

BILL ANALYSIS

Senate Research Center
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S.B. 1245
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Judicial Retirement System 2, under the Employees Retirement System of Texas, provides retirement benefits to over 1000 active and retired state district and appellate judges across Texas. Currently, the projected depletion date is in 46 years and it has an unfunded liability of approximately \$95 million.

S.B. 1245 would establish a new cash balance retirement plan for new judges starting on or after September 1, 2023. As a result of S.B. 1245, the Judicial Retirement System 2 pension fund will become more stable, and the funding period is lowered.

As proposed, S.B. 1245 amends current law relating to contributions to, benefits from, and the administration of the Judicial Retirement System of Texas Plan Two.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the board of trustees of the Employee's Retirement System of Texas in SECTION 13 (Sections 840A.004 and 840A.056, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 803.202, Government Code, by adding Subsection (d), to provide that a member of the Judicial Retirement System of Texas Plan Two who is subject to Chapter 840A is eligible to participate in the program provided by Chapter 803 (Proportionate Retirement Program).

SECTION 2. Amends Section 804.003, Government Code, by amending Subsections (j) and (k) and adding Subsection (k-2), as follows:

(j) Creates an exception under Subsection (k-2)

(k) Creates an exception under Subsection (k-2)

(k-2) Requires that payment of segregated amounts by a public retirement system, or applicable carrier if under the optional retirement program, under Subsections (j) (relating to the requirement that the public retirement system pay the segregated amounts without interest to the person or persons if a domestic relations order is determined to be a qualified domestic relations order) and (k) (related to the requirement that the public retirement system pay the segregated amounts without interest to the person or persons who would have been entitled to such amounts if there had been no order if a domestic relations order is determined not to be a qualified domestic relations order) related to a benefit payable with respect to a member or retiree subject to Chapter 840A include annual interest provided by Section 840A.103 and gain sharing interest provided by Section 840A.104.

SECTION 3. Amends Section 836.001, Government Code by adding Subdivision (3-a) and amending Subdivision (9), to define "cash balance group member" and redefine "service credit."

SECTION 4. Amends Section 838.001, Government Code, as follows:

Sec. 838.001. TYPES OF CREDITABLE SERVICE. Provides that the types of service creditable in the retirement system are membership service and, as applicable, military service and equivalent membership service.

SECTION 5. Amends Subchapter A, Chapter 838, Government Code, by adding Section 838.002, as follows:

Sec. 838.002. PROVISIONS INAPPLICABLE TO CASH BALANCE GROUP MEMBERS. Provides that Sections 838.102 (Service Credit Previously Canceled), 838.103 (Military Service), 838.1035 (Service in Excess of 20 Years), 838.105 (Alternative Payments to Establish or Reestablish Service Credit), 838.106 (Credit for Year in Which Eligible for Office), 838.107 (Service Not Previously Established), and 838.108 (Credit Purchase Option) of Chapter 838 (Creditable Service) do not apply to a cash balance group member.

SECTION 6. Amends Subchapter A, Chapter 839, Government Code, by adding Section 839.005, as follows:

Sec. 839.005. PROVISIONS INAPPLICABLE TO CASH BALANCE GROUP MEMBERS. Provides that the following provisions of Chapter 839 (Benefits) do not apply to a cash balance group member:

(1) Section 839.002 (Application for Retirement);

(2) Subchapters B (Service Retirement Benefits) and E (Increases in Benefits).

SECTION 7. Amends Section 839.201(a), Government Code, as follows:

(a) Provides that a member, other than a member who is eligible to receive a service retirement annuity under Section 839.101 (Eligibility for Service Retirement Annuity) or a cash balance annuity under Section 840A.052, is eligible, regardless of age, to retire from regular active service for disability and receive a disability retirement annuity if the member has at least seven years of service credit in the retirement system.

SECTION 8. Amends Subchapter A, Chapter 840, Government Code, by adding Section 840.009, as follows:

Sec. 840.009. PROVISIONS INAPPLICABLE TO CASH BALANCE GROUP MEMBERS. Provides that Sections 840.102(g) (relating to providing that a member who accrues 20 years of service credit in the retirement system ceases making contributions under this section but is considered a contributing member for all other purposes under Subtitle E (Judicial Retirement System of Texas Plan Two)) and (h) (relating to providing that a member ceases making contributions if a member has served at least 12 years on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70), 840.1025 (Contributions After 20 Years of Service Credit), and 840.1027 (Contributions After Attaining Rule of 70) of Chapter 840 (Administration) do not apply to a cash balance group member.

