

TITLE 34. PUBLIC FINANCE
PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS
CHAPTER 25. MEMBERSHIP SERVICE

SUBCHAPTER J. CREDITABLE TIME AND SCHOOL YEAR

34 TAC §25.131

The Teacher Retirement System of Texas (TRS) proposes to amend §25.131 (relating to Required Service) under Subchapter J (relating to Creditable Time and School Year) of Chapter 25 in Part 3 of Title 34 of the Texas Administrative Code.

BACKGROUND AND PURPOSE

Most TRS active members earn a year of service credit by working at least 90 days in a school year, but there are alternative methods to earn a year of service credit through active employment. For instance, an active member may, in their final year before retirement, earn a year of service credit by working the full fall semester in accordance with their employer's calendar if the employer works on a semester-by-semester basis. Members may only earn a year of service credit in this way in their final year before retirement, and they may do so regardless of whether they work for 90 days during that semester. This is called the "final fall semester" rule.

Separately, members who are regularly scheduled to work fewer than five days per week may earn a year of service credit if they work at least four and one-half months, and those four and one-half months include at least eight days during four separate months and five days during a fifth month. This is called the "nonstandard workweek" rule.

But it is not wholly clear under current TRS rules whether a member may simultaneously use the final fall semester rule and the nonstandard workweek rule to earn a year of service credit in their final year before retirement while being scheduled to work less than five days per week.

This issue has become more and more pressing as an increasing number of Texas schools are moving to four-day workweeks, and TRS' systems now more readily identify individuals who are working nonstandard workweeks at the time of retirement.

To resolve these issues, TRS proposes to amend §25.131 to provide that, for school years beginning with the 2025-26 school year, members who are regularly scheduled to work less than five days per week may earn a year of service credit in the final year prior to their retirement if the member is working in a membership-eligible position and the member works or receives paid leave for a full fall semester in accordance with the employer's calendar.

In addition, the amendments clarify that a member who meets the above requirements will be considered to have worked a full fall semester in accordance with their employer's calendar if the member works or receives paid leave for each day the member is required to work during that semester even if the employer's calendar includes additional workdays on which the member is not required to work.

Lastly, the amendments provide that a member may only earn service credit under the non-standard workweek rule, in their final fall semester or otherwise, if the member is regularly scheduled to work fewer than five days per week for at least two weeks per month in accordance with the member's contract or work agreement with their employer.

Proposed amended §25.131 also makes nonsubstantive changes for clarity, style, and conforming purposes.

If adopted, TRS intends for proposed amended §25.131 to become effective on September 1, 2025.

FISCAL NOTE

Don Green, TRS Chief Financial Officer, has determined that for each year of the first five years the proposed amended rule will be in effect, there will be no foreseeable fiscal implications for state or local governments as a result of administering the proposed amended rule.

PUBLIC COST/BENEFIT

For each year of the first five years the proposed amended rule will be in effect, Mr. Green also has determined that the public benefit anticipated as a result of adopting the proposed amended rule will be clarification for TRS members regarding whether the nonstandard workweek rule and final fall semester rule may be used simultaneously.

Mr. Green has also determined that the public will incur no new costs as a result of complying with the proposed amended rule. The proposed amended rule implements TRS' current interpretation of existing §25.131 and will not prevent members who can earn membership service under the current rule from earning service credit under the proposed amended standards.

ECONOMIC IMPACT STATEMENT AND REGULATORY FLEXIBILITY ANALYSIS

TRS has determined that there will be no adverse economic effect on small businesses, micro-businesses, or rural communities as a result of the proposed amended rule. Therefore, neither an economic impact statement nor a regulatory flexibility analysis is required under Government Code §2006.002.

LOCAL EMPLOYMENT IMPACT STATEMENT

TRS has determined that there will be no effect on local employment because of the proposed amended rule. Therefore, no local employment impact statement is required under Government Code §2001.022.

GOVERNMENT GROWTH IMPACT STATEMENT

TRS has determined that for the first five years the proposed amended rule is in effect, the proposed amended rule will not create or eliminate any TRS programs; will not require the creation or elimination of employee positions; will not require an increase or decrease in future legislative appropriations to TRS; will not eliminate any fees currently paid to TRS; will not create a new regulation; will not expand, limit or repeal an existing regulation; will not increase or decrease the number of individuals subject to the rule's applicability; and will not affect the state's economy.

TAKINGS IMPACT ASSESSMENT

TRS has determined that there are no private real property interests affected by the proposed amended rule, therefore, a takings impact assessment is not required under Government Code §2007.043.

COSTS TO REGULATED PERSONS

TRS has determined that Government Code §2001.0045 does not apply to the proposed amended rule because the proposed amended rule does not impose a cost on regulated persons.

COMMENTS

Comments may be submitted in writing to Brian Guthrie, TRS Executive Director, PO Box 149676, Austin, Texas 78714-0185. Written comments must be received by TRS no later than 30 days after publication of this notice in the *Texas Register*.

