

BILL ANALYSIS

S.B. 1245
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Pensions, Investments & Financial Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Judicial Retirement System of Texas Plan Two (JRS-2), which is administered by the Employees Retirement System of Texas (ERS), provides retirement benefits to over 1,000 active and retired state district and appellate judges across Texas. There are concerns about possible future depletion and unfunded liabilities. According to the 2022 actuarial valuation of JRS-2, the retirement system's projected depletion date is in 47 years, and it has an unfunded liability of approximately \$89 million. S.B. 1245 seeks to improve the stability of JRS-2 and reduce its funding period by establishing a cash balance benefit retirement plan for new judges taking office on or after September 1, 2024.

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 15 of this bill.

ANALYSIS

S.B. 1245 amends the Government Code to provide for the establishment of a new cash balance benefit retirement plan under the Judicial Retirement System of Texas Plan Two (JRS-2) that applies only to a JRS-2 member who takes office on or after September 1, 2024, and is not a member on the date the member took office. The bill also includes provisions relating to the resumption of full-time judicial service by certain retirees under the existing plan.

Cash Balance Benefit Plan

Application; Eligibility

S.B. 1245 authorizes an applicable JRS-2 member to apply for a cash balance annuity by filing an application for retirement with the board of trustees of the Employees Retirement System of Texas (ERS), but such 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.

S.B. 1245 makes a JRS-2 member who meets one of the following criteria eligible to retire and receive a cash balance annuity:

- the member is at least 60 years old and has at least eight years of service credited in JRS-2; or
- the member is at least 50 years old and has at least 12 years of service credited in JRS-2.

Standard Cash Balance Benefits

S.B. 1245 sets the state match for the cash balance benefit as the amount computed by multiplying the member's accumulated account balance by 150 percent. The bill requires JRS-2 to compute a member's standard 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 bill defines "accumulated account balance" as the total of amounts in a member's individual account in JRS-2, including amounts deducted from the member's compensation, other member deposits required to be placed in the member's individual account, and interest credited to amounts in the member's individual account.

Optional Cash Balance Benefits; Change in Annuity Selection

S.B. 1245 authorizes a retiring JRS-2 member to elect to receive an optional cash balance annuity as an alternative to the standard cash balance annuity provided by the bill. The bill requires a person who selects an optional lifetime cash balance annuity to designate, before the selection becomes effective, one beneficiary to receive the annuity on the death of the person making the selection. The bill authorizes a person who selects an optional cash balance annuity payable for a guaranteed period to designate, before or after retirement, one or more beneficiaries to receive the annuity on the death of the person making the selection. The bill requires the computation of an optional cash balance annuity to be made without regard to the gender of the annuitant or designated beneficiary.

S.B. 1245 provides the following payment options to a person eligible to select an optional cash balance annuity:

- after the retiree's death, the reduced annuity is payable in the same amount throughout the life of the beneficiary designated by the retiree before retirement;
- after the retiree's death, one-half of the reduced annuity is payable throughout the life of the beneficiary designated by the retiree before retirement;
- if the retiree dies before 60 monthly annuity payments have been made, the remainder of the 60 payments are payable to one or more beneficiaries or, if one does not exist, to the retiree's estate;
- if the retiree dies before 120 monthly annuity payments have been made, the remainder of the 120 payments are payable to one or more beneficiaries or, if one does not exist, to the retiree's estate; or
- after the retiree's death, three-fourths of the reduced annuity is payable throughout the life of the beneficiary designated by the retiree before retirement.

If the beneficiary of an optional lifetime annuity predeceases the retiree, the bill requires the reduced annuity to be increased to the standard cash balance annuity that the retiree would have been entitled to receive if the retiree had not selected the optional annuity and requires the standard cash balance annuity to be adjusted as appropriate for post-retirement increases in retirement benefits authorized by law since the date of retirement. The bill specifies that any such increase begins with the payment for the month following the month in which the designated beneficiary dies, and the increased annuity is payable to the retiree for the remainder of the retiree's life. The bill makes a beneficiary designation that names a former spouse as a beneficiary under one of the options providing a cash balance annuity for a guaranteed period invalid unless the designation is made after the date of the divorce.

