

BILL ANALYSIS

S.B. 1459
By: Duncan
Pensions
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Texas Legislature periodically evaluates the laws relating to the Employees Retirement System of Texas (ERS) and makes changes to address the needs of both the legislature and ERS. S.B. 1459 seeks to revise applicable laws relating to the operation and administration of ERS.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the board of trustees of the Employees Retirement System of Texas in SECTION 30 of this bill.

ANALYSIS

S.B. 1459 amends the Government Code to entitle the Employees Retirement System of Texas (ERS) to obtain criminal history record information relating to a current or former ERS employee or job applicant from the FBI Criminal Justice Information Services Division or another law enforcement agency, as well as from the Department of Public Safety. The bill expands the scope of the entitlement to include criminal history record information from any of those entities relating to an ERS consultant, contract employee, independent contractor, intern, or volunteer or an applicant to serve in one of those positions or to a candidate for appointment or election either to the ERS board of trustees or to an advisory committee to the board.

S.B. 1459 establishes that a contributing ERS member who retires can opt to receive service credit instead of a lump-sum payment to which the member is entitled for the member's accrued vacation time as of the date of retirement and that an ERS member who is in the employee class of membership at the time of retirement and who retires on the basis of service or a disability can opt to receive a lump-sum payment instead of the service credit to which the member is entitled for any unused annual leave as of the last day of employment.

S.B. 1459 extends to members of an advisory committee appointed by the ERS board of trustees the immunity from liability granted to the ERS board, executive director, and employees for any action taken or omission made or suffered by them in good faith in the performance of any of their respective official duties.

S.B. 1459 establishes that, except as otherwise provided by law, an office or employment with a university system or institution of higher education is not a position with a department, commission, board, agency, or institution of the state for purposes of establishing an individual's eligibility to participate in ERS.

S.B. 1459 specifies that, when a member establishes ERS service credit for membership, military, or equivalent service that was not previously established by depositing a specified lump sum plus the interest on that sum computed from the date the service was performed to the date of deposit, the amount of the corresponding state contribution for that newly established service corresponds to the amount of the lump sum and the interest paid by the member in the same ratio as the state's contribution bears to the required member contribution for current service at the

time the purchased credit is established and that such matching interest must be paid from the same fund or account as the state's matching contribution.

S.B. 1459 establishes that the eligibility criterion for establishing military service credit in either ERS or the Judicial Retirement System of Texas Plan Two that restricted such eligibility to a member who does not receive and is not eligible to receive federal retirement payments based on 20 years or more of active federal military duty does not apply to a member's receipt of or eligibility to receive such payments based on the equivalent of active federal military duty.

S.B. 1459 removes specifications that made the limited authorization to use accumulated sick leave or annual leave that is unused as of a member's last day of employment only for purposes of calculating the member's or beneficiary's annuity applicable only to a member who was not an ERS member on the date hired and was hired on or after September 1, 2009, or to such member's death benefits beneficiary.

S.B. 1459 bases the calculation of the standard service retirement annuity for service credited in the employee class of membership and the standard service retirement annuity for at least 20 years of service credit as a law enforcement or custodial officer on the member's average monthly compensation for the 60 highest months of compensation, rather than the member's average monthly compensation for the 36 highest months of compensation, times the applicable multiplier for each year of applicable ERS service credit.

S.B. 1459 increases from age 60 to age 62 the early retirement threshold below which a retiree's standard service retirement annuity is subject to a five percent reduction for each year of retirement in advance of that age and removes the 25 percent cap on such early retirement reductions.

S.B. 1459 increases the normal retirement age on which the standard combined service annuity for a law enforcement or custodial officer with at least 20 years of service credit is based from 50 years of age to 57 years of age, unless such officer meets the rule of 80 at an earlier age, and reduces such officer's annuity by five percent for each year of difference between the member's age at retirement and 57 if the officer takes an early retirement under any eligibility criteria. The bill establishes that this actuarial reduction is in addition to any other actuarial reduction required by law. The bill entitles a law enforcement or custodial officer who retires before attaining the age of 50, rather than before attaining the normal retirement age, to an annuity that is actuarially reduced from the annuity available at that age to the law enforcement or custodial officer whose service credit annuity amount is based on the sum of the member's age and amount of law enforcement or custodial officer service credit and employee class service credit and establishes that such officer is not entitled to have the annuity recalculated at normal retirement age.

