JUNE 2019 VOLUME 38 | NUMBER 6

TEACHER RETIREMENT SYSTEM of TEXAS UPDATE

UPDATES ON ACTION FROM THE TEXAS LEGISLATURE

The Texas Legislature recently approved legislation during the 86th legislative session that impacts TRS active members and retirees. Most notably the legislature passed **SB 12 by Senator Joan Huffman and Representative Greg Bonnen – the TRS Pension Reform bill**. It provides for gradual contribution increases from the state; school districts, charter schools, and regional education service centers; and active employees to make the pension fund actuarially sound. As a result, most members who retired on or before Dec. 31, 2018 will receive a one-time supplemental payment in either the amount of their monthly annuity payment or $2,000, whichever is less.

Below is some information to help answer any questions you may receive from your employees or retirees.

Active Employees

Changes to Employee Contribution to TRS Pension Fund

SB 12 will require an increase in active employees' contribution to their pension fund at TRS. While raises for certain employees are expected as a result of HB 3, active employees will not have an increase in their contributions this upcoming biennium. The increases will take effect on Sept. 1, 2021. It will increase from the current 7.7 percent of salary to 8 percent in 2021 and finally 8.25 percent on Sept. 1, 2023. There are no changes to employees' benefit calculation.

Calendar Date	State	Public Education Employer	Active Employee
Sept. 1, 2021	7.75%	1.70%	8.00%
Sept. 1, 2022	8.00%	1.80%	8.00%
Sept. 1, 2023	8.25%	1.90%	8.25%
Sept. 1, 2024	8.25%	2.00%	8.25%

Retirees

One-Time Supplemental Payment

State law requires the pension fund to be actuarially sound in order for the Texas Legislature to consider a benefit enhancement, such as a supplemental payment. As a result of increased funding in SB 12, the pension fund becomes actuarially sound immediately. All eligible members retired as of Dec. 31, 2018 will receive an extra annuity check in either the matching amount of their monthly annuity payment or $2,000, whichever is less.

Am I eligible for the one-time supplemental payment?

If you retired on or before Dec. 31, 2018 or you are a beneficiary of a retiree or active member and the retiree or active member died on or before Dec. 31, 2018 and meet the criteria of the legislation, including being eligible to receive your annuity payment the month before TRS issues the one-time supplemental payment, you will receive the extra annuity payment. Please contact TRS or refer to the website or TRS Facebook page.

1-800-223-8778 www.facebook.com/TRSofTexas www.trs.texas.gov

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One-Time Supplemental Payment continued

When will I get the payment?

Please refer to the TRS website or TRS Facebook page for updates on when the check will be issued. TRS anticipates it will be issued in early fall 2019.

The following will not receive a one-time supplemental payment:

- If you retired on or after Jan. 1, 2019, or you are a beneficiary of a retiree or active member and the retiree or active member died on or after Jan. 1, 2019, you will not receive a one-time supplemental payment.
- Disability retirees with less than 10 years of service credit.
- Beneficiaries receiving a fixed $250 or $350 annuity payment.
- Other exclusions may apply. Please contact TRS.

TRS-Care: Retiree Health Care
The legislature provided additional funding through HB 1 to sustain the retiree health care plan through 2021. Retirees and dependents will not see a premium increase for TRS-Care in 2020.

TRS will hold in-person meetings across the state for retirees to learn more about how to make the most of their health benefits. Look for invitations later this summer.

The legislature did not make any changes to TRS-ActiveCare.

Actives and Retirees

Out-of-Network Health Care Balance Billing
Balance billing occurs when an out-of-network provider (e.g., a doctor or hospital) bills you for the difference between their charge and what you and your health plan have already paid under the terms of your health coverage. SB 1264 prohibits balance billing for the following types of services generally described below.

Services with Balance Billing Protections

- emergency care provided at certain out-of-network facilities,
- out-of-network providers at in-network facilities,
- out-of-network diagnostic imaging*, and
- out-of-network lab services*.

*The prohibition on balance billing for imaging and lab services only applies if provided in connection with a service provided by an in-network provider. This protection may not apply if the participant chooses, after advance written notice, to receive services from one of these providers.

For the services covered by SB 1264, participants will not need to initiate the process to resolve provider disputes concerning payments for health services. More information will be provided in *The Pulse* – your source for TRS health care news.

TRS Appeals
HB 2629 requires the TRS Board of Trustees to adopt new rules governing the appeal of a final administrative decision of TRS. These rules will provide that the active employee or retiree be afforded the same time to file an appeal as TRS has to issue a decision. This will apply to appeals made on or after January 1, 2020.

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Employers

Changes to Employer Contribution to TRS Pension Fund

SB 12 will require an increase in employer contributions by school districts, charter schools, and regional education service centers to the TRS pension fund, regardless of whether the employer participates in Social Security.

