entity who, under a valid written designation or by law, is entitled to receive benefits payable by the retirement system on the death of a member or annuitant.

SECTION 2. Section 823.401, Government Code, is amended by amending Subsections (c) and (f) and adding Subsection (h) to read as follows:

(c) A member eligible to establish credit under this section is one who has at least *five* [19] years of service credit in the retirement system for actual service in public schools.

(f) The amount of service credit a member may establish under this section may not exceed the lesser of the number of years of membership service credit the member has in the retirement system for actual service in public schools or 10 years.

(h) A member purchasing out-of-state service credit does not qualify for insurance coverage until the member has 10 or more years of membership service credit for actual service in public schools.

SECTION 3. Section 823.402(e), Government Code, is amended to read as follows:

(e) A member may establish credit under this section by depositing with the retirement system for each year of developmental leave claimed an amount equal to the sum of:

(1) the rate of member contributions required during the [member's most recent] year of [service that preceded the developmental] leave, times the member's annual rate of compensation during the member's most recent year of creditable service that preceded the year of leave [that year]; plus

(2) the amount that the state would have contributed had the member performed membership service during the year of leave at the member's annual rate of compensation during the most recent year of service that preceded the leave; plus

(3) any membership fees in effect during the year of leave.

SECTION 4. Section 823.501(b), Government Code, is amended to read as follows:

(b) A person eligible to reinstate service credit under this section is one who resumes membership service in the retirement system [and subsequently performs membership service for the shorter of the following periods:

[1] two consecutive years; or

[2] a continuous period equal in duration to the period from the date of termination to the date of resumption of membership].

SECTION 5. Sections 824.101(c) and (e), Government Code, are amended to read as follows:

(c) Only one person may be designated as beneficiary of an optional retirement annuity under Section 824.204(c)(1) or (c)(2), and a designation of beneficiary under either of those options may not be made, changed, or revoked after the *later of the date on which the retirement system makes the first annuity payment to the retiree or the date the first payment becomes due*. For purposes of this section, the term “makes payment” includes the depositing in the mail of a payment warrant or the crediting of an account with payment through electronic funds transfer [~~of the member’s retirement~~].

(e) The retirement system by rule may provide for the designation of alternate beneficiaries and may adopt other rules to administer this section.

SECTION 6. Section 824.204(a), Government Code, is amended to read as follows:

(a) Instead of the standard service retirement annuity payable under Section 824.203 or an annuity reduced because of age under Section 824.202, a retiring member may elect to receive an optional service retirement annuity, reduced for early retirement if applicable, under this section. *An election to receive an optional service retirement annuity must be filed with the board of trustees not later than the effective date of retirement.*

SECTION 7. Subchapter C, Chapter 824, Government Code, is amended by adding Section 824.206 to read as follows:

Sec. 824.206. CHANGE OF SERVICE RETIREMENT ANNUITY PAYMENT PLAN.

(a) *A retiree may change the retiree’s choice of service retirement annuity payment plans after the retiree’s effective date of retirement by filing written notice with the board of trustees before the later of the date on which the retirement system makes the first annuity payment or the date the first payment becomes due. After the first payment has been made by the retirement system or has become due, a retiree may not change the annuity payment plan selected.*

(b) *For purposes of this section, the term “makes payment” includes the depositing in the mail of a payment warrant or the crediting of an account with payment through electronic funds transfer.*

(c) *The retirement system may adopt rules to administer this section.*

SECTION 8. Section 824.304(d), Government Code, is redesignated as Section 824.304(c) to read as follows:

(c) [(d)] *Before the 31st day after the date on which the medical board certifies a member’s disability, the member may reinstate withdrawn contributions and make deposits for service previously waived, military service, and equivalent membership service and receive service credit as provided by this subtitle.*

SECTION 9. Section 824.308(a), Government Code, is amended to read as follows:

(a) Instead of an annuity payable under Section 824.304(b), a member retiring under that section may elect to receive an optional disability retirement annuity under this section. *An election to receive an optional disability retirement annuity must be filed with the board of trustees not later than the effective date of retirement.*

SECTION 10. Subchapter D, Chapter 824, Government Code, is amended by adding Section 824.309 to read as follows:

Sec. 824.309. CHANGE OF DISABILITY RETIREMENT PAYMENT PLAN. (a) A retiree may change the retiree’s choice of disability retirement payment plans after the retiree’s effective date of retirement by filing written notice with the board of trustees before the later of the date on which the retirement system makes the first annuity payment or the date the first payment becomes due. After the first payment has been made by the retirement system or has become due, a retiree may not change the annuity payment plan selected.

(b) *For purposes of this section, the term “makes payment” includes the depositing in the mail of a payment warrant or the crediting of an account with payment through electronic funds transfer.*

(c) *The retirement system may adopt rules to administer this section.*

SECTION 11. Sections 824.404(b), (c), and (d), Government Code, are amended to read as follows:

(b) If the designated beneficiary is the spouse or a dependent parent of the decedent, the beneficiary may elect to receive for life a monthly benefit of \$150 [~~\$100~~], beginning immediately or on the date the beneficiary becomes 65 years old, whichever is later.

