

BILL ANALYSIS

C.S.S.B. 322
By: Huffman
Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Concerns have been raised over some investment practices by certain public retirement systems, specifically with regard to the appropriateness of fees paid, future cash flow, and the rate of return for certain asset classes. Those concerns are further compounded by the lack of a uniform study of these investment practices that could build a better understanding of how each public retirement system is operating. C.S.S.B. 322 seeks to ensure that public retirement systems are investing in a manner that is appropriate, adequate, and effective by requiring a public retirement system to have an independent firm evaluate the system's investment practices and performance and to submit a report of an evaluation to the State Pension Review Board following each evaluation.

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 State Pension Review Board in SECTIONS 2 and 3 of this bill.

ANALYSIS

C.S.S.B. 322 amends the Government Code to require a public retirement system to select an independent firm with substantial experience in evaluating institutional investment practices and performance to evaluate the appropriateness, adequacy, and effectiveness of the retirement system's investment practices and performance and to make recommendations for improving the system's investment policies, procedures, and practices. The bill authorizes such a system to select a firm regardless of whether the firm has an existing relationship with the system but prohibits the selection of a firm that directly or indirectly manages investments of the system. The bill requires the system to pay the cost of each evaluation and sets out the required contents of each evaluation. The bill authorizes a retirement system's governing body to determine additional specific areas to be evaluated and to select particular asset classes on which to focus. The first evaluation must be a comprehensive analysis of the system's investment program that covers all asset classes. The bill bases the frequency of the evaluation on the book value of the system's total assets as of the last day of the last fiscal year and provides that a retirement system that has total assets with a book value of less than \$30 million as of the last day of the preceding fiscal year is not required to conduct the evaluation.

C.S.S.B. 322 requires a report of the evaluation to be filed with the retirement system's governing body not later than May 1 of each year following the year in which the system is evaluated and requires a report of the first evaluation to be filed not later than May 1, 2020. The bill requires the governing body to submit the report to the State Pension Review Board (PRB)

not later than the 31st day after the date the governing body receives the report. The bill requires the PRB to submit an investment performance report that compiles and summarizes information it receives from system evaluations during the preceding two fiscal years to the governor, the lieutenant governor, the speaker of the house of representatives, and the legislative committees having principal jurisdiction over legislation governing public retirement systems in the required PRB biennial report.

C.S.S.B. 322 establishes that a report of an evaluation by the Teacher Retirement System of Texas (TRS) and an investment report that includes TRS under the bill's provisions satisfy the requirements relating to the biennial evaluation of TRS investment practices and performance by an independent firm selected by the legislative audit committee. The bill sets out other public retirement system reports that may be used by the applicable system to satisfy the requirement for a report of an evaluation under the bill's provisions. The bill authorizes the PRB to adopt rules necessary to implement the bill's provisions relating to investment practices and performance reports.

C.S.S.B. 322 requires the PRB to post on its website, or on a publicly available website that is linked to the PRB website, the most recent data for each public retirement system from the system evaluation reports received under the bill's provisions.

C.S.S.B. 322 requires the inclusion in the requisite annual financial report of the governing body of a public retirement system of a listing, by asset class, of all direct and indirect commissions and fees paid by the retirement system during the system's previous fiscal year for the sale, purchase, or management of system assets and the names of investment managers engaged by the system. The bill authorizes the PRB to adopt rules necessary to implement provisions relating to that annual financial report.

C.S.S.B. 322 establishes that the PRB is required to implement a provision of the bill only if the legislature appropriates money specifically for that purpose and if not, that the PRB may, but is not required to, implement such a provision using other appropriations available for that purpose.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2019.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 322 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes a provision authorizing a retirement system, in selecting an independent firm to conduct the evaluation, to select a firm regardless of whether the firm has an existing relationship with the system but prohibiting such a system from selecting a firm that directly or indirectly manages investments of the system.

The substitute changes from a state agency to the PRB the entity whose duty to implement a provision of the bill is contingent on the legislature appropriating money specifically for that purpose and who may take such action using other appropriations available for that purpose if the legislature does not appropriate money specifically for that purpose.