



## Pension Bill Summaries – 88th Legislative Session

### **Texas Pension Review Board (PRB)**

#### **[SB 30 – Supplemental appropriations](#) (Huffman)**

Status: 6/9/2023 Signed by the governor, effective immediately

This is the supplemental appropriations bill for the 88th Legislature. It includes provisions related to the Employees Retirement System of Texas (ERS) (Sections 2.01 and 2.02) and the PRB (Sections 8.01 and 8.02). It includes unexpended balance authorization for the PRB’s database and self-service portal from the 2022-2023 biennium. It also includes a \$165,600,000 legacy payment and an additional \$900 million to amortize the ERS unfunded liability.

#### **[SB 1659 - Sunset schedule](#) (Schwertner)**

Status: 6/18/2023 Signed by the governor, effective immediately

This bill adjusts the schedule of numerous agencies scheduled for Sunset review during upcoming biennia. The bill pushes PRB’s Sunset date from 2025 to 2029 and also adjusts the TRS Sunset date from 2033 to 2035.

### **Statewide**

#### **Teacher Retirement System of Texas (TRS)**

#### **[HB 4520 – Benefit loss for distribution of harmful material to a minor](#) (Harris)**

Status: 6/18/2023 Signed by the governor, effective 9/1/2023

This bill makes the sale, distribution, or display of harmful material to a minor a qualifying felony that makes a TRS member or annuitant ineligible for a service retirement annuity if the victim is a student. It also adds conviction or deferred adjudication community supervision granted on the basis of those actions to the things that could cause certain disciplinary actions for an employee of a public school, private school, or open-enrollment charter school such as revocation of an Educator Certification, notification to employer, removal from administrative office, termination, or suspension without pay. The changes to the Code of Criminal Procedure only apply to a judgement of conviction or order granting deferred adjudication community supervision entered on or after the bill’s effective date. The provision related to the loss of eligibility for a TRS service retirement annuity applies only to an offense committed on or after the bill’s effective date.

## Statewide

### TRS

#### [SB 10 – TRS COLA and 13<sup>th</sup> Check](#) (Huffman et al.)

Status: 6/14/2023 Signed by the governor, one-time COLA effective January 1, 2024, if constitutional amendment proposed by HJR 2 is approved by voters; supplemental payment provision effective immediately

##### ***One-Time COLA***

The bill would authorize a one-time COLA in January 2024 for certain annuitants based on retirement date.

- 6 percent for retirees who retired on or before August 31, 2001
- 4 percent for retirees who retired after August 31, 2001, but on or before August 31, 2013
- 2 percent for retirees who retired after August 31, 2013, but on or before August 31, 2020
- The same scale applies for beneficiaries based on members' dates of death

##### ***Supplemental Payment (13<sup>th</sup> check)***

This bill would provide a one-time supplemental payment payable not later than September 2023 of \$7,500 to eligible retirees aged 75 and older the month before the payment is issued, and \$2,400 for annuitants aged 70 years but younger than 75 the month before the payment is issued.

#### [HJR 2 – TRS COLA payment constitutional amendment](#) (Bonnen et al)

Status: 5/30/2023 Filed with the Secretary of State (Election date 11/7/2023)

This resolution proposes a constitutional amendment specifying that the Legislature may provide a one-time or ongoing benefit enhancement for TRS retirees. The amendment would direct the transfer of money into the TRS trust fund for benefit enhancements as provided by SB 10. The temporary constitutional provision would expire September 1, 2025.

#### [SB 1246 – TRS investment vehicles](#) (Huffman)

Status: 6/18/2023 Signed by the governor, effective immediately

The bill removes the current cap of 10 percent on the total value of TRS' portfolio that may be invested in hedge funds and instead allows the board to set the limit. It authorizes TRS to create a title-holding entity to be used for investing the system's assets in real property, and creates various requirements for such investments, including confidentiality of certain records. It also amends the Government Code so that 10 percent rather than a quarter of the Economic Stabilization Fund must be invested in a manner that ensures its liquidity.

## Statewide

### Employees Retirement System of Texas (ERS)

#### **SB 729 – Cash Balance QDROs, service credit, and optional benefits** (Huffman)

Status: 5/19/2023 Signed by governor, effective immediately

This bill allows annual interest and gain sharing interest to be included in payment of segregated amounts for a member or retiree under ERS Tier 4 (cash balance). The segregated amounts are the portions of a benefit paid to an alternate payee under a qualified domestic relations order (QDRO) while ERS is determining qualification. This only applies to QDROs entered after the bill's effective date.