(c) If the designated beneficiary is the spouse of the decedent and has one or more children less than 18 years old or has custody of one or more children of the decedent who are less than 18 years old, the designated beneficiary may elect to receive:

(1) a monthly benefit of \$250 [~~\$200~~] payable until the youngest child becomes 18 years old; and

(2) when the youngest child has attained the age of 18, a monthly benefit for life of \$150 [~~\$100~~], beginning on the date the beneficiary becomes 65 years old.

(d) If the designated beneficiary or beneficiaries are the decedent's dependent children who are less than 18 years old, their guardian may elect to receive for them:

(1) a monthly benefit of \$250 [~~\$200~~], payable as long as two or more children are less than 18 years old; and

(2) a monthly benefit of \$150 [~~\$100~~], payable as long as only one child is less than 18 years old.

SECTION 12. Subchapter A, Chapter 825, Government Code, is amended by adding Sections 825.0031 and 825.0032 to read as follows:

Sec. 825.0031. NONDISCRIMINATION IN APPOINTMENTS. Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.

Sec. 825.0032. INELIGIBILITY FOR BOARD AND OF CERTAIN EMPLOYEES. (a) Except as provided by Subsection (b), a person is not eligible for appointment to the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the retirement system; or

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the retirement system.

(b) Subsection (a) does not apply to employment by, participation in the management of, or ownership or control of an interest in a business entity or other organization on behalf of the retirement system.

(c) A paid officer, employee, or consultant of a Texas trade association in the field of investment or insurance may not be a trustee or an employee of the retirement system who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(d) A person who is the spouse of a paid officer, manager, or consultant of a Texas trade association in the field of investment or insurance may not be a trustee and may not be an employee of the retirement system who is exempt from the state's position classification plan or is compensated at or above the amount prescribed by the General Appropriations Act for step 1, salary group 17, of the position classification salary schedule.

(e) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(f) A person may not serve as a trustee or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305 because of the person's activities for compensation on behalf of a business or an association related to the operation of the board.

SECTION 13. Section 825.006, Government Code, is amended to read as follows:

Sec. 825.006. SUNSET PROVISION. The board of trustees of the Teacher Retirement System of Texas is subject to review under Chapter 325 (Texas Sunset Act), but is not abolished under that chapter. The board shall be reviewed during the period in which state

agencies abolished in 1995 [~~1993 and every 12th year after 1993~~] are reviewed. This section expires September 1, 1995.

SECTION 14. Subchapter A, Chapter 825, Government Code, is amended by adding Section 825.010 to read as follows:

Sec. 825.010. GROUNDS FOR REMOVAL OF TRUSTEE. (a) It is a ground for removal from the board if a trustee:

(1) violates a prohibition established by Section 825.0032;

(2) cannot discharge the person's duties for a substantial part of the term for which the person is appointed because of illness or disability; or

(3) is absent from more than half of the regularly scheduled board meetings that the person is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a trustee exists.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chairman of the board of the ground. The chairman shall then notify the appropriate appointing officer or body that a potential ground for removal exists.

SECTION 15. Subchapter B, Chapter 825, Government Code, is amended by adding Sections 825.113 and 825.114 to read as follows:

Sec. 825.113. MISCELLANEOUS BOARD DUTIES. (a) The board shall provide to its trustees and employees, as often as necessary, information regarding their qualification for office or employment under this chapter and their responsibilities under applicable laws relating to standards of conduct for state officers or employees.

(b) The board shall develop and implement policies that clearly define the respective responsibilities of the board and the staff of the retirement system.

(c) The board shall prepare information of interest to the retirement system's members describing the functions of the system and the system's procedures by which complaints are filed with and resolved by the system. The system shall make the information available to the system's members and appropriate state agencies.

(d) The board by rule shall establish methods by which members are notified of the name, mailing address, and telephone number of the retirement system for the purpose of directing complaints to the system.

(e) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the board.

(f) The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the board's programs. The board shall also comply with federal and state laws for program and facility accessibility.

Sec. 825.114. ADVISORY COMMITTEES. (a) The board of trustees may establish advisory committees as it considers necessary to assist it in performing its duties. Members of advisory committees established under this section serve at the pleasure of the board.

(b) Notwithstanding any other law to the contrary, the board of trustees by rule shall determine the amount and manner of any compensation or expense reimbursement to be paid members of an advisory committee performing service for the retirement system for performing the work of the advisory committee. All compensation and expense reimbursements for an advisory committee established under this section are payable from the expense account or the retired school employees group insurance fund, as applicable.

(c) Notwithstanding any other law to the contrary, the size and composition of advisory committees created by statute for the retirement system or required by statute to be created by the retirement system are as provided by the statute creating or providing for the creation of the particular committee.

SECTION 16. Section 825.202, Government Code, is amended to read as follows:

Sec. 825.202. EXECUTIVE DIRECTOR [SECRETARY]. (a) The board of trustees, by a majority vote of all members, shall appoint an executive director [secretary].

(b) The executive director [secretary] may not be a member of the board of trustees.

(c) To be eligible to serve as the executive director [secretary], a person must have been a citizen of this state for the three years immediately preceding the appointment.

(d) The executive director [secretary] shall recommend to the board actuarial and other services necessary to administer the retirement system.

