

TITLE 34. PUBLIC FINANCE
PART 3. TEACHER RETIREMENT SYSTEM OF TEXAS
CHAPTER 27. TERMINATION OF MEMBERSHIP AND REFUNDS

34 TAC §27.6

The Teacher Retirement System of Texas (TRS) proposes to amend §27.6 (relating to Reinstatement of an Account) of Chapter 27 in Part 3 of Title 34 of the Texas Administrative Code.

BACKGROUND AND PURPOSE

In TRS' adopted four-year rule review published in the *Texas Register* on August 12, 2022 (47 TexReg 4859-4860), TRS identified §27.6 as a rule for future amendment. Based on that review, TRS now proposes to amend this rule.

The proposed amendments to §27.6 remove reference to purchasing withdrawn service at the previous reinstatement fee rate of 6% per year since the member's service was withdrawn. The opportunity to purchase at this fee rate expired in 2013.

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 of §27.6 by removing an expired provision from its text.

Mr. Green has also determined that the public will incur no new costs as a result of complying with the proposed amended rule as the proposed amendments simply remove a purchase option from the rule that has not been available under law since 2013.

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.

REQUEST FOR COMMENTS AND COST/BENEFIT INFORMATION

TRS requests written comments regarding the proposed amended rule. The comments may include information related to the costs, benefits, or effects of the proposed amended rule, including any applicable data, research, or analysis, from any person required to comply with the proposed amended rules or any other interested person.

Comments and information regarding the cost, benefit, and effect of the rule may be submitted in writing to Brian Guthrie, TRS Executive Director, PO Box 149676, Austin, Texas 78714-0185. Written comments and cost/benefit information 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 and Government Code §823.501, which establishes fees and requirements for a member to reinstate withdrawn service credit.

CROSS-REFERENCE TO STATUTE

The proposed amended rule implements the following statutes: Government Code §823.501, establishes fees and requirements for a member to reinstate withdrawn service credit.

§27.6. Reinstatement of an Account

(a) Except as provided in subsection (c)[(e)] of this section, any member who has withdrawn an account resulting in the cancellation of service credit may reinstate this account and receive credit for the canceled service by meeting the following requirements:

(1) resume membership service in the retirement system or establish eligibility under Government Code, Chapter 803 or 805;

(2) redeposit the amount withdrawn for the years during which the membership was terminated;

(3) ~~[except as provided by subsections (b) and (c) of this section,]~~ pay a reinstatement fee of 8 percent compounded annually in whole year increments from August 31st of the plan year in which the withdrawal occurred to the date of redeposit;

(4) reinstate all withdrawn accounts which resulted in the cancellation of service credit. A withdrawn account representing less than a creditable year of service must be reinstated only when it is necessary to combine the canceled service in the account with all other canceled service or with other eligible membership service or equivalent membership service performed in the same year to constitute a creditable year of service.

~~(b) [A member may establish withdrawn service credit by paying the deposits and fees required in subsection (c) of this section if:~~

~~(1) the member otherwise meets all eligibility requirements under §823.501, Government Code, as amended;~~

~~(2) all of the service for which credit is sought to be established was rendered before September 1, 2011, and TRS received an application to withdraw the credit on or before August 31, 2011; and~~

~~(3) the member makes payment for the withdrawn service credit, or enters into an installment agreement for payment, not later than August 31, 2013.~~

~~(c) To reinstate withdrawn service credit under subsection (b) of this section, the member shall redeposit the amount withdrawn for the years during which the membership was terminated and shall pay a reinstatement fee of 6 percent compounded annually in whole year increments from August 31 of the plan year in which the withdrawal occurred to the date of redeposit.]~~

~~[(d)]~~ Membership service credit and the accumulated contributions associated with the membership terminated by not qualifying for service credit for five consecutive years as provided in §822.003(a)(4), Government Code, may be restored by TRS when the person returns to TRS covered employment provided the accumulated contributions in the member account have not been withdrawn. If the accumulated contributions have been withdrawn, the member may reinstate the withdrawn account as provided in this section.

~~(c) [(e)]~~ A person who terminated membership in TRS by electing participation in the Optional Retirement Program (ORP) may not reinstate the years of terminated service credit in TRS for the purpose of establishing eligibility for retirement benefits under the Proportionate Retirement Program except as provided in §25.172(a) of this title (relating to ORP and TRS).

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.