It also allows Tier 4 retirees to change their beneficiaries after retirement in most cases and Tier 4 members could receive custodial officer service and establish military service credit.

This bill creates an optional cash balance annuity members can select upon retirement, which allows the member to designate a beneficiary and select one of five options that provides:

- reduced annuity that stays the same throughout the life of the beneficiary after the retiree dies;
- half of the reduced annuity throughout the life of the beneficiary after the retiree dies;
- if the retiree dies before 60 monthly annuity payments have been made, the remainder of the payments are made to one or more beneficiaries, or the retiree's estate if no beneficiary exists;
- if the retiree dies before 120 monthly annuity payments have been made, the remainder of the payments are made to one or more beneficiaries, or the retiree's estate if no beneficiary exists; or
- three-quarters of the reduced annuity is payable throughout the life of the beneficiary after the retiree dies

If the designated beneficiary predeceases the retiree, the optional cash balance annuity reverts to a standard cash balance annuity and the retiree is entitled to the amount they would have received had they not selected the option. Members who selected the optional benefit are not permitted to change the beneficiary after retirement except under specific circumstances like divorce.

This bill also creates a partial lump-sum cash balance option, which is available alongside either the standard or optional cash balance annuity. This lump sum may not exceed the sum of 36 months of the standard cash balance annuity payments, and the annuity would be actuarially reduced to reflect the lump-sum option. This option is only available before the member retires and can only be elected once. The lump-sum option does not apply to a disability retirement annuity.

#### **HB 1393 – ERS COLA annuity option** (Frank)

Status: 6/9/2023 Signed by the governor, effective 9/1/2023

The bill creates a new retirement annuity option for ERS members where the annuity increases annually. Under the option, a member's benefits would be reduced upon retirement and annually increased by a rate determined by ERS. Before a member selects this option, they will receive a written notice about the amount and time their annuity will be reduced, and ERS will save a copy signed by the member. The annuity must be calculated to be equivalent to a regular annuity and be computed in a way to cause no actuarial loss to ERS. It may not be chosen by a retiree, a member under the proportionate retirement program, and does not apply to a disability retirement annuity or an annuity based on elected class service. The ERS board may adopt rules to implement the bill. The new option only applies to retirements on or after Sept. 1, 2024.

## Statewide

### ERS

#### [SB 1509 – ERS annuity without separation](#) (Huffman)

Status: 5/19/2023 Signed by governor, effective immediately

This bill repeals a provision in ERS' governing statute that currently allows ERS members who are eligible to retire, have accrued enough service credit to receive the maximum permitted annuity, and are at least 60 years old to retire and receive a retirement annuity without separating from service. It only applies to members who retire on or after the bill's effective date, so any members who retired before the bill took effect would continue to be governed by Section 814.109, Texas Government Code as it existed at the time.

### Judicial Retirement System Plan Two (JRS II)

#### [SB 1245 – Judicial cash balance tier](#) (Huffman)

Status: 6/18/2023 Signed by the governor, effective immediately

This bill establishes a cash balance tier for JRS II members who join the system on or after Sept. 1, 2024. The tier includes a guaranteed 4 percent annual interest and gain sharing interest of up to 3 percent on member accounts, lump sum and survivor's benefit retirement options, and a 6 percent member contribution rate.

The state will match 150 percent of the member's account balance. The bill also specifies state contributions for military service. Each year, member accounts and retirement annuities would receive a gain-sharing adjustment. Members will be eligible to retire after a certain combination of age and years of service:

- At least age 60 with 10+ years of service credit
- At least age 50 with 12+ years of service credit

This bill allows annual interest and gain sharing interest to be included in payment of segregated amounts for a member or retiree under ERS Tier 4 (cash balance). These segregated amounts are the portions of a benefit that would be paid to an alternate payee under a QDRO while ERS is determining the qualification. This would only apply to domestic relations orders entered after the bill's effective date.

This bill creates an optional cash balance annuity members can select upon retirement, which allows the member to designate a beneficiary and select one of five options specified in the bill.

The bill creates a separate, nonqualified, unfunded excess benefit arrangement outside the JRS trust fund. The arrangement will pay annuitants of JRS II benefits that they would have received but exceed internal revenue code limitations. The ERS board would be responsible for the administration of the arrangement. Contributions to this arrangement are not held in trust and may not be commingled with other funds from the system. The benefits would be paid from state contributions that would have been paid towards the benefits under Section 840.103.

This bill also creates a partial lump-sum cash balance option, which would be available alongside either the standard or optional cash balance annuity and specifies how the lump sum option would be administered.

