

SUBJECT: Reporting requirements for public pension plans

COMMITTEE: Pensions — committee substitute recommended

VOTE: 5 ayes — Callegari, Alonzo, Frullo, P. King, Stephenson

0 nays

2 absent — Branch, Gutierrez

WITNESSES: (*On original bill:*)

For — Eyna Canales-Zarate, Texpers; Todd Clark, Houston Firefighters Relief and Retirement Fund; Doreen McGookey, Fort Worth Employees' Retirement Fund; James Quintero, Texas Public Policy Foundation; Warren Schott, San Antonio Fire and Police Pension Fund; Jim Smith, San Antonio Police Officers Association; David Stacy, Midland Firemen's Relief and Retirement Fund; Charley Wilkison, Combined Law Enforcement Associations of Texas; (*Registered, but did not testify:* Frank Burney, San Antonio Fire and Police Pension Fund; Lon Craft, TMPA; Daniel Earnest, San Antonio Police Officers Association; Duane Galligher, Austin Firefighters Relief and Pension Fund; Lisa Hughes, El Paso Firemen and Policemen's Pension Fund; Keith Johnson, Austin Firefighters Relief and Pension Fund; Dustin Matocha, Texans for Fiscal Responsibility; Washington Moscoso, San Antonio Police Officer's Association; Ed Sterling, Texas Press Association; Michael Trainer, San Antonio Fire & Police Pensioners' Association)

Against — None

On — Susan Combs, Texas Comptroller of Public Accounts; Christopher Hanson, Pension Review Board; Dan Hart, Taxpayers For Equal Appraisal; Josh McGee, Laura and John Arnold Foundation; (*Registered, but did not testify:* Derrick Osobase, Texas State Employees Union; Vicki Truitt, Texas Retired Teachers Association; Sherri Walker, Fire Fighters Pension Commissioner)

(*On committee substitute:*)

For — (*Registered, but did not testify:* Peggy Venable, Americans for Prosperity-Texas)

**BACKGROUND:** Government Code, ch. 801, grants the State Pension Review Board (PRB) authority to review all public retirement systems regarding benefits, financing, actuarial soundness, and administrative functions. The pension systems submit to PRB various information, including registration, actuarial studies, annual financial reports, and the number of members and retirees served. The PRB is authorized to establish and recommend best practices and conduct studies of public pension systems for the Legislature. About 350 public retirement systems are registered with PRB, with membership totaling more than 2.4 million and assets exceeding \$200 billion.

**DIGEST:** CSHB 13 would expand reporting requirements for all public pension systems to include the reporting of investment returns. It would require that returns and other information be posted on the Pension Review Board (PRB) website or on another website to which it is linked. The PRB would create and administer new educational training programs to help system administrators and trustees perform their duties.

**Reporting and internet posting requirements.** Within 211 days of the end of a public retirement system's fiscal year, the system would be required to submit a report to PRB that included:

- gross and net investment returns for each of the most recent 10 fiscal years;
- rolling gross and rolling net investment returns for the most recent one-year, three-year, and 10-year periods;
- rolling gross and rolling net investment return for the most recent 30-year period or the gross and net investment return since the system's inception, whichever period was shorter;
- the assumed rate of return used in the most recent actuarial valuation; and
- the assumed rate of return used in each of the most recent 10 actuarial valuations.

The bill would define "net investment return" as gross investment return minus investment expenses. It could be calculated as the money-weighted rate of return as required by generally accepted accounting principles.

If any of the required investment information were unavailable, the governing body of the public retirement system would have to submit by

the reporting deadline a letter certifying that the information was unavailable, providing a reason, and agreeing to timely submit the information if it became available.

CSHB 13 would require PRB to post the investment data and other reports submitted by the pension systems on the PRB website or another website to which the PRB website was linked. If the PRB had not received the information within 60 days after it was due, the agency would post online a list of retirement systems that had not submitted the required information. It also would notify the governor and Legislative Budget Board (LBB) regarding statewide systems that had not complied and the governing bodies of political subdivisions regarding local retirement systems that had not done so.

Each public pension system would have to post on a publicly available website the contact information for a system administrator and the various reports the system submitted to the PRB. All required reports and information would remain posted until replaced with updated information.

**Education and training.** CSHB 13 would require PRB to develop and post on its website model ethical standards and conflict-of-interest policies, including disclosure requirements, for voluntary use by public retirement systems. The standards and policies would have to be published by December 31, 2013.

The PRB would develop and administer an educational training program with minimum training requirements for trustees and system administrators. To the extent practicable, training programs would be available online. The PRB could adopt rules and reasonable fees to cover actual costs of the training, which would begin by September 1, 2014. The fees would have to be paid from a source considered appropriate by the governing body of the public retirement system.

A system could provide its own training if it met or exceeded minimum requirements set by the PRB, which would develop a system to track compliance beginning on or after January 1, 2015. The PRB would report compliance to the Legislature and the governor as part of an existing report issued in November of each even-numbered year.