S.B. 1245 authorizes a retiree who selects an optional lifetime cash balance annuity to change the optional annuity to a standard cash balance annuity if one of the following conditions is met:

- a court orders the change pursuant to a divorce decree; or
- the retiree files with JRS-2 a request to change the annuity and, in connection with a divorce between the retiree and the designated beneficiary, the beneficiary has executed

a written, notarized instrument releasing JRS-2 from any claim to the annuity by the beneficiary and transferring all of the beneficiary's interest in the annuity to the retiree. If a retiree files such a request, JRS-2 must recompute the annuity as a standard cash balance annuity, and the increase in the annuity begins with the monthly payment made to the retiree for the month following the month in which the request is filed. The bill prohibits a person who selects an optional lifetime cash balance annuity from changing or revoking a beneficiary designation after the person's effective date of retirement except as provided by these provisions.

Partial Lump-Sum Cash Balance Option

S.B. 1245 authorizes a member who is eligible for a cash balance annuity to select a standard cash balance annuity or an optional cash balance annuity together with a partial lump-sum distribution and sets out provisions related to the distribution that do the following:

- cap the amount of the lump-sum distribution at the sum of 36 months of a standard cash balance annuity computed without regard to the bill's partial lump-sum provisions;
- require the cash balance annuity selected by the member to be actuarially reduced to reflect the lump-sum option selected by the member and to be actuarially equivalent to a standard or optional cash balance annuity, as applicable, without the partial lump-sum distribution;
- require the annuity and lump sum to be computed to result in no actuarial loss to JRS-2;
- require the lump-sum distribution to be made as a single payment payable at the time that the first monthly annuity payment is paid;
- require the amount of the lump-sum distribution to be deducted from any amount otherwise payable under the bill's cash balance benefit provisions;
- establish that the partial lump-sum option may be elected only once by a member and may not be elected by a retiree and that a member retiring under the proportionate retirement program is ineligible for the partial lump-sum option;
- require JRS-2 to provide written notice before a retiring member selects a partial lump-sum distribution, for which the member must acknowledge receipt in writing, of the amount by which the member's annuity will be reduced because of the selection;
- authorize the ERS board of trustees to adopt rules for the implementation of these lump-sum option provisions and to authorize the option to be used for a death benefit annuity; and
- specifies that the lump-sum option does not apply to a disability retirement annuity.

Death and Disability Benefits

S.B. 1245 entitles a cash balance group member, 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 under JRS-2 to a cash balance annuity instead of the other annuity for which the individual qualifies. The bill authorizes the ERS board of trustees to enter into contracts to provide additional death and disability benefits under the bill's cash balance benefit provisions.

Contributions

S.B. 1245 sets the contribution rate for a JRS-2 cash balance group member at six percent of the member's compensation and requires each department or agency of the state to cause that contribution to be deducted from such a member's compensation each payroll period.

S.B. 1245 sets out the following requirements regarding state contributions for military service with respect to cash balance benefits:

- a requirement for the state to contribute for military service established under applicable JRS-2 rules an amount in the same ratio to the member's contribution for the service as the state's contribution bears to the contribution for current service required of a cash balance group member at the time the service is established; and

- a requirement for such state contributions for military service to be paid from the fund from which the member receives compensation at the time the service is established or, if the member does not hold a position at the time the service is established, from the fund from which the member received compensation when the member most recently held a position.

Interest

S.B. 1245 provides for an annual interest adjustment by requiring JRS-2, each fiscal year, to deposit for a cash balance group member an amount equal to four percent of the member's accumulated account balance deposited into the member's individual account in JRS-2.

S.B. 1245 requires JRS-2, each fiscal year, to compute the gain sharing interest rate according to the following method:

- determining the average return on the investment of the cash and securities of JRS-2 during the preceding five fiscal years, expressed as a percentage rate;
- subtracting four percentage points from that percentage rate; and
- multiplying the resulting difference by 50 percent.

