

BILL ANALYSIS

Senate Research Center

S.B. 322
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State Affairs
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Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Recently, some public retirement systems' investment practices have been scrutinized.

S.B. 322 requires a public retirement system to have an independent firm evaluate the retirement system's investment practices and performance.

S.B. 322 will increase transparency, strengthen oversight, and protect retirement systems from self-inflicted investment catastrophes that jeopardize their members' benefits. Furthermore, by reporting this information to the State Pension Review Board (PRB), it enables the PRB to: (1) conduct better investment analysis of systems; (2) provide assistance to systems; (3) provide comparative investment strategy data among peer systems; and (4) help foster informed decision making. (Original Author's/Sponsor's Statement of Intent)

S.B. 322 amends current law relating to the evaluation and reporting of investment practices and performance of certain public retirement systems.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the State Pension Review Board in SECTION 2 (Section 802.103, Government Code) and SECTION 3 (Section 802.109, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 801.209(a), Government Code, as follows:

- (a) Requires the State Pension Review Board (PRB), for each public retirement system, to post on PRB's Internet website, or on a publicly available website that is linked to PRB's website, the most recent data from reports received under certain sections, including Section 802.109.

SECTION 2. Amends Section 802.103(a), Government Code, by amending Subsection (a) and adding Subsection (e), as follows:

- (a) Requires the governing body of a public retirement system to publish an annual financial report showing the financial condition of the system as of the last day of the fiscal year covered in the report. Deletes text providing for an exception under Subsection (c) (repealed). Requires the report to include:

- (1)–(2) creates these subdivisions from existing text and makes nonsubstantive changes;

- (3) 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

- (4) the names of investment managers engaged by the retirement system.

(e) Authorizes PRB to adopt rules necessary to implement this section (Annual Financial Report).

SECTION 3. Amends Subchapter B, Chapter 802, Government Code, by adding Section 802.109, as follows:

Sec. 802.109. INVESTMENT PRACTICES AND PERFORMANCE REPORTS. (a) Requires a public retirement system, except as provided by Subsection (e) and Subject to Subsections (c) and (k), 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 retirement system's investment policies, procedures, and practices. Requires each evaluation to include:

(1) an analysis of any investment policy or strategic investment plan adopted by the retirement system and the retirement system's compliance with that policy or plan;

(2) a detailed review of the retirement system's investment asset allocation, including the process for determining target allocations, the expected risk and assumed rate of return, categorized by asset class, the appropriateness of selection and valuation methodologies of alternative and illiquid assets, and future cash flow and liquidity needs;

(3) a review of the appropriateness of investment fees and commissions paid by the retirement system;

(4) a review of the retirement system's governance processes related to investment activities, including investment decision-making processes, delegation of investment authority, and board investment expertise and education; and

(5) a review of the retirement system's investment manager selection and monitoring process.

(b) Authorizes the governing body of a public retirement system to determine additional specific areas to be evaluated under Subsection (a) and to select particular asset classes on which to focus, but requires that the first evaluation be a comprehensive analysis of the retirement system's investment program that covers all asset classes.

(c) Provides that a public retirement system, in selecting an independent firm to conduct the evaluation described by Subsection (a):

(1) subject to Subdivision (2), is authorized to select a firm regardless of whether the firm has an existing relationship with the retirement system; and

(2) is prohibited from selecting a firm that directly or indirectly manages investments of the retirement system.

(d) Requires a public retirement system to conduct the evaluation described by Subsection (a):

(1) once every three years, if the retirement system has total assets the book value of which, as of the last day of the last fiscal year considered in an evaluation under this section, was at least \$100 million; or

(2) once every six years, if the retirement system has total assets the book value of which, as of the last day of the last fiscal year considered in an evaluation under this section, was at least \$30 million and less than \$100 million.

(e) Provides that a public retirement system is not required to conduct the evaluation described by Subsection (a) if the retirement system has total assets the book value of which, as of the last day of the preceding fiscal year, was less than \$30 million.

(f) Requires a report of an evaluation under this section to be filed with the governing body of the public retirement system not later than May 1 of each year following the year in which the system is evaluated under Subsection (d).

(g) Requires the governing body of a public retirement system to submit the report to PRB not later than the 31st day after the date the governing body receives a report of an evaluation under this section.

(h) Requires a public retirement system to pay the costs of each evaluation of the system under this section.

(i) Requires PRB to submit an investment performance report 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 biennial report required by Section 801.203 (Reports to Legislature and Governor). Requires the report to compile and summarize the information received under this section by PRB during the preceding two fiscal years.

(j) Provides that a report of an evaluation by the Teacher Retirement System of Texas (TRS) and an investment report that includes TRS under this section satisfies the requirements of Section 825.512 (Investment Practices and Performance Reports).

(k) Authorizes certain specified reports to be used by the applicable public retirement systems to satisfy the requirement for a report of an evaluation under this section.

(l) Authorizes PRB to adopt rules necessary to implement this section.

SECTION 4. Requires that a report of the first evaluation of a public retirement system, as required by Section 802.109, Government Code, as added by this Act, be filed with the governing body of the system not later than May 1, 2020, notwithstanding Section 802.109(d).

SECTION 5. Provides that a state agency is required to implement a provision of this Act only if the legislature appropriates money specifically for that that purpose. Authorizes, but does not require, PRB, if the legislature does not appropriate money specifically for that purpose, to implement a provision of this Act using other appropriations available for that purpose.

SECTION 6. Effective date: upon passage or September 1, 2019.