

By: Pickett

H.B. No. 155

A BILL TO BE ENTITLED

AN ACT

relating to correcting errors in the distribution of benefits by a public retirement system.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 802.1024, Government Code, is amended by adding Subsections (a-1) and (a-2) and amending Subsection (b) to read as follows:

(a-1) On discovery of an error described by Subsection (a), the governing body of the public retirement system shall immediately give written notice of the error to the person receiving an incorrect amount of money. The notice must include:

(1) the amount of the correction in overpayment or underpayment;

(2) how the amount of the correction was calculated;

(3) a brief explanation of the reason for the correction;

(4) a statement that the notice recipient may file a written complaint with the governing body if the recipient does not agree with the correction;

(5) instructions for filing a written complaint; and

(6) a payment plan option if no future payments are due.

(a-2) Except as provided by Section 802.1025, the governing body of the public retirement system shall adjust future payments

1 or, if no future payments are due, recover an overpayment of  
2 benefits under Subsection (a) not later than the 90th day after the  
3 date the notice required by Subsection (a-1) is delivered by  
4 certified mail, return receipt requested.

5 (b) Except as provided by Subsection (c), a public  
6 retirement system:

7 (1) may correct the overpayment of benefits to a  
8 person entitled to receive payments from the system by the method  
9 described by Subsection (a) only for an overpayment made during the  
10 three years preceding the date the governing body of the system  
11 discovers or discovered the overpayment; ~~and~~

12 (2) may not recover from the recipient any overpayment  
13 made more than three years before the discovery of the overpayment;  
14 and

15 (3) may not correct or recover an overpayment if the  
16 governing body of the system did not adjust future payments or, if  
17 no future payments are due, recover the overpayment within the time  
18 prescribed by Subsection (a-2).

19 SECTION 2. Subchapter B, Chapter 802, Government Code, is  
20 amended by adding Section 802.1025 to read as follows:

21 Sec. 802.1025. COMPLAINT PROCEDURE. (a) Not later than the  
22 20th day after the date of receiving notice under Section  
23 802.1024(a-1), the notice recipient may file a written complaint  
24 with the governing body of the retirement system. The recipient  
25 shall include any available supporting documentation with the  
26 complaint.

27 (b) Not later than the 10th day after the date of receiving a

1 complaint under Subsection (a), the governing body of the  
2 retirement system shall respond in writing to the complaint by  
3 confirming the amount of the proposed correction or, if the  
4 governing body determines the amount of the proposed correction is  
5 incorrect, by modifying the amount of the correction. If the  
6 governing body modifies the amount of the correction, the response  
7 must include:

8 (1) how the modified correction was calculated;  
9 (2) a brief explanation of the reason for the  
10 modification; and  
11 (3) a payment plan option if no future payments are  
12 due.

13 (c) The governing body of the retirement system may not  
14 adjust future payments or recover an overpayment under Section  
15 802.1024 until the complaint under this section is resolved.

16 (d) A person whose complaint is not resolved under this  
17 section must exhaust any complaint procedure provided by the  
18 retirement system before filing a civil claim concerning the  
19 subject of the complaint.

20 SECTION 3. (a) Except as provided by Subsection (b) of  
21 this section, the change in law made by this Act applies to an  
22 underpayment or overpayment of benefits by a public retirement  
23 system regardless of whether the underpayment or overpayment was  
24 made before, on, or after the effective date of this Act.

25 (b) The change in law made by this Act does not apply to an  
26 overpayment that was resolved by an agreement made before the  
27 effective date of this Act between the governing body of a public

1 retirement system and the recipient of the overpayment.

2         SECTION 4. This Act takes effect immediately if it receives  
3 a vote of two-thirds of all the members elected to each house, as  
4 provided by Section 39, Article III, Texas Constitution. If this  
5 Act does not receive the vote necessary for immediate effect, this  
6 Act takes effect September 1, 2007.