

By: Hughes
(Lozano)

S.B. No. 1954

A BILL TO BE ENTITLED

AN ACT

relating to participation in and contributions to the optional retirement program for certain employees of institutions of higher education.

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

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

(c) Except as provided by Subsections (c-1) and (c-2), a [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 must elect to participate before the 91st day after becoming eligible.

(c-1) 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 in the program after the first day and before the 91st day after the date the person becomes eligible must elect to participate in the program before the later of:

(1) the 91st day after the date the person becomes eligible; or

(2) the 31st day after the date the person receives notice of the opportunity to participate in the program.

(c-2) A person who becomes eligible to participate in the

1 optional retirement program and is notified by the person's
2 employer of the opportunity to participate in the program on or
3 after the 91st day after the date the person becomes eligible must
4 be notified by the employer before the 151st day after the date the
5 person becomes eligible. The person must elect to participate in
6 the program before the later of:

7 (1) the 151st day after the date the person becomes
8 eligible; or

9 (2) the 31st day after the date the person receives
10 notice of the opportunity to participate in the program.

11 SECTION 2. Subchapter B, Chapter 830, Government Code, is
12 amended by adding Section 830.108 to read as follows:

13 Sec. 830.108. CORRECTION OF CERTAIN REPORTING ERRORS.

14 (a) For purposes of this section, an employer submits a member
15 contribution to the retirement system on behalf of a person in error
16 if the person:

17 (1) previously elected to participate in the optional
18 retirement program;

19 (2) participated in the program for at least one year;
20 and

21 (3) is or was employed by an institution of higher
22 education in a position normally covered by the retirement system
23 and is or was at the time of that employment not eligible for
24 membership in the retirement system under Section 830.106.

25 (b) If an employer commits an error described by Subsection
26 (a) and the person on whose behalf the member contribution is
27 erroneously made is a participant in the optional retirement

1 program:

2 (1) the person's participation in the program shall be
3 immediately restored; and

4 (2) in accordance with this section and as soon as
5 practicable, funds shall be deposited in the person's participant
6 account in the program or otherwise remitted to the person.

7 (c) Subject to Subsection (d), on discovery of an error
8 described by this section, the retirement system shall, on
9 certification by an employer that the employer committed the error:

10 (1) make a direct trustee-to-trustee transfer to the
11 trustee of the optional retirement program for deposit in the
12 person's participant account in an amount equal to the participant
13 contribution that would have been paid for the benefit of the person
14 to the program under Section 830.201 during the period in which
15 member contributions were submitted to the retirement system in
16 error, plus an amount representing earnings on the member
17 contribution at the assumed rate of return provided by Subsection
18 (g);

19 (2) credit the employer through the retirement
20 system's employer reporting system an amount equal to the amount of
21 any employer contributions made under Section 825.4041, 825.406,
22 825.407, or 825.4071 in error on compensation paid to the person;
23 and

24 (3) remit to the person:

25 (A) the amount of any member contribution made to
26 the retirement system in error that exceeds the amount of the
27 participant contribution that would have been paid for the benefit

1 of the person to the program during the period in which member
2 contributions were submitted to the retirement system in error;

3 (B) the amount of any member contribution made to
4 the retirement system in error that was made on an after-tax basis
5 and that the retirement system could not transfer via a direct
6 trustee-to-trustee transfer under applicable provisions of the
7 Internal Revenue Code, including regulations adopted under the
8 Internal Revenue Code, or under the terms of the program
9 established by the employer; and

10 (C) any amount paid by the person to the
11 retirement system to purchase or reinstate service credit during
12 the period the person was not eligible for membership in the
13 retirement system, including any administrative, reinstatement,
14 and installment fees paid in connection with the purchase.

15 (d) A transfer described by Subsection (c) may not include
16 the amount of any member contribution made to the retirement system
17 in error that:

18 (1) exceeds the amount of the participant contribution
19 that would have been paid for the benefit of the person to the
20 optional retirement program under Section 830.201; or

21 (2) was made on an after-tax basis unless the plan
22 document for each employer program:

23 (A) permits the employer program to receive
24 direct trustee-to-trustee transfers of after-tax amounts; and

25 (B) provides that the trustee of the employer
26 program agrees to separately account for amounts transferred and
27 earnings on amounts transferred, including accounting for the

1 portion of the distribution that is includable in gross income and
2 the portion of the distribution that is not includable in gross
3 income.

4 (e) On certification by an employer that the employer
5 committed an error described by this section, the comptroller shall
6 transfer to or credit the employer an amount equal to the state
7 contribution that would have been paid for the benefit of the person
8 under Section 830.201 plus an amount representing earnings on the
9 state contribution at the assumed rate of return provided by
10 Subsection (g).

11 (f) An employer that commits an error described by this
12 section shall deposit in the person's participant account in the
13 program:

14 (1) in accordance with Subsection (c), the amount of
15 the employer contribution that would have been paid for the benefit
16 of the person as a participant under Section 830.201 and under any
17 other law, rule, or employer policy;

18 (2) an amount representing earnings on the employer
19 contribution at the assumed rate of return determined by the
20 employer in accordance with applicable Internal Revenue Code
21 correction requirements; and

22 (3) an amount equal to the state contribution that
23 would have been paid for the benefit of the person under Section
24 830.201 plus the amount representing earnings credited to the
25 employer under Subsection (e).

26 (g) The assumed rate of return is earned monthly and
27 computed at the rate of four percent per year. Except as provided by

1 this subsection, the amount of earnings based on the assumed rate of
2 return is credited annually at the end of each 12-month period. The
3 first 12-month period begins with the month the first deposit was
4 submitted in error. The amount of assumed earnings is prorated to
5 the month of payment.

6 (h) Amounts paid, transferred, or credited under this
7 section are reduced by any amount required to be withheld by law or
8 court order.

9 SECTION 3. Section 830.108, Government Code, as added by
10 this Act, applies to a member contribution submitted in error as
11 provided by that section and maintained by a retirement system,
12 regardless of whether the contribution was submitted before, on, or
13 after the effective date of this Act.

14 SECTION 4. This Act takes effect September 1, 2017.