

CHAPTER 173

S.B. No. 1301

AN ACT

relating to the optional retirement program and changes necessary to comply with the Tax Reform Act of 1986.

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

SECTION 1. Subsection (c), Section 36.105, Title 110B, Revised Statutes, is amended to read as follows:

(c) The benefits of an annuity purchased under the optional retirement program are available only if the participant *obtains the age of 70 1/2 years* or terminates participation in the program as provided by Subsection (a) of this section.

SECTION 2. Section 36.202, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 36.202. COLLECTION AND DISBURSEMENT OF CONTRIBUTIONS. (a) The contributions of participants in the optional retirement program shall be *made by salary reduction pursuant to* ~~[deducted in the manner provided for deduction of member contributions to the retirement system or reduced under]~~ an agreement made under Section 36.203 of this subtitle.

(b) The comptroller of public accounts shall pay the state's contributions to the optional retirement program to the appropriate institutions of higher education.

(c) The disbursing officer of an institution of higher education shall pay the contributions collected under this section to the company providing the optional retirement program for that institution.

(d) An institution of higher education shall certify to the comptroller, in the manner provided for estimate of state contributions to the retirement system, estimates of funds required for the payments by the state under this section.

SECTION 3. Section 36.203, Title 110B, Revised Statutes, is amended to read as follows:

Sec. 36.203. SALARY REDUCTION AGREEMENT. (a) A participant in the optional retirement program and the employing institution of higher education, acting through its governing board, shall ~~[may]~~ execute an agreement under which the salary of the participant is reduced by the amount of the contribution required under Section 36.201 of this subtitle and under which the employer contributes an amount equal to the reduction for any type of investment authorized in Section 403(b) of the ~~[federal]~~ Internal Revenue Code of 1986 ~~[1954, 42 U.S. Code, as it existed on January 1, 1981,]~~ or toward the purchase of an annuity under the program.

(b) *An agreement under this section is irrevocable until the earlier of the time:*

*(1) the participant ceases participation in the optional retirement program; or*

*(2) it is determined by the Internal Revenue Service or by legislative enactment that the contributions of participants to the optional retirement program are elective deferrals within the meaning of Section 402 of the Internal Revenue Code of 1986. [Only one agreement under this section may be executed in a calendar year.]*

~~[(c) Unless the parties agree that an agreement under this section is irrevocable during its term, the agreement may be terminated as to amounts not yet earned.]~~

SECTION 4. 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.

Passed the Senate on April 30, 1987, by the following vote: Yeas 31, Nays 0. Passed the House on May 12, 1987, by a non-record vote.

Approved May 25, 1987.

Effective Aug. 31, 1987, 90 days after date of adjournment.