(e) Annually, the executive director [secretary] shall prepare an itemized expense budget for the following fiscal year and shall submit the budget to the board for review and adoption.

SECTION 17. Section 825.206, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The board of trustees annually shall evaluate the performance of the actuary during the previous year. At least once every three years, the board shall redesignate its actuary after advertising for and reviewing proposals from providers of actuarial services.

SECTION 18. Section 825.207(b), Government Code, is amended to read as follows:

(b) The state treasurer shall pay money from the accounts of the retirement system on warrants drawn by the comptroller of public accounts and authorized by vouchers signed by the executive director [secretary] or other persons designated by the board of trustees.

SECTION 19. Sections 825.209(b) and (c), Government Code, are amended to read as follows:

(b) The executive director [secretary] shall give a surety bond in the amount of \$25,000.

(c) The board of trustees may require any trustee or employee of the board, other than the executive director [secretary], to give a surety bond in an amount determined by the board.

SECTION 20. Subchapter C, Chapter 825, Government Code, is amended by adding Sections 825.211, 825.212, 825.213, and 825.214 to read as follows:

Sec. 825.211. CERTAIN INTERESTS IN LOANS, INVESTMENTS, OR CONTRACTS PROHIBITED. (a) Except as provided by Subsection (c), a person described by Subsection (b) may not participate in or be the beneficiary of, directly or indirectly, a loan, commitment to lend, a guarantee or endorsement to lend, or investment by the retirement system or a contract to advise the system or manage property or investments for the system.

(b) The prohibition provided by Subsection (a) applies to a trustee or employee of the retirement system, a consultant or advisor to the retirement system, and a person related within the second degree by consanguinity or affinity to a trustee, employee, consultant, or advisor.

(c) The prohibition provided by Subsection (a) does not apply to actions taken by a trustee or employee of the retirement system within the scope of that person's official duties for the system or actions taken by a consultant or advisor within the scope of the services for which the person is being compensated by the retirement system, if the actions do not involve a relationship required to be disclosed under Section 825.212. The prohibition provided by Subsection (a) does not apply to an indirect benefit received resulting from retirement system membership.

Sec. 825.212. RETIREMENT SYSTEM ETHICS POLICY. (a) In addition to any other requirements provided by law, the board of trustees shall enforce an ethics policy as provided by this section for employees of and consultants and advisors to the retirement system.

(b) Each employee of the retirement system who exercises significant decisionmaking or fiduciary authority, as determined by the board, shall file financial disclosure statements with a person designated by the board. The content of a financial disclosure statement must comply substantially with the requirements of Section 4, Chapter 421, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-9b, Vernon's Texas Civil Statutes). A statement must be filed not later than the 30th day after the date a person is employed in a significant decisionmaking or fiduciary position and annually after employment not later than April 30. The filing deadline may be postponed by the executive director for not more than 60 days on written request or for an additional period for good cause, as determined by

the chairman of the board. The retirement system shall maintain a financial disclosure statement for at least five years after the date of its filing.

(c) An employee who has a business or commercial relationship that could reasonably be expected to diminish the employee's independence of judgment in the performance of the employee's responsibilities to the retirement system shall disclose that relationship in writing to a person designated by the board.

(d) An employee who files a disclosure statement under Subsection (c) shall refrain from giving advice or making decisions about matters affected by the conflict of interest unless the board, after consultation with the general counsel of the retirement system, expressly waives this prohibition. The retirement system shall maintain a written record of each waiver and the reasons for it. The board may delegate the authority to waive prohibitions under this subsection to one or more designated employees on a vote of a majority of the members of the board at an open meeting called and held in compliance with Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes). The board shall have any order delegating authority to waive prohibitions under this section entered into the minutes of the meeting. The board may adopt criteria for designated employees to use to determine the kinds of relationships that do not constitute a material conflict of interest for purposes of this subsection.

(e) The board by rule shall adopt standards of conduct applicable to consultants and advisors to the retirement system who may reasonably be expected to receive more than \$10,000 compensation from the system for a fiscal year or who render important investment advice to the retirement system.

(f) A consultant or advisor who, directly or indirectly, has a personal or private commercial or business relationship, unrelated to the services that the consultant or advisor performs for the retirement system, with any other party to a transaction with the system that could reasonably be expected to diminish the person's independence of judgment in the performance of the person's responsibilities to the system shall disclose that relationship in writing to the executive director.

(g) The board by rule shall require consultants and advisors to the retirement system and brokers to file regularly with the system a report detailing any expenditure of more than \$50 made on behalf of a trustee or employee of the system.

(h) The board shall prescribe forms for financial disclosure statements, disclosure statements of conflicts of interest, and waivers of the prohibition against involvement in a matter affected by a conflict of interest. The statements and waivers are open records. The board shall designate an employee to be the custodian of the statements and waivers for purposes of public disclosure.

Sec. 825.213. **EMPLOYMENT PRACTICES.** (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program shall require intra-agency posting of all nonentry level positions concurrently with any public posting.

(b) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for system employees must be based on the system established under this subsection.

(c) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel that are in compliance with requirements of the Commission on Human Rights Act (Article 5221k, Vernon's Texas Civil Statutes);

(2) a comprehensive analysis of the retirement system's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the retirement system's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(d) A policy statement prepared under Subsection (c) must cover an annual period, be updated annually and reviewed by the Commission on Human Rights for compliance with Subsection (c), and be filed with the governor's office.