S.B. 1459 authorizes an ERS retiree to change the retiree's optional annuity selection to the standard service retirement annuity if a court orders such a change under a divorce decree or if the retiree designated a person as beneficiary who is not currently the retiree's spouse or dependent child and subsequent to such designation executes a written, notarized instrument releasing ERS from any claim to the annuity by the beneficiary and that transfers all of the beneficiary's interest in the annuity to the retiree.

S.B. 1459 requires ERS to grant a one-time cost-of-living adjustment on a finding by the board of trustees that, as determined by an actuarial valuation, the amortization period for ERS's unfunded actuarial liabilities does not exceed 30 years by one or more years and, as a result of paying the adjustment, the time required to amortize the unfunded actuarial liabilities would not be increased to a period that exceeds 30 years by one or more years. The bill requires ERS to pay the cost-of-living adjustment to a retiree who has been retired for 20 years or more on the date the board of trustees makes such a finding, or to a beneficiary of the retiree, as an increase to a monthly service retirement benefit, disability retirement benefit, or death benefit, as applicable, paid for service credited in the employee class. The bill caps the cost-of-living adjustment at the

lesser of an amount equal to three percent of the monthly benefit subject to the increase or \$100 a month.

S.B. 1459, effective January 1, 2014, decreases from five percent to two percent the annual interest rate on the mean balance of the member's individual account in the employees saving account that is used to compute the monthly interest earned on money in the individual account. The bill makes this provision applicable only to interest accrued on or after January 1, 2014.

S.B. 1459 establishes that member contributions deducted for deposit in the law enforcement and custodial officer supplemental retirement fund earn interest at the same rate as money in an individual account in the employees saving account and are subject to the same computations and limitations that apply to those member contributions.

S.B. 1459 increases the member contribution rate for a member who is not a member of the legislature from the current 6.5 percent of the member's compensation to the following percentages of member compensation for the specified payroll periods:

- 6.6 percent for service rendered after August 31, 2013, and before September 1, 2014
- 6.9 percent for service rendered after August 31, 2014, and before September 1, 2015
- 7.2 percent for service rendered after August 31, 2015, and before September 1, 2016
- 7.5 percent for service rendered after August 31, 2016
- the lesser of 7.5 percent or a percentage equal to 7.5 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution is less than the state contribution rate established for the 2015 fiscal year for services rendered on or after September 1, 2017.

S.B. 1459 removes a provision providing for member contributions to be computed using the same percentage used to compute the state contribution rate if the state contribution is computed using a percentage less than 6.5 percent.

S.B. 1459 requires the ERS board of trustees to assess each employer whose employees are ERS members a state retirement contribution in an amount equal to 0.5 percent of the employer's total payroll, as determined by the General Appropriations Act and requires the board to deposit the state retirement contribution to the credit of the ERS trust fund to be used for purposes of administering ERS assets.

S.B. 1459 removes a provision specifying that a person's ERS membership is terminated, after a lapse of time since the member last earned creditable service, by transfer of the person's accumulated contributions as a result of the person's failure to file a valid application either requesting that the person's individual account remain open or requesting payment based on money or credit in the account after ERS has sent notice.

S.B. 1459 removes a provision authorizing a member to establish service credit in the Judicial Retirement System of Texas Plan Two for any calendar year during which the member was eligible to take the oath for an office included in the membership of the retirement system.

S.B. 1459 increases the member contribution rate for a judicial officer who is a member of the Judicial Retirement System of Texas Plan Two from the current six percent of the officer's state compensation to the following percentages of the officer's compensation for the specified payroll periods:

- 6.6 percent for service rendered after August 31, 2013, and before September 1, 2014
- 6.9 percent for service rendered after August 31, 2014, and before September 1, 2015

- 7.2 percent for service rendered after August 31, 2015, and before September 1, 2016
- 7.5 percent for service rendered after August 31, 2016
- the lesser of 7.5 percent or a percentage equal to 7.5 percent reduced by one-tenth of one percent for each one-tenth of one percent that the state contribution is less than the state contribution rate established for the 2015 fiscal year for services rendered on or after September 1, 2017.