SECTION 9. Amends the heading to Section 840.102, Government Code, as follows:

Sec. 840.102. COLLECTION OF CERTAIN MEMBER CONTRIBUTIONS.

SECTION 10. Amends Section 840.102(a), Government Code, as follows:

(a) Requires a judicial officer who is a member of the retirement system other than a cash balance group member each payroll period, to contribute 9.5 percent of the officer's state compensation for service rendered after September 1, 2019, except as provided by Subsections (g) (relating to providing that a member who accrues 20 years of service

credit in the retirement system ceases making contributions but is considered a contributing member for a other purposes) and (h) (relating to providing if that a member has served at least 12 years on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70, the member ceases making contributions but is considered a contributing member for all other purposes).

SECTION 11. Amends Sections 840.105(a) and (c), Government Code, as follows:

(a) Requires the state to pick up the member contributions required by Section 840.102 (Collection of Member Contributions) or 840A.101, as applicable for all state compensation earned, rather than for all state compensation earned after December 31, 1989, by judicial officers who are members of the retirement system.

(c) Requires that member contributions picked up by the state to be credited to members' individual accounts and treated for all other purposes as if the amounts were a part of the members' compensation and had been deducted as provided by Section 840.102 or 840A.101, as applicable.

SECTION 12. Amends Section 840.306(a), Government Code, as follows:

(a) Provides that interest on money in a member's individual account in the retirement system is earned monthly and is computed at the rate of five percent a year on the mean balance of the member's account for the fiscal year, except as provided by Section 840A.103 or 840A.104.

SECTION 13. Amends Subtitle E, Title 8, Government Code, by adding Chapter 840A, as follows:

CHAPTER 840A. CASH BALANCE BENEFIT

SUBCHAPTER A. GENERAL PROVISIONS.

Sec. 840A.001. DEFINITION. Defines "accumulated account balance."

Sec. 840A.002. APPLICABILITY. Provides that this chapter applies only to a member who:

(1) took office on or after September 1, 2024; and

(2) was not a member on the date the member took office.

Sec. 840A.003. CONFLICT OF LAW. Provides that this chapter prevails to the extent of a conflict between this chapter, including a rule adopted by the retirement system under authority of this chapter, and any other law.

Sec. 840A.004. RULES. Authorizes the board of trustees of the Employees Retirement System of Texas (board) to adopt rules necessary to implement this chapter.

SUBCHAPTER B. CASH BALANCE BENEFITS

Sec. 840A.051. APPLICATION FOR CASH BALANCE BENEFIT. (a) Authorizes a member to apply for a cash balance annuity by filing an application for retirement with the board.

(b) Prohibits an application for a cash balance annuity from being made:

(1) after the date the member wishes to retire; or

(2) more than 90 days before the date the member wishes to retire.

Sec. 840A.052. ELIGIBILITY FOR CASH BALANCE BENEFIT. Provides that a member is eligible to retire and receive a cash balance annuity if the member:

- (1) is at least 60 years old, currently holds a judicial office, and has at least 10 years of service credited in the retirement system;
- (2) is at least 60 years old and has at least 12 years of service credited in the retirement system, regardless of whether the member currently holds a judicial office;
- (3) has at least 20 years of service credited in the retirement system, regardless of whether the member currently holds a judicial office; or
- (4) has served at least 12 years on an appellate court and the sum of the member's age and amount of service credited in the retirement system equals or exceeds the number 70, regardless of whether the member currently holds a judicial office.

Sec. 840A.053. CASH BALANCE BENEFITS FOR MEMBERS. (a) Provides that the state match for the cash balance benefit is an amount computed by multiplying the member's accumulated account balance by 150 percent.

(b) Requires that the retirement system compute a member's cash balance annuity under this section by taking the sum of the member's accumulated account balance and the state match computed under Subsection (a) and annuitizing that amount over the life expectancy of the member as of the effective date of the member's retirement using mortality and other tables adopted by the board for that purpose under Section 840.005 (Adopting Tables and Rates).

Sec. 840A.054. OPTIONAL CASH BALANCE BENEFITS. (a) Authorizes a retiring member to elect to receive an optional cash balance annuity under this section, instead of the standard cash balance annuity payable under Section 840A.053.

