

Update

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TEACHER RETIREMENT SYSTEM OF TEXAS

Texas Legislature enacts new laws affecting TRS members, retirees

The 83rd Texas Legislature, Regular Session, adjourned at the end of May after enacting laws that will impact many TRS members and retirees.

The following briefly summarizes key TRS legislation. New laws will take effect on Sept. 1, 2013, unless otherwise noted. In upcoming months, TRS will provide additional information through email messages sent to members and retirees who have registered through *MyTRS* to receive legislative updates as soon as those updates become available. TRS will also provide information through our member newsletters, the TRS website located at www.trs.state.tx.us, and other publications to help members understand how these bills affect them.

Senate Bill 1 - Appropriations Bill

The state contribution rate increases from 6.4% to 6.8% for FY 2014 and FY 2015. TRS-Care is in part funded by the state at the statutory requirement of 1% of active member payroll. Contingency riders could direct more funding toward TRS-Care.

Senate Bill 1458 - TRS Benefits and Contributions

- **Raising contribution rates for members and requiring a new contribution from most school districts.** The increase in the contribution rates for TRS active members will be phased in. The rate will increase from the current 6.4% to 6.7% in fiscal year 2015, 7.2% in fiscal year 2016, and 7.7% in fiscal year 2017. Beginning Sept. 1, 2017, if the state contribution rate is reduced below 6.8%, the contribution rate for active employees will be reduced by an equivalent percentage.

Beginning in fiscal year 2015, school districts and charter schools that do not contribute to Social Security for TRS-eligible employees will contribute to TRS 1.5% of the statutory minimum salary for employees whose positions are subject to the state statutory minimum salary schedule in addition to the state contribution amount on compensation paid in excess of the state minimum amount. For employees whose positions are not subject to the state statutory minimum salary schedule, the employer will contribute 1.5% on the employees' total salary.

Beginning Sept. 1, 2015, if the state contribution rate is reduced below 6.8%, the employer contribution rates are reduced by an equivalent percentage.

- **Increase in normal-age retirement eligibility for non-vested members.** The bill increases the normal retirement age to age 62 with the Rule of 80 and at least five years of service credit for all members who are not vested as of Aug. 31, 2014 and new members on or after Sept. 1, 2014. A member is considered vested when he/she has five years of service credit. For purposes of this bill, the service credit must be currently credited with TRS as of Aug. 31, 2014; withdrawn service credit and unreported service credit that has not been reinstated or purchased in full by that date will not be used to determine a member's vested status.

All members vested as of Aug. 31, 2014, are not subject to the new requirements and will experience no change in normal-age retirement eligibility.

- **Cost-of-Living Adjustment (COLA).** Under the changes in contribution rates and retirement eligibility established in SB 1458, TRS becomes "actuarially sound" and can provide a 3% COLA, capped at no more than \$100 per month, for annuitants who retired on or before Aug. 31, 2004 or whose benefits are based on the death of a retiree or member who died on or before Aug. 31, 2004. The COLA will begin with the annuity payable for September 2013, which is paid in October of 2013. The annuitant must be living on Sept. 1, 2013 to be eligible to receive the COLA.

- **Modifications in TRS-Care health plan eligibility requirements (current retirees are not affected).** For individuals who take a service retirement on or after Sept. 1, 2014, the bill sets the minimum age of 62 to be eligible for TRS-Care 2 and 3*. All service retirees affected by this limitation will be able to choose TRS-

Care 2 or 3 when they turn 62 years of age. Eligibility requirements for participating in TRS-Care 1 were not changed by the bill.

* A service retiree is not subject to the new age requirements if the sum of the person's age and years of service credit is 70 or greater on or before Aug. 31, 2014; or if the person has at least 25 years of service credit on or before Aug. 31, 2014.

- **Decrease in member and DROP account interest rate.** The bill reduces the rate of interest paid to member and DROP accounts from 5% to 2%, beginning Sept. 1, 2014. The reduced rate will be applied prospectively and will not affect the amount of interest accrued to the date of the change.

House Bill 3357 - Administration and Benefits

The bill makes several administrative and technical changes to the TRS plan terms. The bill allows a retiree who has selected an optional annuity payment plan to increase to the standard annuity payment plan without regard to the relationship of the retiree to the beneficiary of the optional annuity. The bill did not change the plan term that requires the beneficiary's consent if a spouse or former spouse is the beneficiary or a court order from a court with authority over the marriage that orders or authorizes the retiree to make the change. The bill repeals the statutory requirement that TRS-ActiveCare must provide an ERS health care plan equivalent. It clarifies that regional education service centers and charter school employees can serve as trustees and vote in the election of TRS trustees.

