

SENATE AMENDMENTS

2nd Printing

By: Pickett, Quintanilla, et al.

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 amending Subsections (a) and (b) and adding Subsections (a-1) and (a-2) to read as follows:

(a) Except as provided by Subsection (b), if an error in the records of a public retirement system results in a person receiving more or less money than the person is entitled to receive under this subtitle, the ~~[governing body of the]~~ retirement system shall correct the error and so far as practicable adjust any future payments so that the actuarial equivalent of the benefit to which the person is entitled is paid. If no future payments are due, the ~~[governing body of the]~~ retirement system may recover the overpayment in any manner that would be permitted for the collection of any other debt.

(a-1) On discovery of an error described by Subsection (a), the public retirement system shall as soon as practicable, but not later than the 90th day after the date of discovery, 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;

- 1 (2) how the amount of the correction was calculated;
2 (3) a brief explanation of the reason for the
3 correction;
4 (4) a statement that the notice recipient may file a
5 written complaint with the retirement system if the recipient does
6 not agree with the correction;
7 (5) instructions for filing a written complaint; and
8 (6) a payment plan option if no future payments are
9 due.

10 (a-2) Except as provided by this subsection and Section
11 802.1025, the public retirement system shall begin to adjust future
12 payments or, if no future payments are due, institute recovery of an
13 overpayment of benefits under Subsection (a) not later than the
14 90th day after the date the notice required by Subsection (a-1) is
15 delivered by certified mail, return receipt requested. If the
16 system does not receive a signed receipt evidencing delivery of the
17 notice on or before the 30th day after the date the notice is
18 mailed, the system shall mail the notice a second time by certified
19 mail, return receipt requested. Except as provided by Section
20 802.1025, not later than the 90th day after the date the second
21 notice is mailed, the system shall begin to adjust future payments
22 or, if no future payments are due, institute recovery of an
23 overpayment of benefits.

24 (b) Except as provided by Subsection (c), a public
25 retirement system:

26 (1) may correct the overpayment of benefits to a
27 person entitled to receive payments from the system by the method

described by Subsection (a) only for an overpayment made during the three years preceding the date the ~~[governing body of the]~~ system discovers or discovered the overpayment; ~~[and]~~

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

(3) may not recover an overpayment if the system did not adjust future payments or, if no future payments are due, institute recovery of the overpayment within the time prescribed by Subsection (a-2) or Section 802.1025.

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

Sec. 802.1025. COMPLAINT PROCEDURE. (a) Not later than the 20th day after the date of receiving notice under Section 802.1024(a-1) or, if applicable, the second notice under Section 802.1024(a-2), the notice recipient may file a written complaint with the retirement system. The recipient shall include any available supporting documentation with the complaint.

(b) Not later than the 30th day after the date of receiving a complaint under Subsection (a), the retirement system shall respond in writing to the complaint by confirming the amount of the proposed correction or, if the retirement system determines the amount of the proposed correction is incorrect, by modifying the amount of the correction. If the retirement system modifies the amount of the correction, the response must include:

(1) how the modified correction was calculated;

(2) a brief explanation of the reason for the

1 modification; and

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

4 (c) Subject to Subsection (d), if a complaint is filed under
5 this section, the retirement system may not adjust future payments
6 or recover an overpayment under Section 802.1024 until:

7 (1) the 20th day after the date the notice recipient
8 receives the response under Subsection (b), if the recipient does
9 not file an administrative appeal by that date; or

10 (2) the date a final decision by the retirement system
11 is issued, if the recipient files an administrative appeal before
12 the date described by Subdivision (1).

13 (d) If the retirement system has begun the adjustment of
14 future payments or the recovery of an overpayment under Section
15 802.1024(a-2), the system shall discontinue the adjustment of
16 future payments or the recovery of the overpayment beginning with
17 the first pay cycle occurring after the date the complaint is
18 received by the system. The system may not recommence the
19 adjustment of future payments or the recovery of an overpayment
20 until the date described by Subsection (c)(1) or (2), as
21 applicable. If a complaint is resolved in favor of the person
22 filing the complaint, not later than the 30th day after the date of
23 the resolution, the system shall pay the person the appropriate
24 amount.

25 (e) A person whose complaint is not resolved under this
26 section must exhaust all administrative procedures provided by the
27 retirement system. Not later than the 30th day after the date a

1 final administrative decision is issued by the retirement system, a
2 person aggrieved by the decision may appeal the decision to an
3 appropriate district court.

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

9 (b) The change in law made by this Act does not apply to a
10 correction, adjustment, or recovery of an overpayment that
11 commenced before the effective date of this Act or an overpayment
12 that was resolved by an agreement made before the effective date of
13 this Act between a public retirement system and the recipient of the
14 overpayment. A correction, adjustment, or recovery of an
15 overpayment that commenced before the effective date of this Act is
16 governed by the law as it existed immediately before the effective
17 date of this Act, and the former law is continued in effect for that
18 purpose.

