

AN ACT

relating to the funding of public retirement systems.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 28(h), Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), is amended to read as follows:

(h) A retirement system established under this Act is exempt from Subchapter C, Chapter 802, Government Code, except Sections 802.2011, 802.2015, 802.202, 802.205, and 802.207.

SECTION 2. Section 802.109, Government Code, is amended by amending Subsections (a), (d), (e), (f), and (h) and adding Subsection (e-1) to read as follows:

(a) Except as provided by Subsection (e) and subject to Subsections (c) and (k), a public retirement system shall 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. Each evaluation must include:

(1) a summary of the independent firm's experience in evaluating institutional investment practices and performance and a statement that the firm's experience meets the experience required by this subsection;

1 (2) a statement indicating the nature of any existing
2 relationship between the independent firm and the public retirement
3 system and confirming that the firm and any related entity are not
4 involved in directly or indirectly managing the investments of the
5 system;

6 (3) a list of the types of remuneration received by the
7 independent firm from sources other than the public retirement
8 system for services provided to the system;

9 (4) a statement identifying any potential conflict of
10 interest or any appearance of a conflict of interest that could
11 impact the analysis included in the evaluation due to an existing
12 relationship between the independent firm and:

13 (A) the public retirement system; or

14 (B) any current or former member of the governing
15 body of the system; and

16 (5) an explanation of the firm's determination
17 regarding whether to include a recommendation for each of the
18 following evaluated matters:

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

22 (B) [~~(2)~~] a detailed review of the retirement
23 system's investment asset allocation, including:

24 (i) [~~(A)~~] the process for determining
25 target allocations;

26 (ii) [~~(B)~~] the expected risk and expected
27 rate of return, categorized by asset class;

1 (iii) [~~(C)~~] the appropriateness of
2 selection and valuation methodologies of alternative and illiquid
3 assets; and

4 (iv) [~~(D)~~] future cash flow and liquidity
5 needs;

6 (C) [~~(3)~~] a review of the appropriateness of
7 investment fees and commissions paid by the retirement system;

8 (D) [~~(4)~~] a review of the retirement system's
9 governance processes related to investment activities, including
10 investment decision-making processes, delegation of investment
11 authority, and board investment expertise and education; and

12 (E) [~~(5)~~] a review of the retirement system's
13 investment manager selection and monitoring process.

14 (d) A public retirement system shall conduct the evaluation
15 described by Subsection (a):

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

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

25 (e) A public retirement system is not required to conduct
26 the evaluation described by Subsection (a) if the total assets of
27 the retirement system [~~has total assets the book value of which,~~] as

1 of the last day of the preceding fiscal year were~~[, was]~~ less than
2 \$30 million.

3 (e-1) Not later than the 30th day after the date an
4 independent firm completes an evaluation described by Subsection
5 (a), the independent firm shall:

6 (1) submit to the public retirement system for
7 purposes of discussion and clarification a substantially completed
8 preliminary draft of the evaluation report; and

9 (2) request in writing that the system, on or before
10 the 30th day after the date the system receives the preliminary
11 draft, submit to the firm:

12 (A) a description of any action taken or expected
13 to be taken in response to a recommendation made in the evaluation;
14 and

15 (B) any written response of the system that the
16 system wants to accompany the final evaluation report.

17 (f) The independent firm shall file the final evaluation
18 report, including the evaluation results and any response received
19 from the public retirement system, [~~A report of an evaluation under~~
20 ~~this section must be filed~~] with the governing body of the [~~public~~
21 ~~retirement~~] system:

22 (1) not earlier than the 31st day after the date on
23 which the preliminary draft is submitted to the system; and

24 (2) not later than the later of:

25 (A) the 60th day after the date on which the
26 preliminary draft is submitted to the system; or

27 (B) May 1 in the [~~of each~~] year following the year

1 in which the system is evaluated under Subsection (a) [~~(d)~~].