The bill would require PRB to study the financial health of public retirement systems, including each system's ability to meet its long-term

obligations. The report would be issued by September 1, 2014, and pension systems would have reasonable opportunity to review the PRB's findings and recommendations and submit a response. The final report would be submitted to the Legislature by December 31, 2014.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2013.

SUPPORTERS  
SAY:

CSHB 13 would improve the transparency and oversight of public pension programs across the state. This would help protect the taxpayers who fund pension obligations, as well as the teachers, firefighters, police officers, and government employees who deserve to know their retirements are financially secure.

Underfunded pensions are a type of public debt that must be exposed. A huge unfunded pension liability was cited as a major factor last June when Stockton, California became the largest city in U.S. history to file for bankruptcy. Information on pension plans' actuarial assumptions, investment returns, benefit design and employee and employer contributions allow plan members and taxpayers to determine if a pension system will be able to meet its future obligations. CHSB 13 would facilitate the public accessibility of this important information.

While there is a small fiscal note attached to the bill, the nominal cost to the state would be far outweighed by the expected returns of increased transparency and accountability to taxpayers.

**Reporting and internet posting requirements.** In a December 2012 report, Comptroller Susan Combs reviewed statewide and local pension systems and found that a majority are healthy. To help ensure these plans remain viable, the comptroller recommended the Legislature take steps to improve transparency. She testified that it was difficult to get financial information from some public retirement systems, even though the systems are subject to state public information laws. Out of 89 public information requests filed by the comptroller, 37 pension systems provided the information, 42 provided partial information, and 10 did not respond. It presumably would be even more difficult for average taxpayers to learn about the financial health of their local pension systems. CSHB 13 would provide the transparency necessary to keep plan members and taxpayers appropriately informed about the health of these systems.

CSHB 13 would not place additional burdens on pension systems because the information required for the reports should already be available. For example, many systems publish data about rates of return in their annual reports, and the bill simply would require that the same information be reported to the PRB and posted online, a move that would dramatically increase public access to the information. Requiring systems to publish their net and gross returns would allow better accounting of expenses, including fees paid to fund managers. The Texas County and District Retirement Systems and Texas Municipal Retirement System told the LBB that there would be no significant cost to comply with the added reporting requirements.

The public and system members should know whom to call or write with questions about a retirement plan. CSHB 13 would require this basic contact information to be publicly available on a website.

**Education and training.** The Sunset review of the PRB found that the agency relies too heavily on an annual seminar to deliver training, which limits its ability to reach some of the public retirement systems with the greatest educational needs. The report recommended using technology, such as web-based educational programs, to make training more accessible and cost effective. CSHB 13 would require the PRB to make training reasonably accessible on its website, which especially would help small pension systems that lack resources to pay for trustees and administrators to travel to Austin for education programs.

Many local systems conduct their own training, but there is no way to determine whether the local programs cover basic information, such as trustees' fiduciary duties, how to avoid ethical conflicts, and how to comply with open records requests. The bill would direct the PRB to establish minimum training requirements and track compliance.

**OPPONENTS  
SAY:**

CSHB 13 is unnecessary and would cost the state general revenue fund \$139,188 in fiscal 2014-15, according to the LBB. The vast majority of public retirement systems already work with the PRB to promote transparency, so there is little need for new statutory requirements. In addition, the PRB has authority to subpoena records from pension systems that fail to comply with reporting requirements.

Financial information can offer a snapshot of a pension fund's current

health but is not predictive of how a fund will function over the long term. This is particularly true for newer plans that have not had time to build up their funding. There is a danger that policymakers and the public, based on information gathered through the reporting requirements in CSHB 13, would demand changes in these newer plans before they had had sufficient time to record growth through contributions and investments.

Serving as a pension system trustee can be time-consuming, and the requirement for additional training in CSHB 13 only would add to the difficulty of finding qualified individuals to serve. Public retirement systems are structured in many different ways, and it would be difficult for the PRB to provide meaningful training that was tailored to individual plan needs.

NOTES:

CSHB 13 differs from the bill as introduced in that the committee substitute would:

- define “system administrator” and “trustee”;
- require the PRB to set reasonable fees to pay actual costs to conduct the training classes, require that fees be paid from an appropriate source, and allow a public retirement system to provide its own educational training to its trustees and system administrators if the PRB determined the training met minimum requirements;
- add gross and rolling gross investment returns to the report of investment returns and assumptions and allow systems to report rolling gross and rolling net return from the most recent 30-year period or gross and net investment return since inception;
- define “net investment return” and require pension systems to explain why investment information was unavailable by the reporting deadline;
- specify that records of individual members and retirees remained confidential; and
- allow pension systems to review and submit a response to the PRB’s report to the Legislature and extend the deadline for the final report.

According to the LBB’s fiscal note, CSHB 13 would result in a cost \$139,188 in general revenue through the end of fiscal 2014-15.

The companion bill, SB 13 by Duncan, was referred to the Senate State Affairs Committee on February 13.

