BILL ANALYSIS

S.B. 1954
By: Hughes
Higher Education
Committee Report (Unamended)

BACKGROUND AND PURPOSE

According to interested parties, certain employees of institutions of higher education are not adequately informed of the deadline by which they must choose between participation in the Teacher Retirement System of Texas or the optional retirement program for those employees. S.B. 1954 seeks to address this issue by changing the law regarding participation in and contributions to the optional retirement program for certain employees of institutions of higher education.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

S.B. 1954 amends the Government Code to require a person who becomes eligible to participate in the optional retirement program of the Teacher Retirement System of Texas (TRS) and who is notified by the person's employer of the opportunity to participate in the program after the first day and before the 91st day after the date the person becomes eligible to elect to participate in the program before the later of the 91st day after the date the person becomes eligible or the 31st day after the date the person receives notice of the opportunity to participate in the program. The bill requires a person who becomes eligible to participate in the optional retirement program and who is notified by the person's employer of the opportunity to participate in the program on or after the 91st day after the date the person becomes eligible to be notified by the employer before the 151st day after the date the person becomes eligible and requires the person to elect to participate in the program before the later of the 151st day after the date the person becomes eligible or the 31st day after the date the person receives notice of the opportunity to participate in the program.

S.B. 1954 establishes that an employer submits a member contribution to TRS on behalf of a person in error if the person previously elected to participate in the optional TRS retirement program, participated in the program for at least one year, and is or was employed by a public institution of higher education in a position normally covered by TRS and is or was at the time of that employment not eligible for membership in TRS. The bill requires a person's participation in the optional retirement program to be immediately restored if an employer commits such an error and the person on whose behalf the member contribution is erroneously made is a participant in the optional retirement program and requires funds to be deposited in the person's participant account in the program or otherwise remitted to the person in accordance with the bill's provisions and as soon as practicable.

S.B. 1954 requires TRS, on discovery of an error and on certification by an employer that the employer committed the error, to make a direct trustee-to-trustee transfer to the trustee of the optional retirement program for deposit in the person's participant account in an amount equal to the participant contribution that would have been paid for the benefit of the person to the program during the period in which member contributions were submitted to TRS in error, plus an amount representing earnings on the member contribution at the assumed rate of return provided by the bill; to credit the employer through the TRS employer reporting system an amount equal to the amount of any employer contributions made under certain law in error on compensation paid to the person; and to remit to the person the following:

- the amount of any member contribution made to TRS in error that exceeds the amount of the participant contribution that would have been paid for the benefit of the person to the program during the period in which member contributions were submitted to TRS in error;
- the amount of any member contribution made to TRS in error that was made on an after-tax basis and that TRS could not transfer via a direct trustee-to-trustee transfer under applicable provisions of the Internal Revenue Code, including regulations adopted under the Internal Revenue Code, or under the terms of the program established by the employer; and
- any amount paid by the person to TRS to purchase or reinstate service credit during the period the person was not eligible for membership in TRS, including any administrative, reinstatement, and installment fees paid in connection with the purchase.

S.B. 1954 prohibits an applicable transfer from including the amount of any member contribution made to TRS in error that exceeds the amount of the participant contribution that would have been paid for the benefit of the person to the optional retirement program or was made on an after-tax basis unless the plan document for each employer program permits the employer program to receive direct trustee-to-trustee transfers of after-tax amounts and provides that the trustee of the employer program agrees to separately account for amounts transferred and earnings on amounts transferred, including accounting for the portion of the distribution that is includable in gross income and the portion of the distribution that is not includable in gross income.

S.B. 1954 requires the comptroller of public accounts, on certification by an employer that the employer committed an error, to transfer to or credit the employer an amount equal to the state contribution that would have been paid for the benefit of the person plus an amount representing earnings on the state contribution at the assumed rate of return provided by the bill.

S.B. 1954 requires an employer that commits an error to deposit in the person's participant account in the program the amount of the employer contribution that would have been paid for the benefit of the person as a participant and under any other law, rule, or employer policy; an amount representing earnings on the employer contribution at the assumed rate of return determined by the employer in accordance with applicable Internal Revenue Code correction requirements; and an amount equal to the state contribution that would have been paid for the benefit of the person plus an amount representing earnings credited to the employer.

S.B. 1954 establishes that the assumed rate of return is earned monthly and computed at the rate of four percent per year with the amount of earnings based on the assumed rate of return to be credited annually at the end of each 12-month period. The bill sets the first 12-month period to begin with the month the first deposit was submitted in error and establishes that the amount of assumed earnings is prorated to the month of payment. The bill establishes that amounts paid, transferred, or credited in relation to the bill's provisions are reduced by any amount required to be withheld by law or court order.

S.B. 1954 makes its provisions relating to correction of certain errors applicable to a member contribution submitted in error and maintained by a retirement system regardless of whether the contribution was submitted before, on, or after the bill's effective date.

EFFECTIVE DATE

September 1, 2017.