

1-1 By: Lambert, et al. (Senate Sponsor - Lucio) H.B. No. 1585
1-2 (In the Senate - Received from the House April 14, 2021;
1-3 April 19, 2021, read first time and referred to Committee on
1-4 Administration; April 23, 2021, reported favorably by the
1-5 following vote: Yeas 7, Nays 0; April 23, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	<u>X</u>			
1-9	<u>X</u>			
1-10	<u>X</u>			
1-11	<u>X</u>			
1-12	<u>X</u>			
1-13	<u>X</u>			
1-14	<u>X</u>			

1-15 A BILL TO BE ENTITLED
1-16 AN ACT

1-17 relating to the operations and functions of the Teacher Retirement
1-18 System of Texas.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 SECTION 1. Section 824.002(c), Government Code, is amended
1-21 to read as follows:

1-22 (c) For the purposes of this section, a member's employment
1-23 in a position covered by the retirement system does not end if the
1-24 member is on leave of absence or has a contract for future
1-25 employment in a public school, other than a contract for employment
1-26 that would, if the retiring member and the employer were to comply
1-27 with all procedural requirements, qualify under Section 824.602 for
1-28 an exception to a reduction or ~~[the]~~ loss of monthly benefits
1-29 required by Section 824.601.

1-30 SECTION 2. Section 824.2031(b), Government Code, is amended
1-31 to read as follows:

1-32 (b) A determination under this section shall be founded on
1-33 the information in the most recent report of an investment
1-34 practices and performance evaluation ~~[audit]~~ conducted under
1-35 Section 802.109 ~~[825.512]~~ and the application of that information
1-36 to:

1-37 (1) the present amortization period for liabilities of
1-38 the retirement system;

1-39 (2) the rate of return on retirement system
1-40 investments over and above the rate of inflation of the investment
1-41 portfolio as a whole, of the portion of the investment portfolio
1-42 entrusted to private investment entities, and of the portion of the
1-43 investment portfolio entrusted to investment officers who are
1-44 employees of the retirement system;

1-45 (3) economic projections of market conditions and
1-46 future investment rates of return as reflected in the comptroller's
1-47 most recent economic forecast and revenue estimate;

1-48 (4) the costs, including changes in the amortization
1-49 period for liabilities of the retirement system, of providing
1-50 cost-of-living or other increases in benefits to current
1-51 annuitants; and

1-52 (5) an evaluation of the diversity of retirement
1-53 system investments and whether the portfolio provides low-risk,
1-54 long-term growth.

1-55 SECTION 3. The heading to Subchapter G, Chapter 824,
1-56 Government Code, is amended to read as follows:

1-57 SUBCHAPTER G. REDUCTION OR LOSS OF BENEFITS ON RESUMPTION OF
1-58 SERVICE

1-59 SECTION 4. The heading to Section 824.601, Government Code,
1-60 is amended to read as follows:

1-61 Sec. 824.601. REDUCTION OR LOSS OF MONTHLY BENEFITS.

2-1 SECTION 5. Section 824.601, Government Code, is amended by
 2-2 amending Subsections (b) and (e) and adding Subsections (b-3) and
 2-3 (b-4) to read as follows:

2-4 (b) Except as provided by Subsection (b-1), (b-3), or (b-4),
 2-5 or Section 824.602 and subject to Subsection (b-2), during [a
 2-6 retiree is not entitled to service or disability retirement benefit
 2-7 payments, as applicable, for] any month in which a [the] retiree is
 2-8 employed in any position by a Texas public educational institution,
 2-9 the retiree's entitlement to service or disability retirement
 2-10 benefit payments for that month is reduced by an amount equal to the
 2-11 lesser of:

2-12 (1) the retiree's benefit payment for that month; or
 2-13 (2) the total compensation earned by the retiree for
 2-14 the employment during that month:

2-15 (A) as reported by the retiree's employer; or
 2-16 (B) if not reported, verified in a manner
 2-17 prescribed by the retirement system.

2-18 (b-3) If the total compensation earned by a retiree is not
 2-19 reported or verified under Subsection (b)(2), the retiree's
 2-20 entitlement to service or disability retirement benefit payments
 2-21 for that month is reduced by an amount equal to the retiree's
 2-22 benefit payment for that month.