2 (h) A governmental entity that is the employer of active
3 members of a public retirement system evaluated under Subsection
4 (a) may pay all or part of the costs of the evaluation. The [A]
5 public retirement system shall pay any remaining unpaid [the] costs
6 of the [each] evaluation [of the system under this section].

7 SECTION 3. Section 802.2011, Government Code, is amended to
8 read as follows:

9 Sec. 802.2011. FUNDING POLICY. (a) In this section:

10 (1) "Funded ratio" means the ratio of a public
11 retirement system's actuarial value of assets divided by the
12 system's actuarial accrued liability.

13 (2) "Governmental entity" has the meaning assigned by
14 Section 802.1012.

15 (3) "Statewide retirement system" means:

16 (A) the Employees Retirement System of Texas,
17 including a retirement system administered by that system;

18 (B) the Teacher Retirement System of Texas;

19 (C) the Texas County and District Retirement
20 System;

21 (D) the Texas Emergency Services Retirement
22 System; and

23 (E) the Texas Municipal Retirement System.

24 (b) The governing body of a public retirement system and, if
25 the system is not a statewide retirement system, its associated
26 governmental entity shall:

27 (1) jointly, if applicable:

1 (A) develop and adopt a written funding policy
2 that details a ~~[the governing body's]~~ plan for achieving a funded
3 ratio of the system that is equal to or greater than 100 percent;
4 and

5 (B) timely revise the policy to reflect any
6 significant changes to the policy, including changes required as a
7 result of formulating and implementing a funding soundness
8 restoration plan, including a revised funding soundness
9 restoration plan, under Section 802.2015 or 802.2016;

10 (2) maintain for public review at its main office a
11 copy of the policy;

12 (3) file a copy of the policy and each change to the
13 policy with the board not later than the 31st day after the date the
14 policy or change, as applicable, is adopted; and

15 (4) post ~~[submit]~~ a copy of the most recent edition of
16 the policy on a publicly available Internet website in accordance
17 with Section 802.107(c)(2) ~~[and each change to the policy to the~~
18 ~~system's associated governmental entity not later than the 31st day~~
19 ~~after the date the policy or change is adopted].~~

20 (c) For purposes of Subsection (b)(1)(B), the written
21 funding policy must outline any automatic contribution or benefit
22 changes designed to prevent having to formulate a revised funding
23 soundness restoration plan under Section 802.2015(d), including
24 any automatic risk-sharing mechanisms that have been implemented,
25 the adoption of an actuarially determined contribution structure,
26 and other adjustable benefit or contribution mechanisms.

27 (d) The board may adopt rules necessary to implement this

1 section.

2 SECTION 4. Section 802.2015, Government Code, is amended by
3 amending Subsections (a), (c), (d), (e), (f), and (g) and adding
4 Subsections (d-1), (e-1), (e-2), (e-3), (e-4), and (h) to read as
5 follows:

6 (a) In this section:

7 (1) "Funded ratio" has the meaning assigned by Section
8 802.2011.

9 (2) "Governmental [,"governmental]" entity has the
10 meaning assigned by Section 802.1012.

11 (c) A public retirement system shall notify the associated
12 governmental entity in writing if the [~~retirement~~] system receives
13 an actuarial valuation indicating that the system's actual
14 contributions are not sufficient to amortize the unfunded actuarial
15 accrued liability within 30 [40] years. The [If a public retirement
16 system's actuarial valuation shows that the system's amortization
17 period has exceeded 40 years for three consecutive annual actuarial
18 valuations, or two consecutive actuarial valuations in the case of
19 a system that conducts the valuations every two or three years, the]
20 governing body of the public retirement system and the governing
21 body of the associated governmental entity shall jointly formulate
22 a funding soundness restoration plan under Subsection (e) if the
23 system's actuarial valuation shows that the system's expected
24 funding period:

25 (1) has exceeded 30 years for three consecutive annual
26 actuarial valuations, or two consecutive annual actuarial
27 valuations in the case of a system that conducts the valuations

1 every two or three years; or

2 (2) effective September 1, 2025:

3 (A) exceeds 40 years; or

4 (B) exceeds 30 years and the funded ratio of the
5 system is less than 65 percent [~~in accordance with the system's~~
6 ~~governing statute~~].