(e) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (d). The report may be made separately or as a part of other biennial reports made to the legislature.

Sec. 825.214. **FINANCIAL AUDITOR.** A person employed to perform a financial audit of the retirement system must be selected by and report to the board of trustees.

SECTION 21. Subchapter D, Chapter 825, Government Code, is amended by adding Section 825.3021 to read as follows:

Sec. 825.3021. **APPRAISAL AND SALE OF REAL PROPERTY.** If the retirement system acquires, through foreclosure or conveyance of deed in lieu of foreclosure, real property assets or stock in an entity the major asset of which is real property, the retirement system shall, not later than the 90th day after the date of acquisition:

(1) have the real property appraised by an appraiser who is not a trustee or employee of the retirement system and who has received MAI or SRA;

(2) acquire a foreclosure endorsement to the mortgagee's title insurance policy; and

(3) if the real property contains improvements, employ an individual who is not, or a property management company that is not owned by, a trustee or employee of the retirement system and who is, or that employs, a CPM, CAM, or RAM to manage the property.

SECTION 22. Section 825.303(b), Government Code, is amended to read as follows:

(b) To be eligible to lend securities under this section, a bank or brokerage firm must:

(1) be experienced in the operation of a fully secured securities loan program;

(2) maintain adequate capital in the prudent judgment of the retirement system to assure the safety of the securities;

(3) execute an indemnification agreement satisfactory in form and content to the retirement system fully indemnifying the retirement system against loss resulting from borrower default or the failure of the bank or brokerage firm to properly execute the responsibilities of the bank or brokerage firm under the applicable securities lending agreement [~~its operation of a securities loan program for the system's securities~~]; [and]

(4) require any securities broker or dealer to whom it lends securities belonging to the retirement system to deliver to and maintain with the custodian collateral in the form of cash or [United States] government securities eligible for book entry in either the Federal Reserve System or the Participants Trust Company, in an amount equal to not less than 100 percent of the market value, from time to time, of the loaned securities; and

(5) comply with guidelines the board of trustees may adopt concerning the investment of cash collateral, borrower limits, and other items.

SECTION 23. Section 825.311, Government Code, is amended to read as follows:

Sec. 825.311. **INTEREST ACCOUNT.** In the interest account the retirement system shall:

(1) deposit all income, interest, and dividends from deposits and investments of assets of the retirement system; [and]

(2) accumulate net capital gains and losses resulting from the sale, call, maturity, [or] conversion, or recognition of changes in carrying values of investments of the retirement system; and

(3) accumulate net income or losses from other investments [of securities].

SECTION 24. Section 825.312(a), Government Code, is amended to read as follows:

(a) The retirement system shall deposit in the expense account:

(1) all membership fees required by this subtitle; [and]
 (2) money required to be deposited in the account by Section 825.313(b)(3) or 825.313(c);
 and

(3) money received from the Texas Public School Retired Employees Group Insurance Program for service performed for the program by the retirement system.

SECTION 25. Sections 825.403(b) and (c), Government Code, are amended to read as follows:

(b) Each employer or the employer's designated disbursing officer, at a time and in a form prescribed by the retirement system, shall send to the executive *director* [secretary] all deductions and a certification of earnings of each member employed by the employer.

(c) The executive *director* [secretary] shall deposit with the state treasurer all deductions received by the executive *director* [secretary].

SECTION 26. Section 825.405(d), Government Code, is amended to read as follows:

(d) The employer must remit the amount required under this section to the executive *director* [secretary] at the same time that the employer remits the member's contribution.

SECTION 27. Sections 825.410(a) and (g), Government Code, are amended to read as follows:

(a) Payments to establish special service credit as authorized in Sections 805.002, 823.202, 823.302, 823.304, 823.401, 823.402, 823.501, and 825.403 may be made in a lump sum or in equal monthly installments over a period not to exceed the lesser of the number of years of credit to be purchased or 60 months. Installment payments are due on the first day of each calendar month in the payment period. If an installment payment is not made in full within 60 days after the due date, the retirement system may refund all installment payments less fees paid on the lump sum due when installment payments began. Partial payment of an installment payment may be treated as nonpayment. A check returned for insufficient funds or a closed account shall be treated as nonpayment. When two or more consecutive monthly payments have a returned check, a refund may be made. If the retirement system refunds payments pursuant to this subsection, the member is not permitted to use the installment method of payment for a period of three years from the date of the refund.

(g) A member seeking to establish service credit by using the installment payment method shall pay an additional fee of nine percent per annum calculated on a declining balance method on the lump sum due at the time the installment payment process begins. *For purposes of this subsection, the installment payment process begins on the first business day of the month in which the first installment payment becomes due.* None of the additional fees shall be returned to the member or a beneficiary.

SECTION 28. Section 825.503(d), Government Code, is amended to read as follows:

(d) The executive *director* [secretary] or an authorized representative may certify the authenticity of a photograph, microphotograph, or film of a record reproduced under this section and shall charge a fee for the certified photograph, microphotograph, or film as provided by law.