S.B. 1459 amends the Insurance Code to decrease from 40 to 30 the minimum number of hours per week an employee must work in order to be considered a "full-time employee" for purposes of the Texas Employees Group Benefits Act. The bill redefines "child," for purposes of establishing a person's status as a dependent of an individual eligible for coverage under the group benefits act, to include a child in the possession of a participant who is designated as the child's managing conservator under an irrevocable or unrevoked affidavit of relinquishment under statutory provisions relating to termination of the parent-child relationship.

S.B. 1459, effective September 1, 2014, makes an individual eligible to participate in the state employees group benefits program not later than the 90th day after the date the individual performs services for a state agency or is qualified for and begins to hold elected or appointed office, rather than on the first day of the calendar month that begins after that 90th day. The bill makes an individual who does not retire at the end of the last month for which the individual is on the payroll of a state agency before retirement eligible to participate in the state employees group benefits program as an annuitant not later than the 90th day after the date the individual retires, rather than on the first day of the calendar month that begins after that 90th day.

S.B. 1459 raises from 25 to 26 the age when the coverage under the Texas Employees Group Benefits Act for a dependent child who is unmarried ends and at which the individual may reinstate coverage if the child or child's participating parent pays the coverage's full cost.

S.B. 1459, effective September 1, 2014, provides an annuitant the benefits of a full state contribution for coverage under the Texas Employees Group Benefits Act if the annuitant has at least 20 years of eligible service credit and the benefits of 75 percent of a full state contribution if the annuitant has at least 15 years but less than 20 years of eligible service credit. The bill requires an annuitant receiving a reduced state contribution to have any state contribution for dependent coverage reduced in an amount proportional to that reduction. The bill exempts from these provisions an individual who receives or is eligible to receive an annuity that is based on eligibility under Government Code provisions prescribing benefits for a member who has service credit in both classes of membership, a member who has service credit in the elected class of membership, a member who is eligible to retire and receive certain service retirement annuities under either the Judicial Retirement System of Texas Plan One or the Judicial Retirement System of Texas Plan Two, and an individual who is eligible to participate in the group benefits program because of a disability. The bill makes these provisions applicable only to an individual who does not have five years of eligible service credit on September 1, 2014.

S.B. 1459 requires the law enforcement and custodial officer supplemental retirement fund to be considered a part of ERS and to be subject to all other statutory provisions relating to ERS that do not directly conflict with the legislative intent for the 2014-2015 state fiscal biennium as set out in the bill's provisions. The bill authorizes the board of trustees of ERS to adopt rules necessary to implement or administer this requirement.

S.B. 1459 requires ERS to conduct an interim study on the feasibility of adding custodial officers employed by the Texas Juvenile Justice Department to the class of employees eligible to participate in the law enforcement and custodial officer supplemental retirement fund as custodial officers. The bill requires ERS, not later than September 1, 2014, to report the findings of the study to the governor, the lieutenant governor, the speaker of the house of representatives, and each senate and house committee that has jurisdiction over ERS.

S.B. 1459 repeals Government Code provisions relating to an ERS end-of-fiscal-year payment from the social security administration fund to the comptroller of public accounts for deposit in the general revenue fund to pay for certain administrative expenses and provisions relating to the transfer in certain circumstances of accumulated contributions in the Judicial Retirement System of Texas Plan Two.

S.B. 1459 repeals Government Code provisions relating to the use of accumulated sick leave or annual leave by an individual who was a member or employee on August 31, 2009, and is included in the employee class or by the member's death benefits beneficiary to satisfy service requirements for retirement or to qualify for making a death benefits plan selection, respectively; Government Code provisions setting out the calculation of a standard service retirement annuity for service credited in the employee class of membership for a retirement eligible member who was not a member on the date hired and was hired on or after September 1, 2009; and Government Code provisions prescribing adjusted benefits for certain peace officers hired on or after September 1, 2009, who were not members on the date hired.

S.B. 1459 repeals Insurance Code provisions prescribing the required reports of community supervision and corrections departments participating in the state employees group benefits program under the group benefits act.

S.B. 1459 repeals the following provisions of the Government Code:

- Section 76.006(i)
- Section 606.030(f)
- Sections 813.509(d) and (e)
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- Section 814.105(c)
- Section 814.1075
- Section 840.401

The bill repeals Section 1551.321, Insurance Code.

EFFECTIVE DATE

Except as otherwise provided, September 1, 2013.