7 (d) Except as provided by Subsection (d-1), the [~~The~~]
8 governing body of a public retirement system and the governing body
9 of the associated governmental entity that have an existing
10 [~~formulated a~~] funding soundness restoration plan under Subsection
11 (e) shall formulate a revised funding soundness restoration plan
12 under Subsection (e-1) [~~that subsection, in accordance with the~~
13 ~~system's governing statute,~~] if the system becomes subject to
14 Subsection (c) before the 10th anniversary of the date prescribed
15 by Subsection (e)(2)(A) or (B), as applicable [~~conducts an~~
16 ~~actuarial valuation showing that:~~

17 [~~(1) the system's amortization period exceeds 40 years,~~
18 ~~and~~

19 [~~(2) the previously formulated funding soundness~~
20 ~~restoration plan has not been adhered to~~].

21 (d-1) The governing body of a public retirement system and
22 the governing body of the associated governmental entity are not
23 subject to Subsection (d) if:

24 (1) the system's actuarial valuation shows that the
25 system's expected funding period exceeds 30 years but is less than
26 or equal to 40 years; and

27 (2) the system is:

1 (A) adhering to an existing funding soundness
2 restoration plan that was formulated before September 1, 2025; or

3 (B) implementing a contribution rate structure
4 that uses or will ultimately use an actuarially determined
5 contribution structure and the system's actuarial valuation shows
6 that the system is expected to achieve full funding.

7 (e) A funding soundness restoration plan formulated under
8 this section must:

9 (1) be developed by the public retirement system and
10 the associated governmental entity in accordance with the system's
11 governing statute; ~~and~~

12 (2) be designed to achieve a contribution rate that
13 will be sufficient to amortize the unfunded actuarial accrued
14 liability within 30 ~~[40]~~ years not later than the later of:

15 (A) the second ~~[10th]~~ anniversary of the
16 valuation date stated in the actuarial valuation that required
17 formulation of the plan under this subsection; or

18 (B) September 1, 2025;

19 (3) be based on actions agreed to be taken by the
20 system and entity that were approved by the respective governing
21 bodies of both the system and the entity before the plan was
22 adopted; and

23 (4) be adopted at open meetings of the respective
24 governing bodies of the system and the entity not later than the
25 second anniversary of the date the actuarial valuation that
26 required application of this subsection was adopted by the
27 governing body of the system ~~[on which the final version of a~~

1 ~~funding soundness restoration plan is agreed to].~~

2 (e-1) A revised funding soundness restoration plan
3 formulated under this section must:

4 (1) be developed by the public retirement system and
5 the associated governmental entity in accordance with the system's
6 governing statute;

7 (2) be designed to achieve a contribution rate that
8 will be sufficient to amortize the unfunded actuarial accrued
9 liability within 25 years not later than the second anniversary of
10 the valuation date stated in the actuarial valuation that required
11 formulation of a revised plan under this subsection;

12 (3) be based on actions, including automatic
13 risk-sharing mechanisms, an actuarially determined contribution
14 structure, and other adjustable benefit or contribution
15 mechanisms, agreed to be taken by the system and entity that were
16 approved by the respective governing bodies of both the system and
17 the entity before the plan was adopted; and

18 (4) be adopted at open meetings by the respective
19 governing bodies of the system and the entity not later than the
20 second anniversary of the date the actuarial valuation that
21 required application of this subsection was adopted by the
22 governing body of the system.