Calendar Date	State	Public Education Employer	Active Employee
Current Rates	6.80%	1.50%*	7.70%
Sept. 1, 2019	7.50%	1.50%	7.70% (no change)
Sept. 1, 2020	7.50%	1.60%	7.70% (no change)
Sept. 1, 2021	7.75%	1.70%	8.00%
Sept. 1, 2022	8.00%	1.80%	8.00%
Sept. 1, 2023	8.25%	1.90%	8.25%
Sept. 1, 2024	8.25%	2.00%	8.25%

**Prior to SB 12, only public education entities that did not contribute to Social Security were required to pay the 1.50 percent contribution. Beginning Sept. 1, 2019, all public education employers will contribute the 1.50 percent.*

Public School Finance Reform

The legislature passed HB 3, which provides major revisions to school finance in Texas. Please refer to the Texas Education Agency for implementation notices sent to districts.

Under HB 3, open-enrollment charter schools and districts of innovation will be required to pay the state's contribution to the pension fund on an employee's salary that would be above the statutory minimum salary schedule for that employee if the employee worked for a school district subject to the minimum salary schedule.

TRS will provide more information in the *July Update* regarding this change and other issues relating to HB 3.

Changes to 403(b) Certification & Registration Program

As a result of HB 2820, effective Sept. 1, 2019, TRS will no longer certify 403(b) companies nor will TRS maintain a list of registered 403(b) investment products. Products will continue to be regulated by the Texas Department of Insurance, the Texas State Securities Board and applicable federal agencies.

The bill maintains some requirements for school districts and charter schools regarding 403(b) investment products. School districts and charter schools are encouraged to review the legislation and visit with their own counsel to determine what remaining provisions of the law apply.

FALL WORKSHOPS SCHEDULED

TRS will hold half-day workshops in all 20 Education Service Center regions this fall, from mid-September through mid-November. These workshops will discuss the implementation of any recent legislation that impacts TRS reporting. Additionally, we will touch on common reporting issues that reporting entities are encountering.

All workshops will take place from 9 a.m.- noon at each location. Each attendee must register separately.

Please visit our RE Portal Training page to view the workshop schedule and register to attend.

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TRS COMPACT WITH TEXANS

TRS is committed to achieving the highest levels of customer satisfaction by delivering services consistent with our mission and in a manner that actively encourages honesty, integrity and ethical behavior among our employees.

The TRS Compact with Texans website allows TRS' members and retirees to have an easier way to communicate with TRS regarding the quality of services they receive from us.

A member or retiree may send their concerns directly and immediately by either emailing customer.relations@trs.texas.gov; or, by filling out the customer communications fillable form to share their concerns with TRS without ever leaving the site. A link to the TRS Compact with Texans website can be found at the bottom of the home page on the TRS website (www.trs.texas.gov).

Customer communications, including both complaints and concerns, are received by a knowledgeable representative who will respond to you by telephone, letter or email in a timely manner. The Customer Relations unit coordinates, assists with and follows up on complaint resolution within the agency. We consider a complaint as a communication that involves a dissatisfaction with TRS' actions or inaction in service. Most importantly, TRS strives to acknowledge all communications within five business days of receipt. Our response and resolution of your concerns remains a top priority here at TRS.

REPORTING DUAL CREDIT COURSE WORK TO TRS

Dual credit courses allow students to earn credit for high school and college simultaneously. The employee teaching the course often performs all of the dual credit duties at one reporting entity (RE); however, the employee may be paid by the Independent School District (ISD) and college. The following guidelines must be utilized when reporting dual credit:

Employment After Retirement (ER)

A TRS retiree may teach a dual credit course. The RE where the work is performed will report the retiree's time worked and compensation each reporting period.

For example, if the dual credit class is taught at the ISD and no work is being performed at the college, but the college pays the retiree directly, then:

1) the ISD will need to report the hours and days the retiree worked while teaching the dual credit course, and

2) the college will report the pay. If the retiree did not perform other work at the college, then the college must enter a 'Zero Days Reason Code' for the system to accept the pay.

In this example, if the retiree exceeds half time under the ISD in any report period and no work is being performed at the college, then pension and TRS-Care surcharges are not due by the college and are the sole responsibility of the ISD.

If the retiree performs any additional duties at the ISD or college unrelated to the dual credit course, the additional time worked must be reported by the entity where the work is performed.

Active Employees

Any employee that has not retired from TRS will be reported on the Regular Payroll (RP) report by both entities. The RE where the work is performed will report the time worked each report period. Membership eligibility will need to be reviewed and established by the RE where the work is performed as well. If the employee meets membership eligibility, contributions must be withheld and reported.