The bill temporarily authorizes certain retirees who resume full-time judicial service after at least a six-month break to elect to rejoin the system and would specify the method for recomputing benefits for these members. An individual could only make this election once. This optional election provision expires on September 1, 2025.

## Statewide

### JRS II

#### [HB 3474 – Attorney longevity pay calculations](#) (Leach)

Status: 6/13/2023 Signed by the governor, effective 9/1/2023

This bill counts time served as a district attorney, criminal district attorney, or county attorney as service time for the purpose of calculating longevity pay for a variety of judicial branch positions. It makes conforming changes to the provisions related to pay of a statutory county court judge, a statutory probate court judge, a multicounty statutory court judge, an associate judge, and a district attorney or criminal district attorney. It also makes changes to what is considered years of service for state prosecuting attorneys, but it is slightly different than the other provisions. The bill also makes changes to the annual salary of the state prosecuting attorney and state prosecutors by setting their salary to the same as a district judge with comparable years of service, and provides longevity pay based on their years of service as if they were a judge or justice under Section 659.0445 of the Government Code. This change to longevity pay also applies to district attorneys or criminal district attorneys.

#### [HJR 107 – Increase mandatory retirement age for justices/judges](#) (Price)

Status: 5/16/2023 Filed with the Secretary of State (Election date 11/7/2023)

This resolution proposes a constitutional amendment to raise the mandatory retirement age for justices and judges of the Appellate Courts and District and Criminal District Courts. Currently if a judge or justice turns 75 or another age between 70 and 75 specified by the Legislature, then their office becomes vacant at the end of that term. The proposed amendment would change the maximum age to 79 and the range to 75 to 79. The proposed amendment would also repeal the provision that specifies if an elected judge or justice reaches the maximum age during the first four years of a six-year term, the judge or justice's office becomes vacant on Dec. 31 of the fourth year.

## Law Enforcement and Custodial Officers Retirement Fund (LECOSRF)

#### [HB 4141 – TRS officers in LECOS](#) (Guillen)

Status: 6/10/2023 Signed by the governor, effective immediately

This bill requires TRS to conduct a study and report on the feasibility and cost of offering peace officer members additional benefits outlined in the bill.

## Texas Municipal Retirement System (TMRS)

#### [HB 2464 – TMRS Optional Annuity Increase](#) (Price)

Status: 5/27/2023 Signed by the governor, effective immediately

This bill allows a municipality that adopts an ordinance to increase annuities that takes effect on Jan. 1 of 2024, 2025, or 2026 to use a different method to calculate increase. The increase for an individual is equal to the sum of prior and current service annuities and increased in subsequent years multiplied by consumer price index (CPI) for urban consumers and either 30, 50, or 70 percent as specified by the local sponsor. Only certain participating municipalities can select this option. The increase only applies to a retiree who retired, or a beneficiary of a retiree who died, no later than Dec. 31 of the year 13 months before the effective date of the local ordinance providing the increase.

## Municipal Systems

### [SB 1207 - San Antonio Fire & Police](#) (Menéndez)

Status: 5/15/2023 Signed by governor, effective 9/1/2023

This bill makes several changes to the governing statute for the San Antonio Fire and Police Pension Fund. It increases the monthly death benefit amount that certain surviving beneficiaries receive. It increases the percentage of a member's average total salary used to calculate a death benefit annuity to 75 percent from 50 percent; the surviving spouse can still elect to receive the salary percentage that the member would have been entitled to receive had they retired on the date of death instead of 75 percent. Death benefits for members or retirees who died on or after Sept. 1, 2005, but before Sept. 1, 2023, are increased to 75 percent of total average salary after Sept. 1, 2023, as long as the surviving spouse did not elect to receive a lump-sum payment. COLAs during that period will not count toward what the beneficiary is receiving when calculating the difference between what they are receiving and the 75 percent, but the COLAs will be added to the increased value. The death benefit for a surviving beneficiary of a disability retiree is still 50 percent of the retiree's average total salary as of the date of retirement.

The bill also makes a variety of clarifying and technical changes to provisions including those related to service credit purchase for military service, calculation and administration of disability retirement and death benefits, coordination with federal statute, the system board's authority, and fund administration.

These changes only apply to benefit applications and supplemental payments on or after Sept. 1, 2023.

### [HB 3980 - Dallas firefighter professional org business leave](#) (Frazier)

Status: 6/12/2023 Signed by the governor, effective 9/1/2023

This bill would make changes to the administration of business leave time accounts for certain employee organizations for firefighters in Dallas. The eligible organizations are the Dallas Fire Fighters Association, the Dallas Black Fire Fighters Association, and the Dallas Hispanic Firefighters Association.