23 (e-2) Not later than the 90th day after the date on which the
24 plan is adopted by both the governing body of the system and the
25 governing body of the associated governmental entity, a system may
26 submit to the board an actuarial valuation required under Section
27 802.101(a) or other law that shows the combined impact of all

1 changes to a funding soundness restoration plan adopted under this
2 section, including a revised funding soundness restoration plan
3 adopted under Subsection (e-1). If a system does not provide an
4 actuarial valuation to the board in accordance with this
5 subsection, the board may request that the system provide a
6 separate analysis of the combined impact of all changes to a funding
7 soundness restoration plan adopted under this section not later
8 than the 90th day after the date the board makes the request. An
9 actuarial valuation or separate analysis conducted under this
10 subsection must include:

11 (1) an actuarial projection of the public retirement
12 system's expected future assets and liabilities between the
13 valuation date described by Subsection (e)(2)(A) or (e-1)(2), as
14 applicable, and the date at which the plan is expected to achieve
15 full funding; and

16 (2) a description of all assumptions and methods used
17 to perform the analysis which must comply with actuarial standards
18 of practice.

19 (e-3) The associated governmental entity may pay all or part
20 of the costs of the separate analysis required under Subsection
21 (e-2). The public retirement system shall pay any costs for the
22 analysis not paid by the associated governmental entity.

23 (e-4) A funding soundness restoration plan adopted under
24 this section, including a revised funding soundness restoration
25 plan adopted under Subsection (e-1), may not include actions that
26 are subject to future approval by the governing bodies of either the
27 public retirement system or the associated governmental entity.

1 (f) A public retirement system and the associated
2 governmental entity required to [~~that~~] formulate a funding
3 soundness restoration plan under this section, including a revised
4 funding soundness restoration plan, shall provide a report to the
5 board on [~~any updates of~~] progress made by the system and entity in
6 formulating the plan, including a draft of any plan and a
7 description of any changes under consideration for inclusion in a
8 plan, not later than the first anniversary of the date of the
9 actuarial valuation that required formulation of the plan under
10 Subsection (e) or (e-1) and each subsequent six-month period until
11 the plan is submitted to the board under this section [~~entities~~
12 ~~toward improved actuarial soundness to the board every two years~~].

13 (g) Each public retirement system that formulates a funding
14 soundness restoration plan as provided by this section shall submit
15 a copy of that plan to the board and any change to the plan not later
16 than the 31st day after the date on which the plan is adopted by both
17 the governing body of the system and the governing body of the
18 associated governmental entity or the date the change is agreed to.

19 (h) The board may adopt rules necessary to implement this
20 section.

21 SECTION 5. Section [802.2016](#), Government Code, is amended to
22 read as follows:

23 Sec. 802.2016. FUNDING SOUNDNESS RESTORATION PLAN FOR
24 CERTAIN PUBLIC RETIREMENT SYSTEMS. (a) In this section:

25 (1) "Funded ratio" has the meaning assigned by Section
26 [802.2011](#).

27 (2) "Governmental [~~,"governmental]~~ entity" has the

1 meaning assigned by Section 802.1012.

2 (b) This section applies only to a public retirement system
3 that is governed by Article 6243i, Revised Statutes, and its
4 associated governmental entity.

5 (c) A public retirement system shall notify the associated
6 governmental entity in writing if the [~~retirement~~] system receives
7 an actuarial valuation indicating that the system's actual
8 contributions are not sufficient to amortize the unfunded actuarial
9 accrued liability within 30 [~~40~~] years. The governing body of [~~If a~~
10 ~~public retirement system's actuarial valuation shows that the~~
11 ~~system's amortization period has exceeded 40 years for three~~
12 ~~consecutive annual actuarial valuations, or two consecutive~~
13 ~~actuarial valuations in the case of a system that conducts the~~
14 ~~valuations every two or three years,~~] the associated governmental
15 entity shall formulate a funding soundness restoration plan under
16 Subsection (e) if the system's actuarial valuation shows that the
17 system's expected funding period:

18 (1) has exceeded 30 years for three consecutive annual
19 actuarial valuations, or two consecutive annual actuarial
20 valuations in the case of a system that conducts the valuations
21 every two or three years; or

22 (2) effective September 1, 2025:

23 (A) exceeds 40 years; or

24 (B) exceeds 30 years and the funded ratio of the
25 system is less than 65 percent [~~in accordance with the public~~
26 ~~retirement system's governing statute~~].