As an example, if the dual credit class is taught at the ISD and no work is being performed at the college, but the college pays the employee directly, then:

1) the ISD will need to report hours/days associated with the dual credit course, and

2) the college will report the pay. If the employee did not perform other work at the college, then the college must enter a 'Zero Days Reason Code' for the system to accept the pay.

If the employee performs any additional duties at the ISD or college unrelated to the dual credit course, the additional time must be reported by the entity where the work is performed.

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REPORTING MEMBERS SUBJECT TO IRS SALARY CAP

Some highly-paid members may have their annual creditable compensation limited in accordance with Section 401(a)(17) of the Internal Revenue Service Code. Once an employee who is subject to the salary cap has reached the compensation limit for the fiscal year, an RE may not report further creditable compensation or contributions.

The employer is still required to report Total Gross compensation and days and hours worked. REs can only use the 'Zero Days Reason Code' when a person truly worked zero days in a calendar month and was not on any type of paid leave. The RE Portal has validations that will notify an RE if a person is or is not subject to the IRS salary cap. Also, you may utilize the Employees tab in the RE Portal to access a list of employees at your RE who are within 85 percent of the salary cap and are subject to it. If you have an employee who is within 85 percent of the salary cap, but they do not appear on that list, you can safely presume they are not subject to the IRS limit. You may contact your reporting coach for verification if you wish. If you believed someone to be subject to the salary cap, but they are not, and you stopped reporting eligible compensation and contributions for them, corrections may be made in certain circumstances. As long as the person is still employed with your RE, you can collect contributions for the unreported salary for the current fiscal year and one prior fiscal year and submit RP25s to report this. Anything earlier than the prior fiscal year is not eligible to be reported as an RP adjustment. The member must have the earlier compensation verified and can purchase the compensation credit if desired.

ANNUAL ED40 SUBMISSIONS

Please be reminded that ED40s are to be submitted as follows:

(1) in July for employees who have contracts or work agreements that begin in July,

(2) in August for employees who have contracts or work agreements that begin in August,

(3) in September for employees who have standard (September through August) contracts or work agreements,

(4) during the year when new employees are added to payroll (an ED20 record should also be sent in the same month), and

(5) any time a person begins a new position, including summer school.

If a person performs multiple jobs under different position codes, an ED40 should be submitted for each position code. However, if multiple jobs fall within the same position code (01, 02, 03, 04, 05, 06, 07, 09), only one ED40 record may be submitted per position code. In that instance, the ED40 record should include information on the employee's primary position.

Previously, TRS had communicated that ED40s may also be submitted in September for employees whose contract began in July or August. However, this is no longer permitted. If the RE does not submit the new contract in the month in which the contract begins, the days and hours an employee worked that are reported on the RP20 will cause errors because a current contract is not on file.

Additionally, please remember that an ED90 must be submitted when a person terminates all employment from an RE. The ED90 should be submitted in the report month in which the person will appear on the RP report for the final time.

PENALTY INTEREST ON PRIOR MONTH ADJUSTMENTS

TRS' goal is to minimize Penalty Interest (PI) charges in situations where the employer is reallocating an employee's salary from one funding source to another. In order to accomplish this, TRS recently enhanced the RE Portal to change the way PI is calculated. For records reported for the current report month (RP20 and ER20), PI will continue to be assessed if the TEXNET deposit is submitted after the monthly due date.

The updates to PI calculation are as follows:

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PENALTY INTEREST ON PRIOR MONTH ADJUSTMENTS continued

Adjustments submitted on a regular monthly report (RP or ER report)

- Prior month adjustment records (RP25) included on a regular month's RP report that are reporting additional salary and contributions will incur PI on any member contributions based on the month the record is adjusting. This is actually not a change from the current process.
- Prior month adjustments records (RP25, ER25, ER27) included on a regular month's RP or ER report that are adjusting employer contributions will incur PI only if the TEXNET deposit for the report month is sent after the due date. Thus, if the RE sends the TEXNET for the report month that the adjustment record is for is sent on time, no PI will be charged.*

    - o **Example 1:** In February, the employer reported on the RP20 that an employee's salary was paid with local funds. The employer later determined that the salary should be paid with federal funds. An RP25 is submitted on the May RP report to report the Federal Fund Compensation, Federal Fund Contribution, and Federal TRS Care Contribution. The May TEXNET deposit was submitted by the June 6 deadline, thus no PI is charged.
    - o **Example 2:** A TRS retiree was left off the January report. The RE creates an ER25 and submits it on the April ER report. The April TEXNET for the ER report was submitted by the May 6 deadline, thus no PI is charged.

