

BILL ANALYSIS

Senate Research Center
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S.B. 200
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The State Pension Review Board (PRB) oversees state and local public retirement systems through the ongoing assessment of the systems' actuarial and financial soundness. PRB also provides policymakers and the public with objective information on Texas' public pensions, and provides needed education to help pensions remain actuarially sound.

PRB is subject to the Sunset Act and will be abolished on September 1, 2013, unless continued by the legislature. The Texas Sunset Advisory Commission concluded that Texas has an ongoing need for the functions of PRB, but that changes are needed to improve the efficiency of several of PRB's functions.

S.B. 200 continues PRB for 12 years and focuses PRB on its core mission of monitoring the actuarial soundness of traditional defined benefit pensions by exempting defined contribution and pay-as-you-go plans—identified as local volunteer firefighter pensions—from PRB reporting requirements except for registration and basic plan information.

The bill updates retirement system reporting requirements to ensure that PRB receives important data needed to detect funding problems. S.B. 200:

- requires public retirement systems to provide PRB a summary of significant changes within 30, rather than 270 days, of their adoption;
- requires public retirement systems that conduct actuarial experience studies to submit copies to PRB; and
- clarifies in statute that general city audits do not satisfy retirement systems' annual financial reporting requirements.

The bill provides needed flexibility to ensure PRB's training efforts reach the public retirement systems with the greatest needs by clarifying the agency's authority to provide training beyond its annual seminar, using live webinars and other technologies and archiving the sessions online.

As proposed, S.B. 200 amends current law relating to the continuation and functions of the State Pension Review Board.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 801.1021, Government Code, as follows:

Sec. 801.1021. CONFLICT PROVISIONS. (a) Defines "Texas trade association" in this section.

(b) Redesignates existing Subsection (a) as Subsection (b). Makes no further changes to this subsection.

(c) Redesignates existing Subsection (b) as Subsection (c). Makes no further changes to this subsection.

(d) Prohibits a person from being a member of the State Pension Review Board (PRB) and prohibits a person being a PRB employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:

(1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of pensions; or

(2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of pensions.

SECTION 2. Amends Section 801.107, Government Code, to provide that unless continued in existence as provided by Chapter 325 (Sunset Law) (Texas Sunset Act), PRB is abolished and this chapter expires September 1, 2025, rather than September 1, 2013.

SECTION 3. Amends Subchapter C, Chapter 801, Government Code, by adding Section 801.2012, as follows:

Sec. 801.2012. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION PROCEDURES. (a) Requires PRB to develop and implement a policy to encourage the use of negotiated rulemaking procedures under Chapter 2008 (Negotiated Rulemaking) for the adoption of PRB rules and appropriate alternative dispute resolution procedures under Chapter 2009 (Alternative Dispute Resolution for Use by Governmental Bodies) to assist in the resolution of internal and external disputes under PRB's jurisdiction.

(b) Requires PRB's procedures relating to alternative dispute resolution to conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings (SOAH) for the use of alternative dispute resolution by state agencies.

(c) Requires PRB to coordinate the implementation of the policy adopted under Subsection (a), provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution, and collect data concerning the effectiveness of those procedures.

SECTION 4. Amends Subchapter C, Chapter 801, Government Code, by adding Section 801.208, as follows:

Sec. 801.208. EDUCATION AND TRAINING. Authorizes PRB, as authorized by Section 801.113(e) (relating to the authorization of PRB to conduct training sessions, schools, or other education activities for trustees and administrators of public retirement systems), to develop and conduct training sessions and other educational activities for trustees and administrators of public retirement systems. Authorizes PRB, in exercising PRB's authority under this section, to:

(1) conduct live training seminars on an Internet website at intervals PRB considers necessary to keep trustees and administrators reasonably informed;

(2) maintain archives of previous seminars reasonably accessible to trustees and administrators on the Internet website; and

(3) use technologies and innovations PRB considers appropriate to educate the greatest practicable number of trustees and administrators.

SECTION 5. Amends Section 802.001, Government Code, by adding Subdivision (1-a) to define "defined contribution plan."