SECTION 29. Section 825.507, Government Code, as added by Chapter 16, Acts of the 72nd Legislature, Regular Session, 1991, is amended to read as follows:

Sec. 825.507. CONFIDENTIALITY OF INFORMATION ABOUT MEMBERS, RETIREES, ANNUITANTS, [OR] BENEFICIARIES, OR ALTERNATE PAYEES. (a) Information contained in records that are in the custody of the retirement system concerning an individual member, retiree, annuitant, [or] beneficiary, or *alternate payee* is confidential under Section 3(a)(1), Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), and may not be disclosed in a form identifiable with a specific individual unless:

(1) the information is disclosed to:

(A) the individual or the individual's attorney, guardian, executor, administrator, conservator, or other person who the executive *director* [secretary] determines is acting in the interest of the individual or the individual's estate;

(B) a spouse or former spouse of the individual if the executive *director* [secretary] determines that the information is relevant to the spouse's or former spouse's interest in member accounts, benefits, or other amounts payable by the retirement system;

(C) a governmental official or employee if the executive *director* [secretary] determines that disclosure of the information requested is reasonably necessary to the performance of the duties of the official or employee; or

(D) a person authorized by the individual in writing to receive the information; or

(2) the information is disclosed pursuant to a subpoena and the executive *director* [secretary] determines that the individual will have a reasonable opportunity to contest the subpoena.

(b) This section does not prevent the disclosure of the status or identity of an individual as a member, former member, retiree, deceased member or retiree, [or] beneficiary, or *alternate payee* of the retirement system.

(c) The executive *director* [secretary] may designate other employees of the retirement system to make the necessary determinations under Subsection (a).

(d) A determination and disclosure under Subsection (a) may be made without notice to the individual member, retiree, annuitant, [or] beneficiary, or *alternate payee*.

(e) *The retirement system may make not more than two mailings a year on behalf of a nonprofit association of active or retired school employees, for purposes of association membership and research only, to persons identified in information contained in records that are in the custody of the retirement system. The nonprofit association requesting a mailing shall pay the expenses of the mailing.*

SECTION 30. Section 825.507, Government Code, as added by Chapter 13, Acts of the 72nd Legislature, 1st Called Session, 1991, is redesignated as Section 825.508 to read as follows:

Sec. 825.508[825.507]. **POWERS OF ATTORNEY.** (a) A person entitled to payment of an annuity or other benefits administered by the retirement system may direct the retirement system to treat as the authorized representative of the person concerning the disposition of the benefits an attorney-in-fact under a power of attorney that complies with Subsection (b).

(b) The system must honor a power of attorney executed in accordance with Chapter 1, Section 36A, Texas Probate Code.

(c) If the power of attorney is revoked, the retirement system is not liable for payments made to or actions taken at the request of the attorney-in-fact before the date the system receives written notice that the power of attorney has been revoked.

SECTION 31. Subchapter F, Chapter 825, Government Code, is amended by adding Sections 825.509, 825.510, and 825.511 to read as follows:

Sec. 825.509. **DIRECT ROLLOVERS.** (a) *This section applies to distributions made on or after January 1, 1993. Notwithstanding any law governing the retirement system that would otherwise limit a distributee's election under this section, a distributee may elect, at the time and in the manner prescribed by the executive director or the executive director's designee, to have any portion of an eligible rollover distribution from the retirement system paid directly to an eligible retirement plan specified by the distributee in a direct rollover.*

(b) *An eligible rollover distribution under this section is any distribution of all or a portion of the balance to the credit of the distributee, other than:*

(1) *a distribution that is one of a series of substantially equal periodic payments made not less frequently than annually for:*

(A) *the life or life expectancy of the distributee;*

(B) *the joint lives or joint life expectancies of the distributee and the distributee's designated beneficiary; or*

(C) *a specified period of 10 years or more;*

(2) *a distribution to the extent the distribution is required under Section 401(a)(9), Internal Revenue Code of 1986; or*

(3) the portion of a distribution that is not includable in gross income for federal income tax purposes.

(c) An eligible retirement plan under this section is an individual retirement account described by Section 408(a), Internal Revenue Code of 1986, an individual retirement annuity described by Section 408(b), Internal Revenue Code of 1986, an annuity plan described by Section 403(a), Internal Revenue Code of 1986, or a qualified trust described by Section 401(a), Internal Revenue Code of 1986, that accepts the distributee's eligible rollover distribution. However, in the case of an eligible rollover distribution to a surviving spouse, an eligible retirement plan under this section is an individual retirement account or individual retirement annuity.

(d) In this section:

(1) "Direct rollover" means a payment by the retirement system to the eligible retirement plan specified by a distributee.

(2) "Distributee" means a person who receives an eligible rollover distribution from the retirement system and includes an employee or former employee and, regarding the interest of an employee or former employee, the person's surviving spouse or alternate payee.

Sec. 825.510. BUDGET AND INVESTMENT INFORMATION. (a) The retirement system annually shall file with the Legislative Budget Board a report showing investments of the retirement system as of the last day of the preceding fiscal year, investments made or disposed of during that year, income or losses in the various kinds of investments, and a comparison of investment performance to nationally recognized indexes. The report required by this subsection is the only periodic report of investments required to be made by the retirement system other than a report required by Section 802.106 or a report required by the state auditor.