The bill additionally requires JRS-2, each fiscal year, to do the following with respect to the gain sharing interest adjustment:

- deposit into each member's individual account in JRS-2, in addition to the amount required for the annual interest adjustment, an amount equal to the gain sharing interest rate determined for the fiscal year multiplied by the member's accumulated account balance as of the end of the preceding fiscal year; and
- recalculate the cash balance annuity payment of a retiree or annuitant by multiplying the annuity payment amount as of the end of the preceding fiscal year by the gain sharing interest rate or, if the retiree or annuitant was not entitled to an annuity payment as of the end of the preceding fiscal year, by multiplying the retiree's or annuitant's first annuity payment amount by the gain sharing interest rate.

The gain sharing interest rate adjustment may not be less than zero or more than three percent. The adjustment applies only to a retiree or annuitant who is receiving a standard or optional cash balance annuity, including an alternate payee under a qualified domestic relations order.

Rules; Conflict of Law

S.B. 1245 authorizes the ERS board of trustees to adopt rules necessary to implement the bill's cash balance benefit provisions and establishes that those bill provisions, including a rule adopted thereunder, prevail to the extent of a conflict with any other law.

Other Provisions Regarding Cash Balance Group Members

S.B. 1245 requires payments of segregated amounts relating to a benefit payable to an alternate payee under certain domestic relations orders with respect to a JRS-2 member or retiree in the cash balance benefit group to include the annual interest and gain sharing interest applicable to that benefit. The bill establishes that a JRS-2 cash balance group member is eligible to participate in the proportionate retirement program.

S.B. 1245 makes statutory provisions governing JRS-2 that relate to the following inapplicable to a cash balance group member:

- an application for service or disability retirement;
- service retirement benefits;
- increases in benefits;
- the cessation of a member's contributions once they accrue 20 years of service credit or attain the rule of 70 and the option for such a member to elect to keep contributing; and
- with respect to creditable service in JRS-2:

- service credit previously canceled;
- military service;
- service in excess of 20 years;
- alternative payments to establish or reestablish service credit;
- credit for a year in which eligible for office;
- service not previously established; and
- the credit purchase option.

Resumption of Full-Time Judicial Service by Certain Retirees

S.B. 1245 authorizes a JRS-2 retiree who resumes service as a judicial officer other than by assignment as a visiting judge in an administrative judicial region to elect to rejoin the retirement system as a member and receive service credit in the system for resuming service as a judicial officer if, before taking the oath of office, the retiree has been separated from judicial service for at least 12 full consecutive months. This authorization does not apply to a cash balance group member. The bill requires a retiree electing to rejoin JRS-2 under the bill to provide notice of the election to the system in the manner prescribed by the system. The bill requires JRS-2, for a person who makes such an election and on the resumption of annuity payments that have been suspended, to recompute the annuity selected at the time of the person's original retirement to include the person's additional service credit established for the resumed service. For a person electing to rejoin who, at the time of the person's original retirement, selected an optional retirement annuity that is payable for a guaranteed period, JRS-2 must reduce the number of months of payments by the number of months for which the annuity was paid before the person resumed service.

S.B. 1245 condition's JRS-2's duty to implement the bill's resumption of service provisions on the system being actuarially sound based on an actuarial valuation prepared on or after September 1, 2023, determining that the amount of contributions to JRS-2 are sufficient to cover normal costs and to amortize unfunded actuarial accrued liability within 30 years. The bill requires JRS-2 to implement the bill's resumption of service provisions not later than the 30th day after the date an actuarial valuation is prepared showing JRS-2 is actuarially sound. If on September 1, 2025, the bill's resumption of service provisions is not implemented, then those provisions expire on that date. If they are implemented, then only the provisions relating to the actuarial soundness conditions expire on that date. The bill's resumption of service provisions, if implemented, apply to a JRS-2 retiree who resumes service as a judicial officer before, on, or after the date the provisions are implemented.

State Employee Group Benefits Program

S.B. 1245 amends the Insurance Code to make a JRS-2 cash balance group member eligible to participate in the state employees group benefits program under the Texas Employees Group Benefits Act and to exclude such a member from the application of provisions establishing a range of state contributions for coverage under the act based on the annuitant's amount of eligible service credit.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.