STATUTORY AUTHORITY

The proposed amended rule is proposed under the authority of Government Code §825.102, which authorizes the board of trustees to adopt rules for the transaction of the business of the board.

CROSS-REFERENCE TO STATUTE

The proposed amended rule implements the following statutes: Government Code §823.002, which provides that the board of trustees by rule shall determine how much service in any year is equivalent to one year of service credit.

§25.131. Required Service.

(a) Beginning on the first day of the 2011-2012 school year and thereafter:

(1) Except as provided in paragraph (3) of this subsection, a member must work in a TRS eligible position and be paid or receive paid leave from a TRS eligible position at least 90 days during the school year to receive a year of service credit.

(2) A substitute as defined in §25.4 of this title (relating to Substitutes) will be qualified for membership and granted a full year of service credit by working 90 or more days as a substitute in a school year, receiving pay for that work, and verifying the work as provided in §25.121 of this title (relating to Employer Verification) and §25.47 of this title (relating to Deadline for Verification) and paying the actuarial cost for the work as provided in §25.43 of this title (relating to Cost for Unreported Service or Compensation).

(3) In the last school year of service before retirement, a member serving in an eligible position, other than a position described by subsection (c) of this section, who worked and was paid for that work or received paid leave for less than 90 days in the school year but worked and was paid for that work or received paid leave for a full fall semester in accordance with the employer's calendar will receive a year of service credit. If the employer's calendar does not provide for semesters, a member must work and be paid for work in an eligible position or receive paid leave from an eligible position for at least 90 days in order to receive a year of service credit for the school year before retirement.

(4) Days that the employer is scheduled to be closed for business are not included in the 90 days of work required to receive a year of service credit unless the day(s) are paid holidays by the employer or the employee was charged with paid leave during the closing. Holidays that are not included in the required number of work days for an employee are not counted as paid holidays or days of paid leave.

(b) For school years prior to the 2011-2012 school year:

(1) Except as provided in paragraph (2), (3), or (4) of this subsection, a member must serve at least 4 1/2 months in an eligible position during the school year to receive credit for a year of service.

(2) A member who served less than four and one-half months in a school year but served a full semester of more than four calendar months will receive credit for a year of service.

(3) A substitute as defined in §25.4 of this title will be qualified for membership and granted a full year of service credit by rendering 90 or more days of service as a substitute in a school year and verifying the service as provided in §25.121 of this title and §25.47 of this title and paying deposits and fees for the service as provided in §25.43 of this title.

(4) An employee who enters into an employment contract or oral or written work agreement for a period which would qualify the employee for a year of service credit under the other provisions of this section but who actually renders only the amount of service specified in §25.4 of this title will receive credit for a year of service credit.

(c) Beginning on the first day of the 2025-2026 school year, a member who is serving in a membership eligible position and who, under the member's contract or work agreement, is regularly scheduled to work fewer than five days per week for at least two weeks per month may, in lieu of the requirements in subsection (a) of this section and except as provided by subsection (e) of this section, establish a year of service credit by working and receiving pay for that work or using paid leave for four and one-half months.

(d) Except as provided by subsection (e) of this section, the four and one-half month period described by subsection (c) of this section must include four full calendar months in which the member renders service and is paid or the member uses paid leave, for at least eight days and an additional five days of service rendered and for which the member is paid or paid leave used in another calendar month or months that do not include the four full calendar months.

(e) Beginning on the first day of the 2025-2026 school year, a member who is serving in a membership-eligible position described by subsection (c) of this section for an employer that provides for semesters in its calendar may, in the last school year before retirement, receive a year of service credit if the member worked and was paid for that work or received paid leave for a full fall semester in accordance with the employer's calendar.

(f) For the purposes of subsection (e) of this section, a member who is regularly scheduled to work fewer than five days per week for at least two weeks per month and otherwise meets the requirements of subsection (e) will be considered to have worked a full fall semester in accordance with the employer's calendar if the member works and is paid for that work or receives paid leave

for each day the member was required to work during that semester even if the employer's calendar includes additional workdays on which the member was not required to work.

(g)[(e)] Beginning on the first day of the 2015-2016 school year and ending on the last day of the 2024-2025 school year [thereafter], in lieu of the requirements in subsection (a) of this section, a member who is serving in a membership-eligible [membership-eligible] position and who is regularly scheduled to work fewer than five [5] days per week, may establish a year of service credit by working and receiving pay for that work or using paid leave, for four and one-half months. The four and one-half month period must include four full calendar months in which the member renders service and is paid or the member uses paid leave, for at least eight [8] days and an additional five days of service rendered and for which the member is paid or paid leave used in another calendar month or months but not to include the four full calendar months.

(h)[(d)] Except as otherwise provided in [~~subsection (a) of~~] this section regarding [; for] service credit granted in the school year in which the member retires, in no event may a member receive a year of service credit earlier than December 31.

CERTIFICATION

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.