2-23 (b-4) A retiree under Section 824.302 who is employed in any
 2-24 position by a Texas public educational institution for more than 90
 2-25 days in a school year is not entitled to disability retirement
 2-26 benefit payments for the remaining months of the school year during
 2-27 which the retiree continues to be employed by an institution unless
 2-28 the retiree qualifies for the exception described by Section
 2-29 824.602(g).

2-30 (e) A reduction or loss [Loss] of benefits under this
 2-31 section does not extend any period of guaranteed benefits elected
 2-32 pursuant to Section 824.204.

2-33 SECTION 6. Sections 824.602(a), (g), and (k), Government
 2-34 Code, are amended to read as follows:

2-35 (a) Subject to Section 825.506, the retirement system may
 2-36 not, under Section 824.601, reduce or withhold a monthly benefit
 2-37 payment if the retiree is employed in a Texas public educational
 2-38 institution:

2-39 (1) as a substitute only with pay not more than the
 2-40 daily rate of substitute pay established by the employer and, if the
 2-41 retiree is a disability retiree, the employment has not exceeded a
 2-42 total of 90 days in the school year;

2-43 (2) in a position, other than as a substitute, on no
 2-44 more than a one-half time basis for the month;

2-45 (3) in one or more positions on as much as a full-time
 2-46 basis, if the retiree has been separated from service with all Texas
 2-47 public educational institutions for at least 12 full consecutive
 2-48 months after the retiree's effective date of retirement; or

2-49 (4) in a position, other than as a substitute, on no
 2-50 more than a one-half time basis for no more than 90 days in the
 2-51 school year, if the retiree is a disability retiree.

2-52 (g) The exceptions provided by Subsections (a)(2) and
 2-53 (a)(3) do not apply to disability retirees. The retirement system
 2-54 nevertheless may not withhold a monthly benefit payment under
 2-55 Section 824.601 if:

2-56 (1) a disability retiree is employed in a Texas public
 2-57 educational institution in a position, other than as a substitute,
 2-58 for a period not to exceed three consecutive months;

2-59 (2) the work occurs in a period, designated by the
 2-60 disability retiree, of no more than three consecutive months;

2-61 (3) the disability retiree executes on a form and at a
 2-62 time prescribed by the retirement system a written election to have
 2-63 this exception apply on a one-time trial basis in determining
 2-64 whether benefits are to be suspended for the months of employment
 2-65 after retirement and in determining whether a disability retiree is
 2-66 no longer mentally or physically incapacitated for the performance
 2-67 of duty; and

2-68 (4) the disability retiree has not previously elected
 2-69 to avoid a reduction or loss of monthly benefits under this

3-1 subsection.

3-2 (k) The actuary designated by the board of trustees shall,
 3-3 in investigating the experience of the members of the system, note
 3-4 any significant increase in early age retirements and determine the
 3-5 extent to which any increase has been caused by the exception to a
 3-6 reduction or loss of benefits for employment after retirement
 3-7 provided by Subsection (a)(3). If the actuary certifies in writing
 3-8 to the retirement system that sound actuarial funding of the
 3-9 retirement system's benefits is endangered by continuation of this
 3-10 exception, the board of trustees may determine that no further
 3-11 elections of the exception will be accepted from retirees, other
 3-12 than from those who have previously relied on the exception in
 3-13 retiring under this subtitle. A retiree may be considered to have
 3-14 relied on this exception only if retirement occurred on or after May
 3-15 31, 1985, but before the date the board of trustees acknowledges
 3-16 receipt of such certification and if the retiree has first elected
 3-17 to receive benefits under the exception not later than two years
 3-18 after the retiree's effective date of retirement.

3-19 SECTION 7. Section 824.601(f), Government Code, is
 3-20 redesignated as Section 824.604, Government Code, and amended to
 3-21 read as follows:

3-22 Sec. 824.604. RULES. [~~(f)~~] The board of trustees [system]
 3-23 may adopt rules necessary for administering this subchapter.