27 (d) Except as provided by Subsection (d-1), the governing

1 body of an ~~[An]~~ associated governmental entity that has an existing
2 ~~[formulated a]~~ funding soundness restoration plan under Subsection
3 (e) shall formulate a revised funding soundness restoration plan
4 under Subsection (e-1) ~~[that subsection, in accordance with the~~
5 ~~public retirement system's governing statute,~~] if the system
6 becomes subject to Subsection (c) before the 10th anniversary of
7 the date prescribed by Subsection (e)(2)(A) or (B), as applicable
8 ~~[conducts an actuarial valuation showing that:~~

9 ~~(1) the system's amortization period exceeds 40 years;~~
10 ~~and~~

11 ~~(2) the previously formulated funding soundness~~
12 ~~restoration plan has not been adhered to].~~

13 (d-1) The associated governmental entity is not subject to
14 Subsection (d) if:

15 (1) the system's actuarial valuation shows that the
16 system's expected funding period exceeds 30 years but is less than
17 or equal to 40 years; and

18 (2) the system is:

19 (A) adhering to an existing funding soundness
20 restoration plan that was formulated before September 1, 2025; or

21 (B) implementing a contribution rate structure
22 that uses or will ultimately use an actuarially determined
23 contribution structure and the system's actuarial valuation shows
24 that the system is expected to achieve full funding.

25 (e) A funding soundness restoration plan formulated under
26 this section must:

27 (1) be developed in accordance with the public

1 retirement system's governing statute by the associated
2 governmental entity; ~~and~~

3 (2) be designed to achieve a contribution rate that
4 will be sufficient to amortize the unfunded actuarial accrued
5 liability within 30 ~~[40]~~ years not later than the later of:

6 (A) the second ~~[10th]~~ anniversary of the
7 valuation date stated in the actuarial valuation that required
8 formulation of the plan under this subsection; or

9 (B) September 1, 2025;

10 (3) be based on actions, including automatic
11 risk-sharing mechanisms, an actuarially determined contribution
12 structure, and other adjustable benefit or contribution
13 mechanisms, agreed to be taken by the system and entity that were
14 approved by the governing body of the associated governmental
15 entity before the plan was adopted; and

16 (4) be adopted at an open meeting of the governing body
17 of the associated governmental entity not later than the second
18 anniversary of the date the actuarial valuation that required
19 application of this subsection was adopted by the governing body of
20 the system ~~[on which the final version of a funding soundness~~
21 ~~restoration plan is formulated].~~

22 (e-1) A revised funding soundness restoration plan
23 formulated under this section must:

24 (1) be developed by the associated governmental
25 entity in accordance with the system's governing statute;

26 (2) be designed to achieve a contribution rate that
27 will be sufficient to amortize the unfunded actuarial accrued

1 liability within 25 years not later than the second anniversary of
2 the valuation date stated in the actuarial valuation that required
3 formulation of a revised plan under this subsection;

4 (3) be based on actions agreed to be taken by the
5 system and entity that were approved by the governing body of the
6 associated governmental entity before the plan was adopted; and

7 (4) be adopted at an open meeting of the governing body
8 of the associated governmental entity not later than the second
9 anniversary of the date the actuarial valuation that required
10 application of this subsection was adopted by the governing body of
11 the system.

12 (e-2) Not later than the 90th day after the date on which the
13 plan is adopted by the governing body of the associated
14 governmental entity, a system may submit to the board an actuarial
15 valuation required under Section 802.101(a) or other law that shows
16 the combined impact of all changes to a funding soundness
17 restoration plan adopted under this section, including a revised
18 funding soundness restoration plan adopted under Subsection (e-1).
19 If a system does not provide an actuarial valuation to the board in
20 accordance with this subsection, the board may request that the
21 system provide a separate analysis of the combined impact of all
22 changes to a funding soundness restoration plan adopted under this
23 section not later than the 90th day after the date the board makes
24 the request. An actuarial valuation or the separate analysis
25 conducted under this subsection must include:

26 (1) an actuarial projection of the public retirement
27 system's expected future assets and liabilities between the

1 valuation date described by Subsection (e)(2)(A) or (e-1)(2), as
2 applicable, and the date at which the plan is expected to achieve
3 full funding; and

4 (2) a description of all assumptions and methods used
5 to perform the analysis which must comply with actuarial standards
6 of practice.