(b) The retirement system shall file with the Legislative Budget Board for review and comment a copy of each proposed annual budget of the retirement system.

Sec. 825.511. COMPLAINT FILES. (a) The retirement system shall keep an information file about each complaint filed with the system that the system has authority to resolve.

(b) If a written complaint is filed with the retirement system that the system has authority to resolve, the system, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

SECTION 32. Section 13.913(a), Education Code, is amended to read as follows:

(a) Each district shall make available to its employees group health coverage provided by a risk pool established by one or more school districts under Chapter 172, Local Government Code, or under a policy of insurance or group contract issued by an insurer, a company subject to Chapter 20, Insurance Code, or a health maintenance organization under the Texas Health Maintenance Organization Act (Chapter 20A, Vernon's Texas Insurance Code). The coverage must meet the substantive coverage requirements of Article 3.51-6, Insurance Code, and any other law applicable to group health insurance policies or contracts issued in this state. The coverage must include major medical treatment but may exclude experimental procedures. In this subsection, "major medical treatment" means a medical, surgical, or diagnostic procedure or intervention that has a significant recovery period, presents a significant risk, employs a general anesthetic, or, in the opinion of the primary physician, involves a significant invasion of bodily integrity that requires the extraction of bodily fluids or an incision or that produces substantial pain, discomfort, or debilitation. The coverage may include managed care or preventive care and must be comparable to the basic health coverage provided under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code). The cost of the coverage may be shared by the employees and the district. Each district shall certify the district's compliance with this subsection to the executive director of the Teacher [Employees] Retirement System of Texas in the manner required by the board of trustees of the Teacher [Employees] Retirement System of Texas. The certification must include a copy of the district's current contract for group health coverage.

SECTION 33. Section 2(10), Article 3.50-4, Insurance Code, is amended to read as follows:

(10) "Retiree" means:

(A) a person who has retired under the Teacher Retirement System of Texas, as provided by Subtitle C, Title 8, Government Code, with *at least 10 [or more]* years of service credit *in the retirement system for actual service in Texas public schools* and who is not eligible to be covered by a plan provided under the Texas Employees Uniform Group Insurance Benefits Act (Article 3.50-2, Vernon's Texas Insurance Code), or under the Texas State College and University Employees Uniform Insurance Benefits Act (Article 3.50-3, Vernon's Texas Insurance Code); or

(B) a person who has retired as a disability retiree under Subtitle C, Title 8, Government Code, and is entitled to receive monthly benefits from the retirement system.

SECTION 34. Section 8, Article 3.50-4, Insurance Code, is amended by adding Subsection (l) to read as follows:

(l) *The trustee may contract directly with health care providers to provide benefits to participants in the program. Those benefits may include dental care, eye care, hospital care, surgical care and treatment, medical care and treatment, obstetrical care, and prescription drugs, medicines, and prosthetic devices.*

SECTION 35. Article 3.50-4, Insurance Code, is amended by adding Section 18C to read as follows:

Sec. 18C. **COORDINATED CARE NETWORK.** (a) *The trustee may take action as it determines to be necessary to implement and administer a coordinated care network for the program. The trustee may contract with health care practitioners or facilities and may establish credentialing committees to evaluate the qualifications of those practitioners and facilities.*

(b) *The trustee may contract with additional individuals or entities as the trustee determines to be necessary to implement and administer the network.*

(c) *The trustee, the Texas public school retired employees group insurance program, the retired school employees group insurance fund, and the board of trustees, officers, advisory committee members, and employees of the trustee are not liable for damages arising from the acts or omissions of health care providers who are participating health care providers in the coordinated care network established by the trustee. Those health care providers are independent contractors and are responsible for their own acts and omissions.*

(d) *The trustee, the Texas public school retired employees group insurance program, the retired school employees group insurance fund, or a member of a credentialing committee, or the board of trustees, officers, advisory committee members, or employees of the trustee are not liable for damages arising from any act, statement, determination, recommendation made, or act reported, without malice, in the course of the evaluation of the qualifications of health care providers or of the patient care rendered by those providers.*

(e) *Except as otherwise provided by this article, all proceedings and records of a credentialing committee are confidential, and all communications made to a credentialing committee are privileged. The proceedings of a credentialing committee are not subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and its subsequent amendments. Except to the extent required by the constitution of this state or the United States, the records and proceedings of a credentialing committee and a communication made to a credentialing committee are not subject to court subpoena.*

(f) *An individual, a health care provider, or a medical peer review committee that, without malice, participates in a credentialing committee activity or furnishes records, information, or assistance to a credentialing committee is not liable for damages arising from that act.*

(g) *Disclosure of confidential credentialing committee information to the affected health care provider that is relevant to the matter under review does not constitute a waiver of the confidentiality requirements imposed under this article.*

(h) A written or oral communication made to a credentialing committee, and the records and proceedings of such a committee, may be disclosed to appropriate state or federal agencies, national accreditation bodies, state boards of registration or licensure, or medical peer review committees. A disclosure under this subsection does not constitute a waiver of the confidential and privileged nature of the information.