(b) Requires a person who selects an optional lifetime cash balance annuity to designate, before the selection becomes effective, one person to receive the annuity on the death of the person making the selection. Authorizes a person who selects an optional cash balance annuity payable for a guaranteed period to designate, before or after retirement, one or more persons to receive the annuity on the death of the person making the selection.

(c) Authorizes a person eligible to select an optional cash balance annuity under this section to select an option which provides that:

- (1) after the retiree's death, the reduced annuity is payable in the same amount throughout the life of the person designated by the retiree before retirement;
- (2) after the retiree's death, one-half of the reduced annuity is payable throughout the life of the person designated by the retiree before retirement;
- (3) 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;
- (4) 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

(5) after the retiree's death, three-fourths of the reduced annuity is payable throughout the life of the person designated by the retiree before retirement.

(d) Requires that the reduced annuity 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, if a beneficiary designated by a retiree under Subsection (b) predeceases the retiree and the retiree has elected an optional lifetime annuity. Requires that standard cash balance annuity be adjusted as appropriate for post-retirement increases in retirement benefits authorized by law since the date of retirement.

(e) Provides that any increase in an annuity under Subsection (d) begins with the payment for the month following the month in which the designated beneficiary dies, and that the increased annuity is payable to the retiree for the remainder of the retiree's life.

(f) Requires that the computation of an optional cash balance annuity be made without regard to the gender of the annuitant or designated beneficiary.

(g) Prohibits a person who selected an optional cash balance annuity described by Subsection (c)(1), (2), or (5) of this section from changing or revoking a beneficiary designation after the person's effective date of retirement, except as provided by Section 840A.055.

(h) Provides that a beneficiary designation that names a former spouse as a beneficiary for a guaranteed optional cash balance annuity described by Subsection (c)(3) or (4) is invalid unless the designation is made after the date of the divorce.

Sec. 840A.055. CHANGE IN OPTIONAL CASH BALANCE ANNUITY SELECTION.

(a) Authorizes a person who retired and selected an optional cash balance annuity described by Section 840A.054(c)(1), (2), or (5) to change the optional annuity to a standard cash balance annuity if:

(1) pursuant to a divorce decree, a court orders the change in the annuity to a standard cash balance annuity; or

(2) the retiree files with the retirement system a request to change the annuity selection, if the retiree designated a person as beneficiary who:

(A) was not at the time of designation and is not currently the retiree's spouse or dependent child; or

(B) is not currently the retiree's spouse or dependent child and has executed since the designation a written, notarized instrument that releases the retirement system from any claim to the annuity by the beneficiary and that transfers all of the beneficiary's interest in the annuity to the retiree.

(b) Requires that the retirement system recompute the annuity as a standard cash balance annuity if a retiree files a request as provided by Subsection (a). Provides that the increase in the annuity under this section begins with the monthly payment made to the retiree for the month following the month in which a request is filed as provided by Subsection (a).

Sec. 840A.056. PARTIAL LUMP-SUM CASH BALANCE OPTION. (a) Authorizes a member who is eligible for a cash balance annuity to select a standard cash balance annuity under Section 840A.053 or an optional cash balance annuity under Section 840A.054, together with a partial lump-sum distribution.

(b) Prohibits the amount of the lump-sum distribution under this section from exceeding the sum of 36 months of a standard cash balance annuity computed without regard to this section.

(c) Requires that the cash balance annuity selected by the member 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. Requires that the annuity and lump sum be computed to result in no actuarial loss to the retirement system.

(d) Requires that the lump-sum distribution be made as a single payment payable at the time that the first monthly annuity payment is paid.

(e) Requires that the amount of the lump-sum distribution be deducted from any amount otherwise payable under this chapter.

(f) Authorizes the partial lump-sum option under this section to be elected only once by a member and prohibits it from being elected by a retiree. Provides that a member retiring under the proportionate retirement program under Chapter 803 (Proportionate Retirement Program) is not eligible for the partial lump-sum option.

(g) Provides that before a retiring member selects a partial lump-sum distribution under this section:

(1) the retirement system is required to provide written notice to the member of the amount by which the member's annuity will be reduced because of the selection; and

(2) the member is required to acknowledge receipt of the notice in writing.