If a majority of the membership of each organization votes to make donation to these accounts mandatory, then the municipality will transfer the donated time to the account from each firefighter member unless the member provides written notification not to each year. If there is not an affirmative vote, then members would complete a form provided by the employer to authorize donated time from their leave balance. The employee organizations would compensate the municipality for the costs of overtime, pension, and healthcare related to replacing a firefighter on business leave. It repeals a provision preventing an organization from using more than 4,000 hours of business leave during a single calendar year without approval from the municipality.

### [HB 4034 - DPFPS death and disability benefits](#) (Johnson, Julie)

Status: 6/11/2023 Signed by the governor, effective 9/1/2023

This bill makes changes to certain death and disability benefits for members of the Dallas Police and Fire Pension System. It changes the multiplier for disability benefits for a surviving spouse of a member who began service before Mar. 1, 2011, to 2.5 percent rather than between 2 and 2.5 percent based on age at retirement. It sets the standard death benefit multiplier for service after Sept. 1, 2017, to 1.25 percent rather than between 1 and 1.25 percent based on age at retirement. It increases death benefits for members who have died in the line of duty, from 50 percent of the member's accrued benefit with a maximum of 45 percent of average pay to 100 percent of the maximum accrued benefit with a maximum of 90 percent of average pay. The changes only apply for disability or death benefits for which an application is filed on or after Sept. 1, 2023.

## Municipal Systems

### [HB 4559 – Population bracket updates](#) (Darby)

Status: 6/12/2023 Signed by the governor, effective 9/1/2023

This bill adjusts the population brackets in numerous statutes to ensure they are applied consistently as a region's population changes, based on the most recent census data. These changes include adjustments to statutes affecting the Austin Fire Fighters' Relief and Retirement Fund, the Texas Municipal Retirement System as it relates to the City of University Park, health coverage provided by TRS, the Texas Local Fire Fighters Retirement Act (TLFFRA) as it relates to the City of University Park, the City of Austin Employees' Retirement System (COAERS), Austin Police Retirement System, and San Antonio Fire & Police Pension Fund.

### [SB 1444 – COAERS reform](#) (Zaffirini/Eckhardt)

Status: 5/29/2023 Signed by the governor, effective 9/1/2023

This bill makes changes to employer contributions, employee contributions, benefits, board composition, risk-sharing, and COLA or additional payment approval for COAERS.

#### **Contribution changes:**

- Adjusts the assumed interest rate for members who are reestablishing service to the actuarial assumed rate of return in effect on the date of service purchase.
- Member contributions will be increased from 8 percent to 9 percent in 2024 and to 10 percent starting in 2025. The rate can be increased with a majority vote of all voting active-contributory members.
- Employer contributions are split into two parts:
  - A legacy liability layer to pay off the unfunded liability over 26 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 percent 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 maximum of 30 years.
- The portion of the city contribution designed to fund future benefit accruals will be subject to a minimum and maximum corridor of +/- 5 percent of the projected corridor midpoint.
- **Risk-sharing:**
  - The system actuary will prepare a risk-sharing valuation study (RSVS) as of Dec. 31, 2022, to project the 30-year corridor.
  - The system actuary will perform an annual RSVS to calculate the UAAL for the previous year, subject to various requirements.

#### **Benefits:**

- Allows a member to convert sick leave to creditable service at retirement rather than any time beforehand and specifies that city contributions for such conversions must be funded through employer contributions.
- Before a COLA or additional payment can be provided, the system's actuary is required to certify the system is actuarially sound, with approval by both the system board and the city governing body, and the Legislature must amend the system's governing statute to provide it.

## Municipal Systems

### [SB 1444 – COAERS reform, cont.](#)

#### **Board composition and authority:**

- Requires that citizen trustees have experience in securities investment, pension administration, pension law, or government finance.
- Gives the city's director of finance or their designee a specific place on the board.
- Reduces the number of trustees elected by active system members from four to three.

**Actuarial studies and oversight requirements:** The system actuary is required to perform an experience study at least once every five years and must notify the city beforehand. The city is authorized to have an actuary prepare a separate experience study, review the system's experience study, or accept the system's experience study, with specific time requirements for each option. The bill specifies the circumstances in which a third-party actuary must be hired by the city from three options presented by the system to explain the differences between the assumptions of the system and city's actuaries. The third-party actuary's findings and the experience studies must be presented to the system board. If the system board adopts actuarial assumptions or methods that are counter to the third-party actuary's findings, the board must provide a formal letter to the city and the PRB explaining the rationale and the system's actuary and executive director must be available upon request of the city or PRB to present the rationale in person.