

- SUBJECT:** Revising participation requirements for the optional retirement program
- COMMITTEE:** Higher Education — favorable, without amendment
- VOTE:** 8 ayes — Lozano, Raney, Alonzo, Alvarado, Clardy, Howard, Morrison, Turner
0 nays
1 absent — Button
- SENATE VOTE:** On final passage, April 19 — 31-0, on Local and Uncontested Calendar
- WITNESSES:** *On House companion bill, HB 3267:*
For — (*Registered but did not testify:* Dwight Harris, Texas AFT)

Against — None

On — (*Registered but did not testify:* Toni Alexander, Texas Higher Education Coordinating Board; Brian Guthrie and Rebecca Smith, Texas Retirement System)
- BACKGROUND:** The Optional Retirement Program (ORP) is a defined contribution plan that is available as an alternative to the Teacher Retirement System (TRS) for certain faculty and professionals employed by Texas public institutions of higher education.
- 34 TAC, Part 3, ch. 25, subch. M, sec. 25.171 allows a TRS member to elect to participate in the ORP if he or she is employed in an eligible position, the time limit for electing to participate in ORP has not expired, and the person has never exercised an election between TRS and ORP participation. Government Code, sec. 830.102 requires a person who becomes eligible to participate in the ORP must elect to participate before the 91st day after becoming eligible.
- Sec. 25.172 under 34 TAC requires a person, with certain exceptions, who

has elected ORP participation to become a member of TRS if the person later becomes an employee of a public education institution. This includes ORP participants who become employed in a public school or participants with less than one year in ORP who become employed in a non-faculty position at an institution of higher education.

DIGEST: SB 1954 would change the requirements for notifying employees of their eligibility to participate in the Optional Retirement Program (ORP) of the Teacher Retirement System. It also would establish a process for correcting errors in contributions.

Notification. The bill would require a person who was notified by an employer of the employee's eligibility to participate in ORP to elect to participate before the later of the 91st day following the date the person became eligible or the 31st day following the date the person received notice of the opportunity to participate in the program. An employer who notified an employee of the opportunity to participate in ORP after the 91st day following the date the person became eligible would be required to provide notice before the 151st day following the date the person became eligible. Such an employee would be required to elect to participate in the ORP before the later of the 151st day following the date the person became eligible or the 31st day following the date the person received notice of the opportunity to participate.

Correction of reporting errors. An employer would be considered to have submitted an employee's member contribution to TRS in error if the employee:

- had previously elected to participate in ORP;
- had participated for at least one year; and
- was or previously had been employed by an institution of higher education in a position and was not TRS eligible by virtue of having terminated employment covered by ORP and becoming employed in the public school system or with a state agency in a position that was not eligible for ORP participation.

If an employer committed an error, the employee's participation in ORP would be immediately restored and funds deposited in the participant's ORP account or otherwise remitted to the employee. The bill specifies requirements TRS would follow for correcting errors in employer or employee contributions, including employee contributions that had been made to TRS in excess of the amount of the participant's ORP contribution.

The bill would take effect September 1, 2017, and would apply to a member contribution submitted in error regardless of when it was submitted.

**SUPPORTERS
SAY:**

SB 1954 would open the window for an eligible higher education employee to select the Optional Retirement Program (ORP), a defined contribution plan, instead of the Teacher Retirement System (TRS), a defined benefit plan. Currently employees who miss the 90-day deadline to enroll in the ORP cannot exercise that option, even if their employer failed to properly inform them in time. The bill also would implement measures to correct errors in contributions related to enrollment in TRS and ORP.

**OPPONENTS
SAY:**

No apparent opposition.

NOTES:

A companion bill, HB 3267 by Lozano, was withdrawn from the Local, Consent, and Resolutions Calendar on May 12.