

BILL ANALYSIS

S.B. 321
By: Huffman
Appropriations
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Employees Retirement System of Texas (ERS) serves over 140,000 employees and over 117,000 retirees. Currently, the funded ratio for the ERS pension fund is 66 percent and the unfunded liability is approximately \$14.7 billion. S.B. 321 seeks to improve the solvency of ERS by establishing a new cash balance benefit retirement plan for new state employees and the elected class starting on or after September 1, 2022, and requiring the state to make annual amortization payments to ERS to pay down the existing unfunded liability.

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 rulemaking authority is expressly granted to the board of trustees of the Employees Retirement System of Texas in SECTION 20 of this bill.

ANALYSIS

S.B. 321 establishes provisions relating to the contributions to, benefits from, and the administration of the Employees Retirement System of Texas (ERS).

State Contribution Rate

S.B. 321 amends the Government Code to codify in law the current 9.5 percent state contribution rate for the existing defined benefit plan for current ERS members.

Establishment of a Cash Balance Benefit Plan and Transition to That Plan

S.B. 321 provides for the establishment of a new ERS cash balance benefit retirement plan, while retaining the defined benefit plan for current ERS members. This new cash balance benefit plan applies only to an ERS member of the employee or elected class of membership who is hired or takes office on or after September 1, 2022, and is not an ERS member on the date the member is hired or takes office. The bill establishes the structure of that cash balance benefit plan as detailed below.

Contributions and Interest

S.B. 321 requires each state department or agency to deduct six percent from a member's compensation each payroll period to fund the plan. A department or agency that employs a law enforcement or custodial officer must deduct an additional two percent contribution from the member's compensation, to be deposited in the law enforcement and custodial officer

supplemental retirement fund. Each fiscal year, ERS must deposit for a member an amount equal to four percent of the member's accumulated account balance deposited into the member's individual account in the employees saving account.

Eligibility for Cash Balance Benefit

S.B. 321 provides the following with respect to eligibility for a cash balance benefit:

- a member who has service credit in the employee class of membership is eligible to retire and receive a cash balance annuity if the member is at least 65 years old and has five years of service credit in that class or if the member has at least five years of service credit in that class and the sum of the member's age and amount of service credit in that class, including months of age and credit, equals or exceeds the number 80;
- a member who has at least 20 years of service credit as a law enforcement or custodial officer is eligible to retire regardless of age and receive a cash balance annuity;
- a member who is at least 55 years old and has at least 10 years of service credit as a law enforcement or custodial officer is eligible to retire and receive a cash balance annuity, provided that the member is only entitled to the enhanced benefit if the member has at least 20 years of service as a law enforcement or custodial officer; and
- a member who has service credit in the elected class of membership is eligible to retire and receive a cash balance annuity if the member is at least 60 years old and has eight years of service credit in that class or is at least 50 years old and has 12 years of service credit in that class.

Application for Cash Balance Benefit

S.B. 321 authorizes a member to apply for a cash balance annuity by filing an application for retirement with the ERS board of trustees. An application may not be made after the date the member wishes to retire or more than 90 days before the date the member wishes to retire.

Calculation of Cash Balance Benefit

S.B. 321 provides the following with respect to the state match for a cash balance benefit:

- the match for service credited to the employee class of membership is an amount computed by multiplying the member's accumulated account balance by 150 percent;
- the match for service credited to the employee class of membership by a member eligible to retire as a law enforcement or custodial officer is an amount calculated as follows:
 - the member's accumulated account balance, except for the portion of the accumulated account balance based on the member's additional two percent contribution (including interest) attributable to service as a law enforcement or custodial officer, is multiplied by 150 percent; and
 - the member's accumulated account balance based on the member's additional two percent contribution (including interest) is multiplied by 300 percent, paid from the law enforcement and custodial officer supplemental retirement fund; and
- the match for service credited to the elected class of membership is an amount computed by multiplying the member's accumulated account balance by 150 percent.

The bill requires ERS to compute a member's cash balance annuity by taking the sum of the member's accumulated account balance and the state match and annuitizing that amount over the member's life expectancy as of the effective date of the member's retirement using mortality and other tables adopted by the ERS board of trustees for that purpose. The accumulated account balance of a member of the elected class who served in the legislature is computed as if the contributions to the account were based on the state base salary, excluding longevity pay, being paid a district judge as set by the General Appropriations Act.

S.B. 321 defines "accumulated account balance" for purposes of the cash balance benefit plan as the total of amounts in a member's individual account in the employees saving account, including amounts deducted from the compensation of the member, other member deposits

required to be placed in the member's individual account, and interest credited to amounts in the member's individual account.