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


FLOOR AMENDMENT NO. 1

ADOPTED

MAY 21 2007

By: 

Amend C.S.H.B. 155 as follows:


Secretary of the Senate

- (1) On page 1, line 12, replace “(a-1) and” with “(a-1),”.
- (2) On page 1, line 13, between “(a-2)” and “to”, insert the words “, and (d)”.
- (3) On page 2, line 3, after “Section 802.1025.” insert a new subsection (d) to read as follows: “(d) Subsections (a-1), (a-2), and (b)(3) apply only to a public retirement system located in county with a population of 650,000 or more that is located within 50 miles of an international border.”
- (4) On page 2, line 50, after “district court.” insert a new subsection (f) to read as follows: “(f) This section applies only to a public retirement system located in a county with a population of 650,000 or more that is located within 50 miles of an international border.”

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB155 by Pickett (Relating to correcting errors in the distribution of benefits by a public retirement system.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would require public retirement systems to issue notices to members in the event of an error in calculation of payments, would limit the period during which recoveries of overpayments could be made, and would establish a complaint process regarding errors in payment calculations. To the extent that limitations placed on the period during which a system has to recover funds associated with overpayments prevents recovery, systems would incur a loss. The extent of potential losses cannot be estimated.

Local Government Impact

The Texas County and District Retirement System reports that it could cost up to \$151,000 per year in legal fees and administrative costs to respond to complaints filed by error notice recipients.

Source Agencies: 323 Teacher Retirement System, 327 Employees Retirement System

LBB Staff: JOB, KJG, UP, JSc

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

March 16, 2007

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions & Investments

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB155 by Pickett (Relating to correcting errors in the distribution of benefits by a public retirement system.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

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LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

February 28, 2007

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions & Investments

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB155 by Pickett (Relating to correcting errors in the distribution of benefits by a public retirement system.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would require public retirement systems to issue notices to members in the event of an error in calculation of payments, would limit the period during which recoveries of overpayments could be made, and would establish a complaint process regarding errors in payment calculations. To the extent that limitations placed on the period of a system has to recover funds associated with overpayments prevents recovery, systems would incur a loss. The extent of potential losses cannot be estimated.

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Austin, Texas

ACTUARIAL IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

May 11, 2007

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB155 by Pickett (Relating to correcting errors in the distribution of benefits by a public retirement system.), **As Engrossed**

HB 155, engrossed, would amend current law for the correction of errors in the distribution of benefits by establishing a procedure whereby a public retirement system would notify a person whose payments are incorrect. The bill would also require the public retirement system to either adjust future payments or institute recovery of the amounts due within 90 days of the original notification. The bill would restrict the time frame during which a retirement system can collect on an overpayment and if a retirement system did not act within this time frame, it could have some potential costs to the system. However, no significant long-term actuarial impacts are anticipated.

Source Agencies: 338 Pension Review Board

LBB Staff: JOB, WM

LEGISLATIVE BUDGET BOARD

Austin, Texas

ACTUARIAL IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

March 16, 2007

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions & Investments

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB155 by Pickett (Relating to correcting errors in the distribution of benefits by a public retirement system.), **Committee Report 1st House, Substituted**

CSHB 155 would amend current law for the correction of errors in the distribution of benefits by Texas public retirement systems by establishing a procedure whereby a public retirement system would notify a person whose payments are incorrect. The notification would include the amount of correction in the payment, how the correction was calculated, the reason for the correction, instructions on how to file a written complaint and a payment schedule for overpayments should no future payments be due to the person. The bill would also require the public retirement system to either adjust future payments or institute recovery of the amounts due within 90 days of the original notification. The bill would restrict the time frame during which a retirement system can collect on an overpayment and if a retirement system does not act within this time frame, it could have some potential costs to the system; however, there would generally be no significant long-term actuarial impact.

Source Agencies: 338 Pension Review Board

LBB Staff: JOB, WM

LEGISLATIVE BUDGET BOARD
Austin, Texas

ACTUARIAL IMPACT STATEMENT

80TH LEGISLATIVE REGULAR SESSION

February 28, 2007

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions & Investments

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB155 by Pickett (Relating to correcting errors in the distribution of benefits by a public retirement system.), **As Introduced**

HB 155 amends current law for the correction of errors in the distribution of benefits by establishing a procedure whereby a public retirement system would notify a person whose payments are incorrect. The notification is to include the amount of correction in the payment, how the correction was calculated, the reason for the correction, instructions on how to file a written complaint and a payment schedule for overpayments should no future payments be due to the person. The bill would also require the public retirement system to either adjust future payments or recover the amounts due within 90 days of the original notification. The bill provides procedure for a written complaint to be filed and addressed by the public retirement system. The complaint is to be addressed through any complaint procedure provided by the retirement system. The retirement system cannot recover any payments or make any adjustments to future payments until the complaint is resolved. The bill restricts the time frame during which a retirement system can collect on an overpayment and if a retirement system does not act within this time frame, it could have some potential costs to the system; however, there would generally be no significant long-term actuarial impact.

Source Agencies: 338 Pension Review Board

LBB Staff: JOB, WM