(i) A credentialing committee, a person participating in a credentialing review, a health care provider, the trustee, the Texas public school retired employees group insurance program, or the board of trustees, officers, advisory committee members, or employees of the trustee that are named as defendants in any civil action filed as a result of participation in the credentialing process may use otherwise confidential information obtained for legitimate internal business and professional purposes, including use in their own defense. Use of information under this subsection does not constitute a waiver of the confidential and privileged nature of the information.

(j) In this section, "health care provider" means an individual licensed as a health care practitioner, or a health care facility.

SECTION 36. Section 2, Article 21.24-1, Insurance Code, is amended by adding Subsection (c) to read as follows:

(c) This article applies to insurance coverage provided under the Texas Public School Retired Employees Group Insurance Act (Article 3.50-4, Insurance Code).

SECTION 37. (a) Monthly payments of a death or retirement benefit annuity by the Teacher Retirement System of Texas are increased beginning with the payment due at the end of January 1994.

(b) The increase applies only if the latest effective date of retirement of the person on whose account the benefit is based, or the date of death in the case of a death benefit annuity, occurred before September 1, 1991. The increase does not apply to payments received under Section 824.304(a), 824.404, or 824.501, Government Code.

(c) The amount of the monthly increase is computed by multiplying the previous monthly benefit by a percentage determined in accordance with the following table:

<i>RETIREMENT DATE OR, IF APPLICABLE, DATE OF DEATH</i>	<i>INCREASE</i>
Before September 1, 1968	5 %
On or after September 1, 1968, but before September 1, 1969	7 %
On or after September 1, 1969, but before September 1, 1970	6 %
On or after September 1, 1970, but before September 1, 1971	13 %
On or after September 1, 1971, but before September 1, 1972	12 %
On or after September 1, 1972, but before September 1, 1973	13 %
On or after September 1, 1973, but before September 1, 1974	15 %
On or after September 1, 1974, but before September 1, 1975	12 %
On or after September 1, 1975, but before September 1, 1976	10 %
On or after September 1, 1976, but before September 1, 1977	14 %
On or after September 1, 1977, but before September 1, 1978	13 %
On or after September 1, 1978, but before September 1, 1979	11 %
On or after September 1, 1979, but before September 1, 1980	10 %
On or after September 1, 1980, but before September 1, 1981	7 %
On or after September 1, 1981, but before September 1, 1991	5 %

(d) The increase for a monthly retirement annuity to a retiree is based on the retiree's latest effective retirement date. The increase for a monthly retirement annuity being continued to a beneficiary after the death of the retiree is based on the retiree's retirement date. The increase for a death benefit amount is based on the date of death of the person on whose account the benefit is based.

(e) The percentage increases provided for in this section apply to monthly payments of a minimum benefit increased elsewhere in this Act, but apply only to the amount of the monthly annuity as of August 1, 1993. No additional increase shall be paid to an annuitant under this section if the increase provided for elsewhere in this Act is greater than the increase provided for in this section. If the increase provided for in this section is less than the increase

provided for elsewhere in this Act, an annuitant shall receive the difference as an additional increase under this section.

SECTION 38. Section 824.304(c), Government Code, as it was designated immediately before the effective date of this Act, is repealed.

SECTION 39. Monthly payments of a standard service retirement annuity made after September 1, 1993, under Section 824.203, Government Code, to persons or the beneficiaries of persons who retired before November 1, 1991, may not be less than \$6.50 a month for each year of service credit or, for a member who was at least 65 years old at the time of retirement, not less than the greater of \$6.50 a month for each year of service credit, or \$150 a month. The minimum benefits provided by this section are subject to reduction in the same manner as other benefits because of early retirement or selection of an optional retirement annuity.

SECTION 40. The Teacher Retirement System of Texas may restore monthly payments of a survivor benefit under Section 824.404, Government Code, or its predecessor statute, to a spouse of a deceased member or retiree that were terminated because of remarriage before the effective date of Section 5, Chapter 570, Acts of the 66th Legislature, 1979, on application for the benefits by the beneficiary. Retroactive payments of the benefits may not be made. Payments of the benefits resume beginning with the month after the month in which the beneficiary applies for restoration of benefits under this section.

SECTION 41. (a) A retiree who is subject to loss of benefits under Section 824.601, Government Code, for months to which the exception provided by Section 824.602(a)(3), Government Code, could have applied if the retiree had executed the required form within the time provided by Section 824.602(a)(3) before its amendment by Chapter 13, Acts of the 72nd Legislature, 1st Called Session, 1991, is eligible to avoid loss of the benefits or to have any lost benefits restored by the Teacher Retirement System of Texas.

(b) To apply under this section to have lost benefits restored or to avoid loss of benefits, a retiree must submit a written request to the retirement system not later than March 1, 1994.

(c) Benefits eligible to be paid under this section are those that would have been payable between September 1, 1985, and August 31, 1991, if the retiree had not failed to execute the required form in a timely manner.

(d) A retiree may not apply for payment of benefits under this section for months of employment credited under Section 823.502, Government Code. Months of employment in which a retiree receives a monthly benefit payment under this section may not be considered in applying Section 823.502, Government Code. Only a retiree who is surviving on the effective date of this Act is eligible to apply for benefits under this section.