Senate Bill 1812 - Junior Colleges Contributions

The bill limits state contributions to the pension plan for junior colleges and junior college districts to 50% of the creditable compensation of members whose duties are instructional or administrative and whose salaries may be fully paid from funds appropriated under the General Appropriations Act, whether the salaries are actually paid from appropriated funds. For TRS pension benefits, junior colleges and junior college districts must pay the state contribution amount on the remaining 50% of creditable compensation for instructional or administrative employees as well as 100% of the state contribution amount on all other TRS members employed by these entities. The bill also provides that the number of instructional and administrative employees for which the state must make contributions on creditable compensation may not be increased at a greater rate than the percentage growth in student enrollment.

Rule changes affecting surcharge trigger - Rule 31.41 and Rule 41.4

Pension Surcharge and TRS-Care Surcharge rules have been amended to align the 'trigger' for the surcharge(s) with the criteria measuring one-half time employment for retirees who retired after Jan. 1, 2011 and for disability retirees. The surcharges are no longer triggered by the retiree working in a TRS-eligible position, i.e., working one-half or more of the full-time load for 4½ months or more. Beginning Sept. 1, 2013, each report month a retiree who retired after Sept. 1, 2005, is working for a TRS-covered employer or a third-party entity for more than the equivalent of four clock hours for each work day in the calendar month, the employer will pay the Pension Surcharge. A work day for purposes of employment after retirement is every Monday through Friday in that calendar month, including holidays and days the employer is not open for business. The amount of the Pension Surcharge is a combination of the employee contribution rate (currently 6.4%) and the state contribution rate (6.8% for the 2013-2014 school year), for a total of 13.2% of the salary paid to that retiree in that report month.

The TRS-Care Surcharge will be triggered by the same criteria. If a retiree works for a TRS-covered employer or a third-party entity for more than the equivalent of four clock hours for each work day in that calendar month, the TRS-Care Surcharge will be due if the retiree participates in TRS-Care. The amount of the TRS-Care surcharge varies person-to-person based on the level of TRS-Care coverage. The employer may find the amount of the TRS-Care Surcharge due on an individual member by using the "View Employee Information" tool in TRAQS.

Beginning on Sept. 1, 2013, the effects of the amendments will include all of the following:

- Retirees can work the equivalent of four hours for every work day in that calendar month without forfeiting the annuity payment for that month and without triggering payment of a surcharge.
- A retiree's work that exceeds the equivalent of four clock hours for each work day in that calendar month will not only cause the retiree to forfeit the annuity for that month, but will also cause the employer to owe the surcharge(s) on the retiree's employment for that month.
- Employers will need to determine monthly whether surcharges are owed.

The law has not changed regarding the amount of time a retiree may work without forfeiting a monthly annuity. Service retirees who retired after Jan. 1, 2011 who have not had a 12 full, consecutive calendar month break in service may work up to the equivalent of four hours for each work day in that calendar month without losing their monthly retirement annuity. Service retirees who retired on or before Jan. 1, 2011 may work without limit and without loss of monthly annuities. Only the employment of retirees who retired Sept. 1, 2005 or after may trigger payment of surcharges.

TRS-ActiveCare billing cycle and due date change effective September 2013

To date, TRS-ActiveCare claims have exceeded projections for the current plan year, and the most significant claims months are ahead. Historically, claims activity in the summer months is by far the highest in volume, cost, and volatility, making it very difficult to project. In addition, during the 83rd legislative session, Senate Bill 1484, relating to coverage for enrollees diagnosed with autism spectrum disorder, was passed and will go into effect Sept. 1, 2013. It is estimated that this legislation will have a significant fiscal impact on the program.

In an effort to ensure that adequate funds are available to assure timely payment of TRS-ActiveCare claims, the cycle of billing and due dates for premiums will change effective September 2013. Beginning with September coverage, participating entities will be invoiced the first working day of the month for premiums for that month's coverage and the remittance will be due to TRS on or before the 15th of that same month. Specifically, for August and September coverage:

August 2013 premiums:	Billed mid-August, due Sept. 6
September 2013 premiums:	Billed Sept. 3, due Sept. 13

The table of scheduled cut-off dates taken from pages 44-45 of the TRS-ActiveCare Administrative Guide has been revised with the new due dates for the remainder of the plan year and may be viewed at the TRS website (www.trs.state.tx.us/activecare) in the "Employers" section.

TRS-ActiveCare appreciates your cooperation to help maintain the solvency of the program. For more information, TRS has posted FAQs on the billing cycle and due date changes on its website, which may be found at www.trs.state.tx.us/activecare.

