



TEXAS PENSION  
REVIEW BOARD

Pension Bills of the 87<sup>th</sup> Legislative Session

## General Pension Bills

### [HB 3898 - Funding Policy, FSRP Updates, & IPPE Changes \(Anchia\)](#)

Status: Signed by Governor 6/18/21; Effective 9/1/21

#### Funding Policy Changes

**Sponsor involvement.** Systems and their sponsor, if not a statewide, must **jointly develop and adopt** a funding policy.

**Funding policy revision.** The funding policy must be revised to reflect any significant changes required because of an FSRP. If revising the funding policy after an FSRP, the revision must describe any automatic contribution or benefit changes to avoid having to create a revised FSRP, including risk sharing, ADC structure, or other adjustable mechanisms. The PRB may adopt rules necessary to implement this section.

The most recent edition of the funding policy must be posted on a publicly available website.

#### FSRP Changes

Threshold, target, trigger, and sponsor adoption. For FSRPs after September 1, 2021, the triggering amortization period is lowered from **40 to 30 years** and an FSRP is required if the system's amortization period has exceeded 30 years for three consecutive annual AVs or two consecutive AVs for plans that conduct AVs every two to three years. **However, no system would have to achieve 30 years before September 1, 2025.**

FSRPs must:

- be developed by the later of two years of AV that triggered the requirement or September 1, 2025.
- be adopted at open meetings of the governing bodies of the system and sponsor.
- FSRPs may not include items requiring future actions.

**Effective September 1, 2025**, FSRPs are triggered immediately if:

- the amortization period is > 40 years; or
- the amortization period is > 30 years with a funded ratio under 65%.

**Credit for reforms already made.** An FSRP would **not** be required if:

- the system's AV shows that the system's expected funding period > 30 but < 40 years; and
  - the system is adhering to an FSRP formulated before September 1, 2025; or
  - the system is implementing or will ultimately use an ADC rate **and** the AV shows that the system is expected to achieve full funding.

If another FSRP is triggered within 10 years of the first FSRP, the revised FSRP has stricter requirements:

- must be designed to achieve a **25-year amortization period** within two years of the triggering AV.

## General Pension Bills

### HB 3898 (continued) - Funding Policy, FSRP Updates, & IPPE Changes

#### FSRP Changes (continued)

**Required Documentation.** The system will be able to submit to the PRB an actuarial valuation that shows the combined impact of all changes of an FSRP or revised FSRP within 90 days of adoption. If the system does not provide the AV within the time allotted, the PRB may request the system provide a separate analysis. The AV or separate analysis must include an actuarial projection of the system's expected future assets and liabilities between the AV date and full funding date; and a description of all assumptions used to perform the analysis, which much conform with ASOPs.

**Sponsor may pay all or part of the costs of separate analyses** (original and revised FSRPs). System must pay any remaining costs not covered by the sponsor. Also, FSRPs (original and revised) cannot include actions that are subject to future approval.

Additional conforming changes are made to the Fort Worth Employees' Retirement Fund FSRP statute (Sec. 802.2016).

**Grandfathering.** Plans already subject to FSRP or who become subject **before September 1, 2021**, will continue to operate under the previous law, except if a plan falls off track and must formulate a revised FSRP **after September 1, 2025, the new FSRP would have to meet the same requirements as the new FSRPs formulated after September 1, 2021, and target 30 years instead of 40.**

#### Investment Practices and Performance Evaluation Changes

IPPEs must include the following disclosures:

- A **summary of the independent firm's experience** in evaluating investment performance and practices and a statement stating the firm's experience meets statutory requirements.
- A statement disclosing the **nature of any existing relationship** between the independent firm and the retirement system (including whether the firm is involved directly/indirectly in managing the investments of the system).
- A list of **the types of remuneration** received by the firm from sources other than the system for services provided to the system.
- **Statement(s) disclosing conflict of interests** concerning the firm and retirement system; and
- An explanation of the firm's **determination regarding whether to include a recommendation.**

**Formal review-and-comment process:** The firm must deliver an initial draft to the system before the 30<sup>th</sup> day after the evaluation is completed to allow the system to submit actions or comments. The firm must file a final report between 31 and 60 days from delivering the initial report to the system for review.