(h) Authorizes the board to adopt rules for the implementation of this section and to authorize the option to be used for a death benefit annuity. Provides that this section does not apply to a disability retirement annuity.

Sec. 840A.057. DEATH AND DISABILITY BENEFITS. (a) Provides that a member subject to this chapter, a retiree receiving a cash balance annuity under this chapter, or the beneficiary of a member or retiree described by this subsection, who qualifies for a death or survivor benefit annuity or a disability retirement annuity under Chapter 839 is entitled to a cash balance annuity under this subchapter instead of the annuity otherwise provided under Chapter 839, notwithstanding any other law.

(b) Authorizes the board to enter into contracts to provide additional death and disability benefits under this chapter.

SUBCHAPTER C. CONTRIBUTIONS AND INTEREST

Sec. 840A.101. COLLECTION OF MEMBER CONTRIBUTIONS. Requires each department or agency of the state to cause to be deducted, each payroll period, from the compensation of a member subject to this chapter a contribution of six percent of the compensation of the member.

Sec. 840A.102. STATE CONTRIBUTIONS FOR MILITARY SERVICE. (a) Requires the state to contribute for military service established under Section 838.1031 (Military Service Credit Governed by Uniformed Services Employment and Redeployment Rights Act) 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 member of the retirement system who is subject to this chapter at the time the service is established under this subchapter.

(b) Requires the state's contribution under Subsection (a) 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 which the member received compensation when the member most recently held a position.

Sec. 840A.103. ANNUAL INTEREST ADJUSTMENT. Requires that the retirement system deposit, each fiscal year, for a member subject to this chapter an amount equal to four percent of the member's accumulated account balance deposited into the member's individual account in the retirement system.

Sec. 840A.104. GAIN SHARING INTEREST ADJUSTMENT. (a) Requires that the retirement system, each fiscal year and subject to Subsection (b), compute the gain sharing interest rate by:

- (1) determining the average return on the investment of the system's cash and securities during the preceding five fiscal years, expressed as a percentage rate;
- (2) subtracting four percentage points from the percentage rate determined under Subdivision (1); and
- (3) multiplying the resulting difference under Subdivision (2) by 50 percent.

(b) Requires that the retirement system, subject to Subsection (c), each fiscal year:

- (1) deposit into each member's individual account in the retirement system, in addition to the amount deposited under Section 840A.103, an amount equal to the gain sharing interest rate determined under Subsection (a) for the fiscal year multiplied by the member's accumulated account balance as of the end of the preceding fiscal year; and
- (2) recalculate the annuity payment of a retiree or annuitant under this chapter by:
 - (A) multiplying the annuity payment amount as of the end of the preceding fiscal year by the gain sharing interest rate determined under Subsection (a); or
 - (B) if the retiree or annuitant was not entitled to an annuity payment as of the end of the preceding fiscal year, multiplying the retiree's or annuitant's first annuity payment amount by the gain sharing interest rate determined under Subsection (a).

(c) Prohibits the gain sharing interest rate applied under Subsection (b) from being less than zero or more than three percent.

(d) Provides that Subsection (b) applies only to a retiree or annuitant who is receiving a cash balance annuity under Section 840A.053 or 840A.054, including an alternate payee under Section 804.005 (Payment in Certain Circumstances in Lieu of Benefits Awarded by Qualified Domestic Relations Order).

SECTION 14. Amends Section 1551.102(b), Insurance Code, as follows:

(b) Provides that an individual is eligible to participate in the group benefits program as provided by Subsection (a) (relating to relating to providing qualifications for certain individuals to participate as an annuitant in the group benefits program) if:

(1) makes no changes to this subdivision; and

(2) the individual:

(A)-(C) makes no changes to these paragraphs; or

(D) receives or is eligible to receive an annuity under Subchapter B (Cash Balance Benefits), Chapter 820, or Subchapter B, Chapter 840A, Government Code, and has at least 10 years of eligible service credit.

SECTION 15. Amends Section 1551.3196(c), Insurance Code, as follows:

(c) Provides that Section 1551.3196 (Amount of Contribution for Certain Annuitants) does not apply to an individual who:

(1) receives or is eligible to receive an annuity that is based on eligibility under certain sections, including Section 840A.052, Government Code; or

(2) makes no changes to this subdivision.

SECTION 16. Effective date: upon passage or September 1, 2023.