Adjustments submitted on a separate adjustment report (RP Adjustment or ER Adjustment reports)

- Prior month adjustments included on a separate RP Adjustment report rather than on the regular monthly report will incur PI on any member contributions based on the month the record is adjusting. This is actually not a change from the current process.
- Employer contribution adjustments submitted on an RP Adjustment report or ER Adjustment report will not incur PI as long as the TEXNET is submitted within one business day following the completion of the RP or ER Adjustment report.* If the TEXNET is not submitted within one business day after the completion of the adjustment report, PI will be charged from one business day until deposit is received by TRS.

    - o **Example:** RE completed a January RP Adjustment report on 2/15/19. They have until the following business day to submit their TEXNET deposit to TRS without incurring a PI on those employer contributions.

- If the RE completes the regular monthly report prior to the due date, and the RE submits an adjustment report but the current month due date has not yet passed, the TEXNET for both reports is due by the normal due date.

    - o **Example 1:** the May RP report is completed by June 2. The RE realizes they need to submit adjustments to May on an RP Adjustment report and completes this adjustment report by June 4. The TEXNET for both the May RP and the May RP Adjustment report is sent by the due date of June 6, so no PI is assessed.
    - o **Example 2:** the May ER report is completed by June 8. The RE realizes they need to submit adjustments to May on an ER Adjustment report and completes this adjustment report by June 9. The TEXNET for both the May ER and the May ER Adjustment report is sent after the due date of June 10, so PI is assessed on the late TEXNET deposit.

**The settlement date of the TEXNET deposit is generally the business day after the date the deposit is submitted through the comptroller. If the settlement date is changed to a later business day the deposit will be considered late.*

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WHAT IS A VACANT POSITION?

As a follow up to our March 2019 article clarifying the TRS definition of a substitute, we would like to address how the term is defined as it relates to vacant positions at TRS covered employers.

For TRS purposes, a "vacant" position is either a newly-created (permanent or short-term) or existing unfilled position.

For example, if an RE needs a person to monitor testing and brings a person in to do this job, they have effectively created (and then filled) a vacancy.

In another example, if an employee resigns from a position, that position would be considered vacant until a permanent replacement has been hired into the position and begins work.

An active employee's (non-TRS retiree) employment in a vacant positon must be evaluated according to TRS membership eligibility rules. This means if the assignment is indefinite—does not have a specific ending date or is "as-needed"—that position could be TRS-eligible even if the employee only ends up working only a short time in that vacancy.

Paying someone the daily substitute rate of pay does not mean they can be classified as a substitute if they are the employee filling that job and are not replacing an absent employee.

HELPING RETIRING EMPLOYEES TRANSITION FROM TRS-ACTIVECARE TO TRS-CARE

It's the end of the school year, which for TRS, means retirement season. If a TRS member retires from the Texas public school system that participates in TRS-ActiveCare, and is eligible for retiree coverage, they enroll in TRS-Care. Their coverage cannot begin before the retirement date takes effect. Here's what you need to know about employees who retire at the end of the school year:

Retiring Before the End of the Instructional Year

Employees retiring on or before the end of the school year may enroll in TRS-Care immediately to avoid a lapse of coverage. For example, if the last day of the instructional year is May 24, and the employee ends employment on May 22, they would need to have their TRS-Care coverage take effect June 1. Eligible retiring TRS members fill out an initial enrollment application – TRS 700A (for those not eligible for Medicare) or TRS 700M (for those eligible for Medicare) – at the time of retirement to indicate their coverage start date. Retiring employees with Medicare-eligible spouses or dependents will need the 700M, even if they are not eligible for Medicare yet.

Retiring After the End of the Instructional Year

If an employee resigns after the last day of the instructional year, they are entitled to keep TRS-ActiveCare through June, July and August. For example, if the last day of the instructional year is May 24 and the employee submits their resignation to be effective on May 25, they would be eligible to keep their TRS-ActiveCare coverage through August 31, or enroll in TRS-Care with a June 1, July 1, August 1, or September 1 effective date. Retiring employees can defer TRS-Care for up to 90 days. In this scenario, school districts are required to pay minimum contributions for the employee's premiums, but must coordinate their TRS-ActiveCare end dates and TRS-Care start dates to avoid a lapse in coverage.

Do Lump Sum Payouts Affect TRS-Care?

Some employees will receive a lump sum payout at the end of their contract, while others choose to spread out their payment through the summer. Neither choice affects TRS health care coverage. If an employee would like to stay enrolled in TRS-ActiveCare through the summer, they will need to make a payment arrangement with their district to continue paying their share of the premiums.

What if my district doesn't participate in TRS-ActiveCare?

Departing employees may be eligible to continue coverage through their district. The same eligibility rules apply to them per Texas Education Code Section 22.004.