The employer may pay all or part of the cost of the evaluation, and the retirement system would pay the remainder.

### HB 867 - Pensions and QDROs (Thompson, Senfronia)

Status: *Signed by Governor 5/19/21; Effective 9/1/21*

The bill clarifies that Qualified Domestic Relations Orders (QDRO) or similar orders for maintenance or child support would apply to pensions, retirement plans, and other employee benefits. Judges are allowed to revise new and previous orders to comply with the requirements of a QDRO and the terms of a benefit plan if a plan administrator rules the existing order does not meet the requirements. Chapter 804 of the Texas Government Code prevails if there are conflicting statutes.

## Statewide Systems

### Employees Retirement System of Texas (ERS)

#### **SB 321 - ERS Funding & Cash Balance Tier 4 (Huffman)**

Status: *Signed by Governor 6/18/21; Effective 9/1/21*

The state is required make an **additional actuarially determined annual contribution** to pay off the legacy liability **by August 31, 2054**. The system will create a cash balance plan for new members hired on or after September 1, 2022.

#### ***Tier 4 (members hired on/after September 1, 2022) – Cash Balance***

- Tier 4 members will **contribute 6%** of their compensation into an individual account.
- Members of the employee class will be **vested after five years of service** and could retire with a minimum of five years of service at age 65, or if they met the rule of 80.
- The **lifetime annuity** will be equal to the member's accumulated account balance plus a 150% employer match at retirement.
- There are no changes to the retirement eligibility for members of the elected class.

Law enforcement and custodial officer supplemental retirement fund (LECOSRF) will also have the new cash balance benefit tier. Law enforcement and custodial officers will contribute an additional 2% into LECOSRF. The **lifetime annuity** will be equal to the member's accumulated account balance plus a 300% employer match at retirement.

**Interest and Gain sharing.** The system will credit the employee or retiree's **accumulated account balance** with a 4% guaranteed annual **interest credit** plus a **gain sharing interest credit** of 50% of the average return on the system's investments over the preceding five years greater than or equal to 4% and less than or equal to 10%, for a maximum of 3% gain sharing interest adjustment.

- For example, if the average rate of return over the preceding five years were 7%, the total interest credited to the employee's account will be 5.5%, consisting of the 4% minimum interest credit and 1.5% of gain sharing interest credit.

**Changes for Current Members.** A current member could retire without separating from their position if the member had enough service credit to receive the maximum annuity, was at least 60 years-old and was not entitled to any additional retirement benefits. This change would be subject to IRS plan qualification requirements.

#### **HB 917 - ERS Board Composition (Hernandez)**

Status: *Signed by Governor 5/15/21; Effective 9/1/21*

ERS board eligibility criteria will change to allow one of the three elected board members to be a retiree. Under current law, retirees are eligible to be appointed members, but not elected members.

#### **SB 1071 - ERS Peace Officer Disability Retirement (Hinojosa)**

Status: *Signed by Governor 6/16/21; Effective 9/1/21*

Occupational disability payment for a law enforcement or custodial officer whose disability makes the person unable to work solely due to the disability will be considered a total disability under federal social security law. Currently, such members receiving an occupational disability retirement annuity receive 100% of their average monthly compensation.

## Statewide Systems

### Employees Retirement System of Texas (ERS)

#### [SB 1071 \(continued\) - ERS Peace Officer Disability Retirement](#)

The annuity amount will change to an amount computed based on the maximum salary authorized under the position classification salary schedule prescribed by the General Appropriations Act, as adjusted from time to time, applicable to the position from which the person retired. This change applies to all applicable members, including those already receiving an annuity under the current statute. Payments will be recomputed to the increased amount beginning with the first payment date on or after the bill becomes effective.