SECTION 42. A supplemental service retirement benefit provided for by Chapter 14, Acts of the 60th Legislature, Regular Session, 1969, that is being paid on the effective date of this Act to a retiree who is still living is payable to the beneficiary of the retiree if retirement benefits will be payable to the beneficiary on the death of the retiree.

SECTION 43. (a) All employees of the Central Education Agency and the Texas Higher Education Coordinating Board, and employees of the Texas Youth Commission, the Texas Department of Criminal Justice, the Texas School for the Blind and Visually Impaired, the Texas School for the Deaf, and any other state agency the majority of employees of which are members of the Employees Retirement System of Texas are subject to an election made under this section, if the employees are contributing members of the Teacher Retirement System of Texas on the day before the effective date of the transfer made under the election and remain employees of the same agency on the effective date of the transfer.

(b) An election may be made under this section to transfer membership of all affected employees from the Teacher Retirement System of Texas to the Employees Retirement System of Texas if the transfer would be in the best interests of the agency and the employees. The commissioner of education, after consultation with the State Board of Education, may make the election for employees of the Central Education Agency. The commissioner of higher education, after consultation with the Texas Higher Education Coordinating Board, may make the election for employees of that board. The governing boards of the other agencies described by Subsection (a) of this section may make the election for affected employees of those agencies.

(c) Notice of an election made under this section must be filed with the Employees Retirement System of Texas not later than the 60th day preceding the effective date of the transfer of membership. The effective date of a transfer of membership is September 1, 1994, except that for employees of the Central Education Agency, the effective date is September 1, 1993.

(d) A person who becomes employed by a state agency for which an election is made under this section on or after the effective date of the transfer of membership of agency employees becomes a member of the Employees Retirement System of Texas on the first day of employment, unless prohibited as provided by Chapter 812, Government Code.

(e) At the time of the retirement or death of a person whose membership is transferred from the Teacher Retirement System of Texas to the Employees Retirement System of Texas pursuant to legislation enacted by the 73rd Legislature, Regular Session, 1993, the Teacher Retirement System of Texas shall transfer to the Employees Retirement System of Texas the person's service credit in the Teacher Retirement System of Texas and an amount of money equal to the portion of the actuarial value of any annuity that becomes payable under Chapter 814, Government Code, that represents the percentage of the total amount of the person's service credited in both systems that was credited in the Teacher Retirement System of Texas.

SECTION 44. (a) The Teacher Retirement System of Texas shall conduct a study of coverage under and participation in the Texas Public School Retired Employees Group Insurance Program and potential coverage under and participation in a statewide health insurance program for school district employees.

(b) The study shall include a survey of public school districts to assess interest in changes to the program for retired school employees and participation in a statewide health insurance program for school district employees. The survey shall include one or more proposals under which the employer would pay the major portion of the cost of coverage for only the employee. The survey shall elicit responses to proposals that vary some or all of the following factors:

- (1) cost to a district;
- (2) cost to the employee or retiree;
- (3) restrictions on a district's offering of other health plans, including health maintenance organizations;
- (4) controls on a district's ability to leave the program, once enrolled; and
- (5) cost containment features.

(c) The retirement system shall report its recommendations and the results of its survey to the Legislative Budget Board and the governor not later than June 30, 1994. The report shall include recommendations on the necessary size of and methods of financing the contingency reserves for the programs, necessary cost containment features, and at least three options to minimize adverse selection against the programs.

(d) Each person who is employed full-time by a public school district in this state shall pay an annual fee of \$10 to the Teacher Retirement System of Texas in addition to any other fee required by law. The retirement system may adopt rules for collection of the fee. The retirement system may use a portion of the fees collected under this subsection for the purposes of conducting the study required by this section and also may spend for these purposes amounts from the retired school employees group insurance fund that are designated for administrative expenses. The total expenditures for the study may not exceed \$100,000 unless approved by the Legislative Budget Board. Fees collected under this subsection that are not spent for purposes of the study must be held in trust by the retirement system to provide contingency reserves for a statewide program for school district employees. If a statewide program is not created by the 74th Legislature, the legislature shall provide for a refund of the remaining fees or an offset against other fees required.

SECTION 45. The change in law made by Section 11 of this Act applies to benefits paid after the effective date of this Act even if the beneficiary elected to receive the monthly benefits before that date.

SECTION 46. This Act takes effect September 1, 1993, except Sections 35 and 43 and this section, which take effect immediately.

SECTION 47. 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 according to its terms, and it is so enacted.

Passed by the House on May 14, 1993, by a non-record vote; the House refused to concur in Senate amendments to H.B. No. 2711 on May 26, 1993, and requested the appointment of a conference committee to consider the differences between the two houses; the House adopted the conference committee report on H.B. No. 2711 on May 30, 1993: Yeas 141, Nays 0, 1 present, not voting; passed by the Senate, with amendments, on May 23, 1993: Yeas 30, Nays 0; at the request of the House, the Senate appointed a conference committee to consider the differences between the two houses; the Senate adopted the conference committee report on H.B. No. 2711 on May 30, 1993: Yeas 30, Nays 0, 1 present, not voting.

Approved June 18, 1993.

Effective Sept. 1, 1993, except §§ 35 and 43 effective June 18, 1993.