Deadline approaching to purchase service credit at lower cost

Changes to TRS laws effective Sept. 1, 2011, increase the cost to purchase certain types of service credit; however, a two-year window ending Aug. 31, 2013*, was established to allow eligible members to purchase service credit at the old, lower cost, provided certain requirements are met.

Two of the types of service credit affected by this legislation include unreported service and/or substitute service. To purchase the service credit at the old cost, the service must have been rendered prior to Sept. 1, 2011. The two-year window also applies to paying the lower cost to establish unreported compensation received prior to Sept. 1, 2011. Eligible members wishing to purchase either of these types of service credit or compensation credit at the old cost must submit all required verification forms to TRS and make payment in full or file a completed installment agreement with TRS by Aug. 31, 2013*. This means the completed verification forms must be received at the TRS offices by the deadline; incomplete verification forms or verification forms received by TRS after Aug. 31, 2013*, will not be accepted in order to purchase service credit or establish compensation credit at its old cost. Form TRS 22I (Verification of Service and Salary) should be used to verify unreported service and/or compensation, and form TRS 22S (Verification of Substitute Service and Salary) should be used to verify substitute service; both of these forms can be found on the TRS website (www.trs.state.tx.us).

It is important that reporting entity officials make every effort to complete verification forms quickly for the types of service credit and compensation credit addressed above and return the forms to the employees or members so that TRS will receive the forms on or before Aug. 31, 2013*. Failure to do so could result in substantial cost increases for members wishing to purchase service and/or compensation credit. Verification forms may be submitted to TRS by the member by mail or fax using the fax number (512) 542-6597.

*** Please Note:** *The legislative deadline to purchase eligible service credit at its old cost is Aug. 31, 2013; however, since Aug. 31, 2013, falls on the Saturday of Labor Day weekend, TRS will accept bill requests including any required, completed verification documents, payments in-full, and completed installment agreements through Tuesday, Sept. 3, 2013.*

A new Application for Refund form (TRS 6) is coming!

In June 2012, TRS launched Phase I of the Electronic Communications with Reporting Entities project, which gave TRS reporting officials the ability to certify employment terminations for their employees online via the TRAQS applications. As a result, the electronic data submissions have expedited the member's refund application process and saved the reporting entities time and paperwork.

Since Phase I of this project has been a success, TRS is now ready to move on to the next phase, which is to eliminate the written employer certification from the member's refund application. All employer certifications as of July 1, 2013 will be done online via TRAQS. A new *Application for Refund* form (TRS 6) is being developed. TRS will notify all reporting officials via email when the new form is made available on the TRS website.

Optional Retirement Plan (ORP) - form update

In an effort to streamline the Optional Retirement Plan (ORP) election and, if applicable, refund process, the "Election to Participate in the Optional Retirement Program" form (TRS 28) and the "Application for Refund for Participants in the Optional Retirement Program" form (TRS 29) have been combined into a single "Election to Participate in Optional Retirement Program and/or Refund" form (TRS 28). The combined form will be more efficient for the participants, reporting entities and TRS.

The new TRS 28 form may be accessed from the TRS website under the section titled "TRS Forms for Active Members." Please begin using the new TRS 28 form immediately.

Community/Junior College report

Senate Bill 1812 limits state contributions for public junior colleges and public junior college districts to 50 percent of the creditable compensation for employees who are instructional or administrative and whose salaries may be fully paid from funds appropriated under the General Appropriations Act, whether the salaries are actually paid from appropriated funds. Using the Community/Junior College (CJ) report through TRAQS, reporting entities must remit the state contribution amount monthly on the remaining 50% of creditable compensation for instructional and administrative staff as well as 100% of the state contribution amount on all other members. The specific details of the reporting requirements have not yet been determined and will be communicated to reporting entities in the near future. The bill also provides that the number of instructional and administrative employees for which the state must make contributions on creditable compensation may not be increased at a greater rate than the percentage growth in student enrollment.

TRS will certify to the comptroller the names of any reporting entities that have failed to remit employer contributions per Senate Bill 1812. The comptroller will then be required to withhold the amount certified, plus interest, from the first state money payable to these reporting entities.

Legislative change regarding reporting member position

Teacher Retirement Law Section 825.504 and TRS Rule 25.28 require employers to report the employment agreement (contract information) for each member in each school year. Additionally, Teacher Retirement Law 825.515 stipulates that employers are to inform TRS of the type of position held by each member, identifying members as one of the following:

- 01 - Administrative/Professional
- 02 - Teacher/Full-Time Librarian
- 03 - Support Staff
- 04 - Bus Driver
- 05 - Full-Time Counselor/Nurse
- 06 - Peace Officer

Until now, TRS has not made this a required element in reporting; however, beginning with the 2013-2014 school year, legislative changes require that the MD40 Contract and Position Record be mandatory for each TRS-covered employee. Previously, a lack of a current MD40 resulted in a "Warning" on the Regular Payroll report reminding the reporting entity to submit the information. This "Warning" did not prevent the Regular Payroll report from reaching "Complete" status.