3-24 SECTION 8. Section 825.0041, Government Code, is amended by
 3-25 amending Subsection (b) and adding Subsection (d) to read as
 3-26 follows:

3-27 (b) The [A] training program must provide the person with
 3-28 information regarding:

3-29 (1) the law governing [legislation that created the]
 3-30 retirement system operations; [and the system's]

3-31 (2) the programs, functions, rules, and budget of the
 3-32 system;

3-33 (3) the scope of and limitations on the rulemaking
 3-34 authority of the board of trustees;

3-35 (4) [~~(2)~~] the results of the most recent formal audit
 3-36 of the system;

3-37 (5) [~~(3)~~] the requirements of:

3-38 (A) laws relating to open meetings, public
 3-39 information, administrative procedure, and disclosing
 3-40 conflicts-of-interest [conflicts of interest]; and

3-41 (B) other laws applicable to members of a state
 3-42 policy-making body in performing their duties; and

3-43 (6) [~~(4)~~] any applicable ethics policies adopted by
 3-44 the system or the Texas Ethics Commission.

3-45 (d) The executive director of the retirement system shall
 3-46 create a training manual that includes the information required by
 3-47 Subsection (b). The executive director shall distribute a copy of
 3-48 the training manual annually to each member of the board of
 3-49 trustees. Each member of the board of trustees shall sign and
 3-50 submit to the executive director a statement acknowledging that the
 3-51 member received and has reviewed the training manual.

3-52 SECTION 9. Section 825.006, Government Code, is amended to
 3-53 read as follows:

3-54 Sec. 825.006. SUNSET PROVISION. The board of trustees of
 3-55 the Teacher Retirement System of Texas is subject to review under
 3-56 Chapter 325 (Texas Sunset Act), but is not abolished under that
 3-57 chapter. The board shall be reviewed during the period in which
 3-58 state agencies abolished in 2033 [2021], and every 12th year after
 3-59 that year, are reviewed.

3-60 SECTION 10. Subchapter C, Chapter 825, Government Code, is
 3-61 amended by adding Section 825.216 to read as follows:

3-62 Sec. 825.216. OMBUDSMAN. (a) Subject to Section 825.506,
 3-63 the board of trustees shall designate an ombudsman within the
 3-64 retirement system to assist members and retirees by performing
 3-65 member and retiree protection and advocacy functions, including:

3-66 (1) monitoring the system's interactions with members
 3-67 and retirees;

3-68 (2) receiving and reviewing complaints from members
 3-69 or retirees;

4-1 (3) taking appropriate action regarding complaints,
 4-2 including conducting investigations of complaints or escalating or
 4-3 reporting complaints to the board;

4-4 (4) informing a member or retiree and the board of the
 4-5 results of the ombudsman's review or investigation of the member's
 4-6 or retiree's complaint; and

4-7 (5) recommending corrective actions to the board as
 4-8 determined necessary by the ombudsman to resolve complaints.

4-9 (b) The ombudsman designated under this section shall
 4-10 regularly submit a report to the board of trustees recommending
 4-11 changes to the retirement system's operations that would benefit
 4-12 members and retirees and increase opportunities for the members and
 4-13 retirees to participate in the system's decisions.

4-14 SECTION 11. Section 825.308, Government Code, is amended to
 4-15 read as follows:

4-16 Sec. 825.308. STATE CONTRIBUTION ACCOUNT. The retirement
 4-17 system shall deposit in the state contribution account:

4-18 (1) all state contributions to the retirement system
 4-19 required by Section 825.404;

4-20 (2) amounts from the interest account as provided by
 4-21 Section 825.313(b)(2);

4-22 (3) retirement annuities, or that portion of
 4-23 annuities, as applicable, waived or forfeited in accordance with
 4-24 Section 824.601 or 824.004;

4-25 (4) fees collected under Section 825.403(h);

4-26 (5) fees and interest for reinstatement of service
 4-27 credit or establishment of membership service credit as provided by
 4-28 Section 823.501;

4-29 (6) the portion of a deposit required by Section
 4-30 823.302 to establish military service credit that represents a fee;
 4-31 and

4-32 (7) employer contributions required under Section
 4-33 825.4092.

4-34 SECTION 12. Section 825.4041(f), Government Code, is
 4-35 amended to read as follows:

4-36 (f) At the end of each school year, the retirement system
 4-37 shall certify to the [~~commissioner of education and to the~~] state
 4-38 auditor:

4-39 (1) the name of each employer that is an institution of
 4-40 higher education and has failed to remit, within the period
 4-41 required by Section 825.408, all payments required under this
 4-42 section for the school year; and

4-43 (2) the amounts of the unpaid required payments.

4-44 SECTION 13. Section 825.405(f), Government Code, is amended
 4-45 to read as follows:

4-46 (f) If the commissioner of education receives a
 4-47 certification from the retirement system regarding unpaid
 4-48 contributions [~~under Subsection (e)~~], the commissioner shall
 4-49 direct the comptroller of public accounts to withhold the amount
 4-50 certified, plus interest computed at the rate and in the manner
 4-51 provided by Section 825.408, from the first state money payable to
 4-52 the employer. The amount withheld shall be deposited to the credit
 4-53 of the appropriate accounts of the retirement system.

4-54 SECTION 14. Section 825.502, Government Code, is amended by
 4-55 amending Subsection (b) and adding Subsection (c) to read as
 4-56 follows:

4-57 (b) If the member or the member's heirs cannot be found
 4-58 after complying with the policy adopted under Subsection (c), the
 4-59 member's accumulated contributions are forfeited to the retirement
 4-60 system. The retirement system shall credit the amount forfeited to
 4-61 the retired reserve account.

4-62 (c) The board of trustees shall adopt a policy requiring the
 4-63 retirement system to make all reasonable efforts to locate and
 4-64 notify a member or, if appropriate, the member's heirs of their
 4-65 entitlement to a return of accumulated contributions under this
 4-66 section. The policy must ensure that the:

4-67 (1) notice:

4-68 (A) provides information on how a member or the
 4-69 member's heirs, as appropriate, may withdraw the accumulated

5-1 contributions, including information on how to effectuate a
 5-2 withdrawal through an election to receive a direct rollover of the
 5-3 contributions to an eligible retirement plan; and

5-4 (B) is initially sent to the member by certified
 5-5 mail, return receipt requested, at the last known address of the
 5-6 member according to the system's records; and

5-7 (2) procedure used to locate a member or the member's
 5-8 heirs:

5-9 (A) requires, at a minimum, that the system
 5-10 conduct Internet searches to determine a current and accurate
 5-11 mailing address of the member or the member's heir and send a notice
 5-12 that complies with Subdivision (1) to the member or the member's
 5-13 heir, as applicable, by certified mail, return receipt requested;
 5-14 and

5-15 (B) employs a matrix based on defined factors for
 5-16 determining on a graduated scale the degree and type of additional
 5-17 effort required, and those efforts must include:

5-18 (i) contacting the member's designated
 5-19 beneficiary;

5-20 (ii) obtaining information from consumer
 5-21 reporting agencies; and

5-22 (iii) using commercial locating services.

5-23 SECTION 15. Sections 825.511(a) and (c), Government Code,
 5-24 are amended to read as follows:

5-25 (a) The retirement system shall maintain a system to
 5-26 promptly and efficiently act on complaints filed with the
 5-27 retirement system [~~that the system has authority to resolve~~]. The
 5-28 retirement system shall maintain information about parties to the
 5-29 complaint, the subject matter of the complaint, a summary of the
 5-30 results of the review or investigation of the complaint, and its
 5-31 disposition.

5-32 (c) The retirement system shall periodically notify the
 5-33 complaint parties of the status of the complaint until final
 5-34 disposition unless the notice would jeopardize an investigation.

5-35 SECTION 16. Section 825.521, Government Code, is amended to
 5-36 read as follows:

5-37 Sec. 825.521. DEADLINE TO APPEAL [~~FINAL~~] ADMINISTRATIVE
 5-38 DECISION. In adopting rules governing an [~~the~~] appeal authorized
 5-39 by law or rule of a determination or decision of the retirement
 5-40 system by the system's staff, including a final administrative
 5-41 decision of the [~~retirement~~] system, the board of trustees shall
 5-42 ensure that rules establishing deadlines for [~~the~~] filing the [~~of~~
 5-43 an] appeal afford a member or retiree at least the same amount of
 5-44 time to file the [~~an~~] appeal as the retirement system has to issue
 5-45 the determination or [~~retirement system's~~] decision.

