

CHAPTER 61

S.B. No. 630

AN ACT

relating to the Teacher Retirement System of Texas, including eligibility for membership, benefits available, required reports by retirees, eliminating certain requirements for reports by trustees.

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

SECTION 1. Section 32.002, Title 110B, Revised Statutes, as amended, is amended to read as follows:

Sec. 32.002. EXCEPTIONS TO MEMBERSHIP REQUIREMENT. (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;

(3) ~~[(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;

(4) ~~[(5)]~~ is solely employed as a noncertified instructor in a program described in Subchapter G, Chapter 13, Education Code; or

(5) ~~[(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.

(b) An employee under Subsection (a)(1) of this section may become a member of the retirement system at the beginning of a school year, but the employee will not be entitled to credit for waived service unless payment for the waived service is made under Section 33.202 of this subtitle.

~~[(c) An employee under Subsection (a)(2) of this section may elect to become a member of the retirement system, effective as of the date of employment, if the employee notifies~~

~~the employer and the board of trustees of the election before the 91st day after the effective date of employment.]~~

SECTION 2. Title 110B, Revised Statutes, as amended, is amended by adding Section 33.104 to read as follows:

Sec. 33.104. RESTORATION OF CERTIFICATE FOR PRIOR SERVICE EXCLUDED BECAUSE OF LATE INITIAL EMPLOYMENT. A person required to become a member of the retirement system because of the repeal of the exception to required membership for persons first employed in public education at age 60 or older may obtain credit for service while not a member by depositing the member contributions and membership fees which would otherwise have been deducted from the person's compensation for that service had the person been a member, if such deposits are paid within one year from the date the person first becomes a member of the retirement system. Persons not making payment of these amounts within one year may obtain credit for the service under Subsection (h) of Section 35.403 of this subtitle as if member contributions had been required at the time of the service. The board of trustees may adopt rules to implement this section.

SECTION 3. Section 33.301, Title 110B, Revised Statutes, is amended by adding Subsections (c) and (d) to read as follows:

(c) The board of trustees may adopt rules expanding the military service creditable in the retirement system in order to comply with the requirements of federal law.

(d) Military service that is terminated by sentence of a court-martial is not creditable under this section.

SECTION 4. Title 110B, Revised Statutes, as amended, is amended by adding Section 34.106 to read as follows:

Sec. 34.106. SIMULTANEOUS DEATH OF MEMBER AND BENEFICIARY. When a member or annuitant and the beneficiary of the member or annuitant have died within a period of less than 120 hours, the member or annuitant shall be deemed to have survived the beneficiary for the purpose of determining the rights to amounts payable under this subtitle upon the death of the member or annuitant.

SECTION 5. Section 34.306, Title 110B, Revised Statutes, as amended, is amended by adding Subsection (c) to read as follows:

(c) If a disability retiree refuses to submit an annual report of earnings, the retirement system shall discontinue the retiree's annuity payment until the retiree submits to a medical examination by one or more physicians designated by the retirement system.

SECTION 6. Title 110B, Revised Statutes, as amended, is amended by adding Section 34.407 to read as follows:

Sec. 34.407. GUARANTEED RETURN OF AMOUNT EQUAL TO CONTRIBUTIONS. If a beneficiary selects a life annuity death benefit under Section 34.402 of this subtitle, the retirement system shall pay a lump-sum death benefit in an amount, if any, by which the amount of the deceased member's accumulated contributions at the time of death exceeds the amount of annuity payments made to the beneficiary before the beneficiary's death. This lump-sum benefit will be paid to the person designated by the beneficiary of the annuity or, if no person is designated, to the estate of the beneficiary.

SECTION 7. Subsection (a), Section 34.602, Title 110B, Revised Statutes, is amended to read as follows:

(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 *last day of the first month* ~~[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.

SECTION 8. Subsection (a), Section 35.306, Title 110B, Revised Statutes, is amended to read as follows:

- (a) The retirement system shall transfer to the retired reserve account:
- (1) from the member savings account, an amount equal to the accumulated contributions in a member's individual account when the member retires or when the retirement system approves the payment of any benefit authorized under this subtitle on the member's retirement or death;
- (2) from the state contribution account, an amount certified by the actuary *or determined under actuarial tables adopted by the board of trustees pursuant to Section 35.105 of this subtitle* as necessary to provide for the payment of the benefit as it becomes due; and
- (3) from the interest account, the amount required by Section 35.310(b)(2) of this subtitle.

SECTION 9. Subsection (b), Section 35.307, Title 110B, Revised Statutes, is amended to read as follows:

- (b) The retirement system shall pay from the account postretirement benefit increases, and other adjustments of initial benefit payments, *funded by the amounts deposited in the account pursuant to Subsection (a) of this section* ~~[authorized by the legislature after January 30, 1975]~~.

SECTION 10. Section 35.404, Title 110B, Revised Statutes, as amended, is amended to read as follows:

Sec. 35.404. COLLECTION OF STATE CONTRIBUTIONS. (a) During each fiscal year, the state shall contribute to the retirement system an amount equal to eight percent of the aggregate annual compensation of all members of the retirement system during that fiscal year.

(b) Before November 2 of each even-numbered year, the board of trustees shall certify to the comptroller of public accounts for review and adoption an estimate of the amount necessary to pay the state's contributions to the retirement system for the following biennium.

(c) The amount certified under Subsection (b) of this section shall be included in the state budget that the governor submits to the legislature.

(d) ~~[Before September 1 of each year the board of trustees shall certify to the comptroller of public accounts and to the state treasurer the estimated amount of contributions to be received from the members of the retirement system during the following fiscal year.]~~

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[(e)] All money appropriated by the state to the retirement system shall be paid to the state contribution account in equal monthly installments as provided by Article 4364a, Revised Civil Statutes of Texas, 1925.

SECTION 11. 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 March 11, 1987, by a viva-voce vote; and that the Senate concurred in House amendment on April 27, 1987, by a viva-voce vote. Passed the House, with amendment, on April 23, 1987, by a non-record vote.

Approved May 6, 1987.

Effective 90 days after date of adjournment.