SECTION 6. Amends Section 802.002, Government Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Requires the actuary making the valuation and the governing body publishing the information, if a public retirement system or program, rather than if an exempt retirement system or program, that is exempt under Subsection (a) is required by law to make an actuarial valuation of the assets of the system or program and publish actuarial information about the system or program, to include the information required by Section 802.101(b) (relating to the requirement of the actuary making recommendations to the governing body of the public retirement system to ensure the actuarial soundness of the system).

(c) Exempts a defined contribution plan, notwithstanding any other law, from Sections 802.101 (Actuarial Valuation), 802.1012 (Audits of Actuarial Valuations, Studies, and Reports), 802.1014, 802.103 (Annual Financial Report), 802.104 (Report of Members and Retirees), and 802.202(d) (relating to investment policy requirements of the governing body of a public retirement system). Prohibits this section from being construed to exempt any plan from Section 802.105 (Registration) or 802.106(h).

(d) Exempts a retirement system that is organized under the Texas Local Fire Fighters Retirement Act (Article 6243e, V.T.C.S.) for a fire department consisting exclusively of volunteers as defined by that Act from Sections 802.101, 802.1012, 802.1014, 802.102, 802.103, 802.104, and 802.202(d). Prohibits this section from being construed to exempt any plan from Section 802.105 or 802.106(h).

SECTION 7. Amends Subchapter B, Chapter 802, Government Code, by adding Section 802.1014, as follows:

Sec. 802.1014. ACTUARIAL EXPERIENCE STUDY. (a) Defines "actuarial experience study" in this section.

(b) Requires a public retirement system that conducts an actuarial experience study, except as provided by Subsection (c), to submit to PRB a copy of the actuarial experience study before the 31st day after the date of the study's adoption.

(c) Provides that this section does not apply to the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas County and District Retirement System, the Texas Municipal Retirement System, or the Judicial Retirement System of Texas Plan Two.

SECTION 8. Amends Section 802.102, Government Code, to provide that a general audit of a governmental entity, as defined by Section 802.1012, does not satisfy the requirement of this section.

SECTION 9. Amends Section 802.103, Government Code, by adding Subsection (d) to provide that a general audit of a governmental entity, as defined by Section 802.1012, does not satisfy the requirement of this section.

SECTION 10. Amends Section 802.106(h), Government Code, as follows:

(h) Requires a public retirement system to submit to PRB copies of the summarized information required by Subsections (a) and (b) before the 31st day after the date of publication or the date a change is adopted, as appropriate. Deletes existing text requiring a public retirement system to submit a copy of the information required by Subsection (a) and a copy of the information required by Subsection (b) before the 271st day after the date a change is adopted. Makes nonsubstantive changes.

SECTION 11. Repealer: Section 802.103(c) (relating to the authorization of a certain public retirement system to submit to PRB a copy of the financial report it submits to the firemen's pension commissioner), Government Code.

SECTION 12. (a) Provides that the change in law made by this Act to Section 801.1021, Government Code, regarding prohibitions on members of PRB does not affect the entitlement of a member serving on PRB immediately before September 1, 2013, to continue to serve and function as a member of PRB for the remainder of the member's term. Provides that the change in law made to that section applies only to a member appointed on or after September 1, 2013.

(b) Provides that Section 802.1014, Government Code, as added by this Act, applies only to an actuarial experience study conducted on or after the effective date of this Act. Provides that an actuarial experience study conducted before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(c) Provides that Section 802.102, Government Code, as amended by this Act, is intended to clarify existing law with respect to the audit required by that section.

(d) Provides that Section 802.103(d), Government Code, as added by this Act, is intended to clarify existing law with respect to the annual financial report required by Section 802.103, Government Code.

(e) Provides that Section 802.106(h), Government Code, as amended by this Act, applies only to a change in statutes or ordinances governing a retirement system described by Section 802.106(b), Government Code, that is adopted on or after the effective date of this Act. Provides that a change in statutes or ordinances that is adopted before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

SECTION 13. Effective date: September 1, 2013.