

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 85TH LEGISLATIVE REGULAR SESSION**

**April 14, 2017**

**TO:** Honorable Dan Flynn, Chair, House Committee on Pensions

**FROM:** Ursula Parks, Director, Legislative Budget Board

**IN RE: HB2459** by Flynn (Relating to the operations and functions of the Employees Retirement System of Texas and the sunset review date for, financial management of, and programs administered by the agency.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend Government Code relating to the operations and functions of the Employees Retirement System and its board of trustees.

The bill would set the agency's next Sunset review for the period in which agencies abolished in 2029 are reviewed.

The bill would require the board to develop a policy encouraging the use of negotiated rulemaking and alternative dispute resolution procedures, consistent with the board's fiduciary responsibility, for use in both internal and external disputes. The policy would be required to conform to model guidelines issued by the State Office of Administrative Hearings to the extent possible. The agency would be required to provide training as needed to implement the procedures and collect data concerning their effectiveness.

The bill would require a training program for ERS board members before they may vote, deliberate or be counted as a member in attendance after December 31, 2017. The training program would be required to provide information on ERS governing laws; programs, functions, rules and budget of the system; scope of the rulemaking authority of the board; results of recent agency audits; open meeting, public information, and conflict of interest laws; and ethics policies. The agency shall create a training manual for board members, who would be required to annually sign a statement acknowledging receipt.

The bill would change the timing requirement for the actuary's experience study and the board adopting actuarial assumptions to at least once every four years instead of every five years. Specifically, Section Six of the bill would require that at least once every four years the actuary make 1) an investigation of the mortality, service, and compensation experience of the system's members and 2) a valuation of the system's assets and liabilities. Sections Four and Nine would require that at least once every four years the board adopt revised interest rates and mortality, service, and other tables considered necessary. Section Fifteen would not require these experience study and valuation requirements until the later of December 31, 2022 or the fourth anniversary of the previously adopted assumptions after the effective date of the bill.

The bill would prohibit any person to whom the board has delegated authority to invest or reinvest

system assets from investing in a single alternative investment that exceeds one percent of the total value of the fund; those investments would require a board vote of approval. The bill would allow for the board votes of approval to take place in closed meetings via telephone conference call.

The bill would require the board to develop a method to collect or calculate profit sharing in connection with alternative investments and track collected or calculated profit sharing for associated alternative investments. The board would be required to report profit sharing received by private professional investment managers in connection with alternative investments, categorized by asset class, in annual financial reports issued after September 1, 2017 and other appropriate investment reports and presentations.

The bill would change the due date for the Group Benefits Program Annual Report from January 1 to February 1 and expand the information required in the report. The additional required information would include demographic and financial information of each plan; a summary of recent benefit changes considered by the board; claims trends; recommendations for statutory changes; and other information determined appropriate by the board.

The bill would require the board to develop and implement a process to allow direct participation by a covered individual in the determination of enrollment or payment of claims questions arising from a benefit provided in the Group Benefits Program. The bill would also require the board to develop and maintain a precedent manual relating to enrollment and claims determinations and any related appeals. The precedent manual would be required to include precedent-establishing determinations and examples consistent with the identified precedent and any other information the board deemed necessary. The manual would be made available to staff, participants, annuitants, and covered dependents, but the board would not be bound by the document in making future determinations.

The bill would repeal Government Code 814.604, Cost-Of-Living Adjustment.

The agency indicates that the bill would have no significant fiscal impact.

The bill would take effect September 1, 2017.

### **Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 116 Sunset Advisory Commission, 327 Employees Retirement System

**LBB Staff:** UP, AG, NV, KFa