Gain Sharing Interest

S.B. 321 requires ERS to compute each fiscal year the gain sharing interest rate applicable to the subsequent fiscal year by determining the average return on the investment of ERS cash and securities during the preceding five fiscal years, expressed as a percentage rate, subtracting four percentage points from that percentage rate, and multiplying the sum by 50 percent.

S.B. 321 requires ERS, each fiscal year, to deposit into each member's individual account an amount equal to the gain sharing interest rate determined by ERS for the fiscal year multiplied by the member's accumulated account balance and then recalculate the annuity of a retiree or annuitant by multiplying the annuity by an amount equal to the gain sharing interest rate. This requirement applies only to a retiree who is receiving a cash balance annuity, and the applied gain sharing interest rate may not be less than zero or more than three percent.

Death and Disability Benefits

S.B. 321 provides that a member under the cash balance benefit plan, a retiree receiving a cash balance annuity, or the beneficiary of such a member or retiree who qualifies for a death or survivor benefit annuity or a disability retirement annuity is entitled to a cash balance annuity instead of the other annuity. The bill authorizes the board of trustees to enter into contracts to provide additional death and disability benefits under the cash balance benefit plan.

Implementation of Cash Balance Benefit Plan

S.B. 321 provides for the implementation of the new cash balance benefit plan by retaining but revising and reorganizing statutory provisions as applicable relating to the following elements in the existing defined benefit plan to account for the new plan:

- the types of creditable service and the definition of "service credit";
- service creditable in the elected class;
- deduction from annuity for state employee organization membership fees;
- charitable deduction from annuity;
- deposits made to a member's individual account in the employees saving account;
- deposits made to the ERS interest account;
- deposits made to the law enforcement and custodial officer supplemental retirement fund;
- the collection of membership fees and member contributions; and
- the state's pickup of certain member contributions.

S.B. 321 provides that a cash balance group member is eligible to participate in the proportionate retirement program. However, the bill excludes those members from certain statutory provisions that apply to the existing defined benefit plan, including the following:

- provisions allowing for the transfer of credit between ERS and the Teacher Retirement System of Texas;
- provisions allowing a member who has withdrawn contributions and canceled service credit to reestablish the canceled service credit;
- provisions relating to alternative payments and methods to establish or reestablish service credit;
- provisions allowing a member to establish service credit for membership service not previously established;
- provisions allowing a member to establish service credit in the elected class for any calendar year during any part of which the member held an office included in that class or the member was eligible to take the oath for an office included in that class;
- provisions relating to administrative board service;

- provisions relating to the establishment of custodial officer service;
- provisions entitling a member of the employee class to service credit for the balance of accumulated and unused annual leave and sick leave upon retirement;
- provisions allowing a member to purchase a certain amount of service credit in either class;
- provisions establishing a credit purchase option for certain service;
- provisions allowing a member to establish credit for active federal duty as a member of the U.S. armed forces; and
- provisions relating to service retirement benefits.

The bill defines "cash balance group member" as a member subject to the bill's provisions governing the new cash balance benefit plan.

S.B. 321 establishes that, for a law enforcement or custodial officer, a withdrawal of all of the officer's accumulated contributions for service credited in the employee class of membership includes all of the additional two percent contributions made by the officer under the cash balance benefit plan.

General Provisions

S.B. 321 authorizes the board of trustees to adopt rules necessary to implement the bill's provisions establishing the cash balance benefit plan. The bill provides that those provisions, including a rule adopted thereunder, prevail to the extent of a conflict with any other law.

Legacy Payments

S.B. 321 requires the state to make an actuarially determined payment each fiscal year in the amount necessary to amortize all ERS unfunded actuarial liabilities by not later than fiscal year 2054. The bill clarifies that this payment is in addition to the state's regular contributions. The bill, in a temporary provision set to expire September 1, 2055, requires ERS, before each regular legislative session, to provide the Legislative Budget Board (LBB) with the amount necessary to make the payment and requires the LBB director, under the direction of the LBB, to include the payment in the general appropriations bill prepared for introduction that session.

State Employee Group Benefits Program

S.B. 321 amends the Insurance Code to make an individual who receives or is eligible to receive an annuity under the ERS cash balance benefit plan and who has at least 10 years of eligible service credit eligible to participate in the state employees group benefits program.

Implementation Contingent on Specific Appropriations

The implementation of a provision of S.B. 321 by ERS is required only if a specific appropriation is made for that purpose. If the legislature does not appropriate money for that purpose, ERS may, but is not required to, implement a provision of the bill using other appropriations for the purpose.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.