7 (e-3) The associated governmental entity may pay all or part
8 of the costs of the separate analysis required under Subsection
9 (e-2). The public retirement system shall pay any costs for the
10 analysis not paid by the associated governmental entity.

11 (e-4) A funding soundness restoration plan adopted under
12 this section, including a revised funding soundness restoration
13 plan adopted under Subsection (e-1), may not include actions that
14 are subject to future approval by the governing body of the
15 associated governmental entity.

16 (f) An associated governmental entity required to formulate
17 [~~that formulates~~] a funding soundness restoration plan under this
18 section, including a revised funding soundness restoration plan,
19 shall provide a report to the board on [~~any updates of~~] progress
20 made by the [~~public retirement system and~~] associated governmental
21 entity in formulating the plan, including a draft of any plan and a
22 description of any changes under consideration for inclusion in a
23 plan, not later than the first anniversary of the date of the
24 actuarial valuation that required formulation of the plan under
25 Subsection (e) or (e-1) and each subsequent six-month period until
26 the plan is submitted to the board under this section [~~toward~~
27 ~~improved actuarial soundness to the board every two years~~].

1 (g) An associated governmental entity that formulates a
2 funding soundness restoration plan as provided by this section
3 shall submit a copy of that plan to the board and any change to the
4 plan not later than the 31st day after the date on which the plan is
5 adopted by the governing body of the associated governmental entity
6 or the date the change is formulated.

7 (h) The board may adopt rules necessary to implement this
8 section.

9 SECTION 6. Section 802.109, Government Code, as amended by
10 this Act, applies only to an evaluation commenced on or after the
11 effective date of this Act. An evaluation commenced before the
12 effective date of this Act is governed by the law in effect on the
13 date the evaluation was commenced, and the former law is continued
14 in effect for that purpose.

15 SECTION 7. The changes in law made by this Act apply to a
16 funding soundness restoration plan that is formulated or revised
17 under Section 802.2015 or 802.2016, Government Code, as applicable,
18 on or after the effective date of this Act. A funding soundness
19 restoration plan formulated or revised before the effective date of
20 this Act other than a plan that is subject to Section 802.2015(d-1)
21 or Section 802.2016(d-1), Government Code, as added by this Act, is
22 governed by the law as it existed immediately before that date, and
23 the former law is continued in effect for that purpose, except if:

24 (1) the public retirement system and its associated
25 governmental entity are required to formulate a revised funding
26 soundness restoration plan under Section 802.2015(d), Government
27 Code, as that section existed immediately before the effective date

1 of this Act, the system and its associated governmental entity
2 shall formulate the plan under Section 802.2015(e), Government
3 Code, as amended by this Act, rather than as that section existed
4 immediately before the effective date of this Act; or

5 (2) a public retirement system's associated
6 governmental entity is required to formulate a revised funding
7 soundness restoration plan under Section 802.2016(d), Government
8 Code, as that section existed immediately before the effective date
9 of this Act, the associated governmental entity shall formulate the
10 plan under Section 802.2016(e), Government Code, as amended by this
11 Act, rather than as that section existed immediately before the
12 effective date of this Act.

13 SECTION 8. This Act takes effect September 1, 2021.

President of the Senate

Speaker of the House

I certify that H.B. No. 3898 was passed by the House on May 11, 2021, by the following vote: Yeas 119, Nays 24, 2 present, not voting; and that the House concurred in Senate amendments to H.B. No. 3898 on May 28, 2021, by the following vote: Yeas 122, Nays 23, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 3898 was passed by the Senate, with amendments, on May 26, 2021, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor