

BILL ANALYSIS

Senate Research Center
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S.B. 1954
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Eligible employees at Texas public institutions of higher education may elect to participate in ORP, the optional retirement plan administered by the Texas Higher Education Coordinating Board, or in TRS, Teacher Retirement System. That employee has a one-time opportunity, 90 days under current law, to choose between TRS and ORP.

In some cases, the employee is not informed properly of the 90-day deadline, or they are incorrectly enrolled in TRS. If the employee was enrolled in ORP at another institution, they are ineligible for TRS under state and federal law. When this occurs, the employee is only able to recover their contributions to TRS during that time, plus interest. They are not allowed to recover the state contribution.

S.B. 1954 addresses these issues first by allowing ORP-eligible employees who are not notified properly additional time (up to 150 days) to elect ORP participation. The bill also creates a correction of error provision for reporting an ORP employee to TRS when the employee is not eligible for TRS. The person would be restored to ORP participation and recover member, state, and employer contributions related to the incorrect reporting plus interest paid to the employee's ORP account.

As proposed, S.B. 1954 amends current law relating to participation in and contributions to the optional retirement program for certain employees of institutions of higher education.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 830.102, Government Code, by amending Subsection (c) and adding Subsections (c-1) and (c-2), as follows:

(c) Requires a person who becomes eligible to participate in the optional retirement program after the date the program becomes available at the person's place of employment to elect to participate before the 91st day after becoming eligible, except as provided by Subsections (c-1) and (c-2).

(c-1) Requires a person who becomes eligible to participate in the optional retirement program and is notified by the person's employer of the opportunity to participate 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.

(c-2) Requires that a person who becomes eligible to participate in the optional retirement program and is notified of the opportunity to participate in the program by the person's employer on or after the 91st day after the date the person becomes eligible be notified by the employer before the 151st day after the day after the date the person becomes eligible.

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.

SECTION 2. Amends Subchapter B, Chapter 830, Government Code, by adding Section 830.108, as follows:

Sec. 830.108. CORRECTION OF CERTAIN ERRORS. (a) Provides that for purposes of this section, an employing institution of higher education (IHE) submits in error a member contribution to the retirement system on behalf of a participant in the optional retirement program if the participant on behalf of whom the contribution is submitted previously elected to participate in the optional retirement program, the participant participated in the program for at least one year, and the participant is employed by an IHE and is not eligible for resumption of membership in the retirement system under Section 830.106 (Eligibility for Resumption of Membership).

(b) Requires an employing IHE that submits in error a member contribution to the retirement system on behalf of a participant in the optional retirement program to restore the participant's participation in the program immediately on discovering the error.

(c) Requires the retirement system, as soon as practicable after receiving notice that an employer submitted a member contribution in error, to remit to the participant the amount of the member's contribution submitted in error plus an amount representing earnings on the member's contribution at the assumed rate of return provided by Subsection (f). Requires the retirement system to reduce the amount remitted to the participant by any amount required to be withheld by law or court order.

(d) Requires the Texas comptroller of public accounts (comptroller), as soon as practicable after certification by an employer that submitted a member contribution in error, to remit to the participant an amount equal to the state contribution that would have been paid for the benefit of the participant under Section 830.201 (Contributions) plus an amount representing earnings on the state contribution at the assumed rate of return provided by Subsection (f). Requires the comptroller to reduce the amount remitted to the participant by any amount required to be withheld by law or court order.

(e) Requires an employer that submitted a member contribution in error, as soon as practicable after discovering the error, to remit to the participant the amount of employer contribution that would have been paid for the benefit of the participant under Section 830.2015 (Supplemental Contributions from Institutions of Higher Education) and under any other law, rule, or employer policy plus an amount representing earnings on the employer contribution at the assumed rate of return provided by Subsection (f). Requires the employer to reduce the amount remitted to the participant by any amount required to be withheld by law or court order.

(f) Provides that the assumed rate of return is earned monthly and computed at a rate of four percent per year. Provides that, except as provided by this subsection, the amount of earnings based on the assumed rate of return is credited annually at the end of each 12-month period. Provides that the first 12-month period begins on the date the first member contribution was submitted in error. Provides that the amount of assumed earnings is prorated to the month of payment.

SECTION 3. Provides that Section 830.108, Government Code, as added by this Act, applies to a member contribution submitted in error as provided by that section regardless of whether the contribution was submitted before, on, or after the effective date of this Act.

SECTION 4. Effective date: September 1, 2017.