### Teacher Retirement System of Texas (TRS)

#### [HB 1585 - TRS Sunset Bill \(Lambert\)](#)

*Status: Signed by Governor; Effective immediately 5/26/21*

For any members who retired after January 1, 2021 and returned to work for a Texas public education institution, TRS shall send a written warning to any retiree who could lose their benefits for working beyond statutory limitations. If TRS determines that a retiree continued to work past statutory limitations, the retiree will be required to pay either the amount they earned in benefits or the amount they earned through employment for each month after the issuance of the warning.

The bill updates board training requirements and adds a requirement for the executive director to develop a training manual. Additionally, it creates an ombudsman's office to protect, assist, and advocate for members and enhances requirements to search for a missing member or heir to notify the member of ability to be refunded contributions. It also creates outreach and member education program requirements. Finally, the bill makes clarifying, technical changes to TRS statute by replacing the investment practices and performance evaluation (IPPE) provision with a reference to the PRB IPPE requirement. TRS complied with the PRB's IPPE provision to satisfy a similar requirement contained in its own statute. This bill brings the TRS and PRB statutes in alignment with the system's current practice.

#### [SB 202 - TRS Employer Contributions \(Schwertner\)](#)

*Status: Signed by Governor; Effective immediately 6/14/21*

Employer contribution paid on behalf of a rehired retiree (employer surcharge) cannot be passed on directly or indirectly to a retiree through methods like payroll deductions, fees, or other means. The change begins with the 2021-2022 school year and applies to all retirees.

#### [SB 288 - TRS Loss of Monthly Annuity \(Seliger\)](#)

*Status: Signed by Governor 6/14/21; Effective 9/1/21*

TRS is required to send a written warning to any retiree subject to a loss of benefits due to employment exceeding statutory limitations. If TRS determines that a retiree continues to exceed the statutory limitations on employment, the retiree is required to pay, for each month after issuance of the warning, either the amount they earned in benefits or the amount earned through employment. Benefits are not withheld from retirees returning to work or contributions will not be collected from the employer on behalf of the rehired retiree (employer surcharge) for positions related to student learning loss because of COVID-19.

## Statewide Systems

### Teacher Retirement System of Texas (TRS)

#### [SB 288 \(continued\) - TRS Loss of Monthly Annuity \(Seliger\)](#)

The position would have to be in addition to the normal staffing level at the public educational institution; be funded wholly or partly by federal funds for the purpose of COVID-19 relief and end on or before December 31, 2024. It does not apply to disability retirees. This is a temporary exemption scheduled to expire February 1, 2025.

#### [SB 7 \(2<sup>nd</sup> Called Legislative Session\) – 13<sup>th</sup> Check for TRS \(Huffman\)](#)

**Status:** *Signed by Governor 9/9/21; Effective Immediately*

TRS will issue a one-time supplemental payment to eligible annuitants in an amount equal to the lesser of their monthly benefit or \$2,400. The TRS board determines eligibility for and the timing of the supplemental payment, payable no later than January 2022. Payment is only required if the legislature appropriates sufficient money.

### ERS & TRS – Bills Affecting Both Systems

#### [SB 483 - Biennial Report on Investment Returns \(Schwertner\)](#)

**Status:** *Signed by Governor 6/14/21; Effective 9/1/21*

ERS and TRS must biennially submit a report that details and compares the assumed rate of return and actual rate of return for the system for the last 1-year, 5-year, 10-year and 20-year period to the Governor, Lt. Governor, and the Legislature. The report must include an estimate of what the market value of the total assets of the fund would have been for each period had the system achieved the assumed rate of return and a comparison between the estimate (what the total assets would have been) and the actual market value of the total assets in the fund.

### Texas Municipal Retirement System (TMRS)

#### [SB 1105 - TMRS Resumption of Service \(Hughes\)](#)

**Status:** *Signed by Governor 5/28/21; Effective 9/1/21*

Retired TMRS members can be reemployed by the same municipality after a one-year break in service without having their benefit payment suspended. The one-year break must consist of 12 consecutive months after the effective date of retirement.

Members who resumed employment before September 1, 2021 who had their benefits suspended could have them reinstated if they met the criteria.