With the September 2013 reports and beyond, any member reported on the Regular Payroll report who does not have a current MD40 on file for the current school year will result in an “Error” that will cause the Regular Payroll report to “Reject.” In order to bring the Regular Payroll report to “Complete,” an MD40 must be submitted and accepted through the Member Data report for the member(s) with the “Error Notice.”

As stated in the May 2013 *Update*, a reporting entity may submit MD40s either with the Member Data report for the month an employee begins a new contract or work agreement for the school year or with the September Member Data report, whichever is most convenient for the reporting entity. As long as all MD40s are submitted and accepted by TRS by the time the September Regular Payroll report is submitted, reports should process smoothly.

Please note that while recently passed legislation requires employers to provide TRS with the work email addresses of members, this requirement will be implemented through new programming and processes developed through the TEAM project. No action on this item is required by your reporting entity at this time.

Contribution rate changes for 2013-2014

Beginning Sept. 1, 2013, the following state and member contribution rates will be in effect:

- Member Contribution Rate = 6.4% (no change)
- State Insurance Contribution Rate = 1%
 - ♦ Affects Federal TRS-Care Report
- State Retirement Contribution Rate = 6.8%
 - ♦ Affects
 - Federal Fund/Private Grant
 - Statutory Minimum
 - Educational General/Local Fund
 - Non-Educational/General Fund
 - Reporting Entity Payment for New Members
 - Pension Surcharge

Proposed rule amendment for adjunct faculty

In response to concerns expressed by both employers and members regarding recently adopted amendments to the membership eligibility rules for higher education faculty that require employment expressed in semester or credit hours to be converted to clock hours in determining membership eligibility, TRS is proposing a further amendment to the rule addressing adjunct faculty. The amendments to Section 25.1 are posted with the *Texas Register* for public comment before the amended rule is presented to the TRS Board of Trustees for adoption at its July 2013 meeting. The proposed rule is also posted on the TRS website.

The proposed amendments carve out a minimum standard of 20 hours per week for adjunct faculty members. Using the conversion ratio of two clock hours for every hour of instruction or time in the classroom or lab, the 20-hour minimum standard will allow adjunct faculty to teach three three-hour classes per semester without becoming membership eligible. An adjunct faculty position is defined in the proposed amendments as an instructor position that is filled on a semester-by-semester basis, compensated on a per class basis; and the duties include only those directly related to the instruction of students.

Please take the time to review the proposed amendment and submit comments to TRS if you have concerns or find the proposed changes helpful.

In-District charter schools

Legislation passed during the regular session of the 83rd Legislature provides additional guidance regarding the establishment of in-district charter schools. If your employer issues a charter for an in-district or campus charter school, the following guidelines are to be followed in reporting the employees of the school:

1. If a school district creates and manages the in-district/campus charter school, TRS-eligible employees of the school must be reported through the school district’s monthly reports.

2. If a school district contracts with an open enrollment charter school or another school district to operate the in-district/campus charter school, the TRS-eligible employees of the in-district charter must be reported by the entity that employs the employees. For example, if your school district contracts with a neighboring school district to operate the in-district/campus charter school, the employees of the school must be reported by the neighboring school district that operates the school. If you contract with an open-enrollment charter school to operate the campus, the open-enrollment charter school must report the employees that it employs on that campus.

3. If a school district contracts with an entity other than another school district or an open enrollment charter to operate the in-district/campus charter school and to employ the employees assigned to that campus, the employees of the in-district charter are not eligible for TRS and should not be reported to TRS by any reporting entity.

Worker's compensation

TRS recently adopted amendments to its rule regarding creditable compensation that address how worker's compensation paid as temporary wage replacement pay will be credited by TRS. The changes to Section 25.21(c) (11) provide that temporary wage replacement pay is creditable by TRS if it is reported or verified to TRS by the end of the school year following the school year in which it was paid and member contributions that are owed on the compensation are paid in full by that time.

If the temporary wage replacement pay is not reported or verified to TRS and the member contributions paid in full by the end of the school year following the school year in which the pay was received, the member may verify the pay as unreported compensation. Unreported compensation must be established by paying actuarial cost of the additional benefits associated with the compensation credit. The timelines for verifying the temporary wage replacement pay as unreported compensation were also amended in Section 25.47 to provide that the five-year deadline does not begin to run until the end of the school year following the school year in which the compensation was paid.