5-46 SECTION 17. The heading to Subchapter G, Chapter 825,
 5-47 Government Code, is amended to read as follows:

5-48 SUBCHAPTER G. OUTREACH TO MEMBERS AND EMPLOYERS [~~MEMBER SERVICES~~]

5-49 SECTION 18. Section 825.601, Government Code, is amended to
 5-50 read as follows:

5-51 Sec. 825.601. OUTREACH PLAN [~~POLICIES GOVERNING RETIREMENT~~
 5-52 ~~BENEFITS COUNSELING~~]. (a) The board of trustees shall develop and
 5-53 adopt an outreach plan designed to assist each member of the system,
 5-54 and as appropriate the members' employers, in effectively planning
 5-55 for the member's retirement. The plan must require the retirement
 5-56 system to:

5-57 (1) identify and implement ways to improve
 5-58 communication between the system and the system's members and
 5-59 employers;

5-60 (2) update and develop outreach materials and other
 5-61 information distributed by the system, including handbooks,
 5-62 brochures, presentations, and handouts, in a manner that complies
 5-63 with Section 802.106(g);

5-64 (3) update and develop policies governing retirement
 5-65 benefits counseling provided to members by the system, including[~~-~~
 5-66 The] policies that [~~must~~]:

5-67 (A) subject to Section 825.602, ensure [~~(1)~~
 5-68 address the manner in which] the [~~retirement~~] system makes group
 5-69 and individual member retirement benefits counseling available

6-1 throughout the state;

6-2 ~~[(2) identify the geographic regions of the state most~~
6-3 ~~in need of retirement benefits counseling services and the manner~~
6-4 ~~in which that need will be met,] and~~

6-5 (B) ~~[(3)]~~ clarify that the retirement system
6-6 does not provide financial or legal advice;

6-7 (4) provide at least annually to each member of the
6-8 system, regardless of whether the member is vested in the system, an
6-9 estimate of the member's retirement benefits;

6-10 (5) enhance employer training and establish an
6-11 Internet portal designed to assist employers to:

6-12 (A) satisfy applicable reporting requirements;

6-13 (B) provide general information to individual
6-14 members on:

6-15 (i) employment after retirement;

6-16 (ii) enrollment in health insurance
6-17 benefit plans; and

6-18 (iii) retirement benefits and retirement
6-19 planning; and

6-20 (C) facilitate other communications or exchanges
6-21 involving members and the retirement system; and

6-22 (6) design and implement methods for maintaining
6-23 up-to-date contact information for members and beneficiaries based
6-24 on best practices for outreach.

6-25 (b) In developing the outreach plan, the board of trustees
6-26 shall solicit input through surveys or other means from members of
6-27 the system, employers, and other stakeholders, including
6-28 appropriate advisory groups.

6-29 (c) Once every five years, the retirement system shall
6-30 review and update the outreach plan adopted under this section.

6-31 SECTION 19. Section 825.602(b), Government Code, is amended
6-32 to read as follows:

6-33 (b) The retirement system shall provide retirement benefits
6-34 counseling for individual members:

6-35 (1) in different geographic regions of this state,
6-36 including regions outside of Austin; and

6-37 (2) in person or by phone, at the election of the
6-38 member.

6-39 SECTION 20. Subchapter A, Chapter 1575, Insurance Code, is
6-40 amended by adding Section 1575.010 to read as follows:

6-41 Sec. 1575.010. INFORMATION REGARDING APPEALS. The trustee
6-42 shall develop and distribute informational materials to
6-43 individuals enrolled in a health benefit plan offered under the
6-44 group program regarding:

6-45 (1) the enrollee's right to appeal denial of an adverse
6-46 determination, as defined by Section 4201.002, to an independent
6-47 review organization;

6-48 (2) the procedures for appealing to an independent
6-49 review organization; and

6-50 (3) the assistance available from the trustee in
6-51 navigating the procedures for appeal.

6-52 SECTION 21. Section 1575.453, Insurance Code, is amended to
6-53 read as follows:

6-54 Sec. 1575.453. STUDY AND REPORT BY TRUSTEE. (a) The
6-55 trustee shall study the operation and administration of this
6-56 chapter, including:

6-57 (1) conducting surveys and preparing reports on
6-58 financing group coverages and health benefit plans available to
6-59 participants; ~~and~~

6-60 (2) studying the experience and projected cost of
6-61 coverage; and

6-62 (3) reviewing the group coverages provided to and the
6-63 benefits and services being received by individuals covered under
6-64 this chapter.

6-65 (b) The trustee shall report annually to the legislature and
6-66 the department ~~[at each regular session]~~ on the operation and
6-67 administration of this chapter.

6-68 SECTION 22. Subchapter A, Chapter 1579, Insurance Code, is
6-69 amended by adding Section 1579.010 to read as follows:

7-1 Sec. 1579.010. INFORMATION REGARDING APPEALS. The trustee
7-2 shall develop and distribute informational materials to
7-3 individuals enrolled in a health coverage plan provided under this
7-4 chapter regarding:

7-5 (1) an enrollee's right to appeal denial of an adverse
7-6 determination, as defined by Section 4201.002, to an independent
7-7 review organization;

7-8 (2) the procedures for appealing to an independent
7-9 review organization; and

7-10 (3) the assistance available from the trustee in
7-11 navigating the procedures for appeal.

7-12 SECTION 23. Section 1579.106, Insurance Code, is amended by
7-13 amending Subsection (c) and adding Subsection (d) to read as
7-14 follows:

7-15 (c) Every 12 [~~six~~] months the trustee shall submit to the
7-16 comptroller and the Legislative Budget Board a report regarding any
7-17 cost savings achieved in the program through implementation of the
7-18 prior authorization requirement of this section. The report must
7-19 cover the previous 12-month [~~six-month~~] period.

7-20 (d) In the report under Subsection (c), the trustee:

7-21 (1) may include any cost savings achieved in the
7-22 program for coverage of prescribed drugs that are not included in
7-23 the categories listed in Subsection (b) for which prior
7-24 authorization is required by a health coverage plan provided under
7-25 this chapter; and

7-26 (2) considering cost and medical necessity, shall
7-27 identify any categories of prescribed drugs in addition to the
7-28 categories listed in Subsection (b) for which requiring prior
7-29 authorization could achieve cost savings.

7-30 SECTION 24. The following provisions are repealed:

- 7-31 (1) Section 802.109(j), Government Code;
- 7-32 (2) Section 825.405(e), Government Code;
- 7-33 (3) Section 825.512, Government Code; and
- 7-34 (4) Section 1575.452, Insurance Code.

7-35 SECTION 25. Sections 824.601 and 824.602, Government Code,
7-36 as amended by this Act, apply only to a benefit payment made by the
7-37 Teacher Retirement System of Texas that becomes payable on or after
7-38 the effective date of this Act.

7-39 SECTION 26. (a) Except as provided by Subsection (b) of
7-40 this section, Section 825.0041, Government Code, as amended by this
7-41 Act, applies to a member of the board of trustees of the Teacher
7-42 Retirement System of Texas appointed before, on, or after the
7-43 effective date of this Act.

7-44 (b) A member of the board of trustees of the Teacher
7-45 Retirement System of Texas who, before the effective date of this
7-46 Act, completed the training program required by Section 825.0041,
7-47 Government Code, as that law existed before the effective date of
7-48 this Act, is only required to complete additional training on the
7-49 subjects added by this Act to the training program required by
7-50 Section 825.0041, Government Code. A board member described by
7-51 this subsection may not vote, deliberate, or be counted as a member
7-52 in attendance at a meeting of the board held on or after December 1,
7-53 2021, until the member completes the additional training.

7-54 SECTION 27. As soon as practicable after the effective date
7-55 of this Act, but not later than December 1, 2021, the Teacher
7-56 Retirement System of Texas shall implement the outreach plan
7-57 required by Section 825.601, Government Code, as amended by this
7-58 Act.

7-59 SECTION 28. This Act takes effect immediately if it
7-60 receives a vote of two-thirds of all the members elected to each
7-61 house, as provided by Section 39, Article III, Texas Constitution.
7-62 If this Act does not receive the vote necessary for immediate
7-63 effect, this Act takes effect September 1, 2021.

7-64 * * * * *