## All Statewide Systems

### **[SB 13 - Energy Boycott Investment Restriction \(Birdwell\)](#)**

Status: *Signed by Governor 6/14/21; Effective 9/1/21*

Certain state governmental entities are prohibited from investing in companies that boycott energy companies. State public retirement systems that qualify include the Employees Retirement System, the Teacher Retirement System, the Texas Municipal Retirement System, the Texas County and District Retirement System, and the Texas Emergency Services Retirement System.

A system may delay or stop divesting if there was clear evidence divestment would cause financial suffering. Systems are not required to divest from indirect holdings, but they would be required to write to the fund managers to ask them to remove listed companies from the fund or create a similar fund without those listed companies. Systems would not be subject to these requirements if it is inconsistent with fiduciary and legal duties.

### **[SB 19 - Firearm/Ammunition Divestment \(Schwertner\)](#)**

Status: *Signed by Governor 6/14/21; Effective 9/1/21*

State agencies and political subdivisions are prevented from entering contracts paid from public funds unless there is a written verification that the company does not discriminate against firearm manufacturers or trade associations for no other reason than being a firearm manufacturer or trade association and will not do so while the contract is in effect. This would only apply to contracts that begin after the effective date. The restrictions only apply to contracts with companies with at least 10 employees and a value of at least \$100,000.

State agencies are excepted from this requirement if it is inconsistent with constitutional or statutory duties surrounding debt issuance or investments.

## Local Systems

### **[HB 3375 - Dallas Police & Fire Pension Fund DROP Partial Lump-Sum \(Davis\)](#)**

Status: *Signed by Governor 6/16/21; Effective 9/1/21*

Dallas Police & Fire Pension Fund may provide lump-sum payments from DROP accounts in the event of unforeseeable emergency or financial hardships. The board will define unforeseeable emergencies, financial hardships, what types of death benefits would qualify for the partial lump sum payments and the maximum payout amount.

### **[HB 4068 - Dallas Police & Fire Pension Fund Staff \(Parker\)](#)**

Status: *Signed by Governor 6/15/21; Effective 9/1/21*

Dallas Police & Fire Pension Fund staff may join TMRS. The fund's members and/or trust fund cannot join TMRS.

## Local Systems

### **HB 4368 - Austin Police Retirement System (Rodriguez)**

Status: *Signed by Governor 6/15/21; Effective 9/1/21*

The governing statute of Austin Police plan was amended to make several changes to its contribution and benefit structure including the following:

#### ***Contribution Changes***

- Member contributions increase by 2%, from 13% to 15% of pay beginning January 1, 2022.
- City contributions are divided into two parts:
  - A legacy liability layer to pay the unfunded liability as of December 31, 2020 over 30 installments. The first three years would result in a phase-in of approximately 1/3 of the contribution increase and growing at a rate of 3% thereafter.
  - The sum of the employer's normal cost and a layered amortization component designed to eliminate any unexpected future changes in the unfunded liability. Losses amortized over a max of 30 years.
- The portion of the city contribution designed to fund future benefit accruals is subject to a minimum and maximum corridor of +/-5% of the projected corridor midpoint.

#### ***Benefit Changes***

- Creates a new benefit tier (Group B)
  - Reduces the multiplier from 3.2% to 2.5%.
  - Changes retirement eligibility from age 55 and 20 years of service to 50 and 25.
  - Increases final average salary calculation from the highest 36 months to highest 60.

#### ***Actuarial Assumptions & Experience Study***

Requires the board's actuary to perform an experience study every five years and notify the city. The city will then inform the system whether it would perform its own experience study, review the experience study, or accept the system's. If the city performs its own or does a review, the actuaries from the city and system will be required to determine the hypothetical contribution rate based on the proposed assumptions. If the difference was greater than 2% of payroll, they would be required to reconcile the difference within 20 business days or consult a third-party actuary. The board retains the responsibility to set actuarial assumptions.

#### ***Board Composition & Authority***

Removes one police officer member. One additional citizen member appointed by the city council is added to the existing one appointed by the board. Also, both citizen members are required to have finance or investment experience. Removes the board's authority to increase benefits, lower retirement eligibility, or grant COLAs.