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H.B. No. 2376

A BILL TO BE ENTITLED

AN ACT

relating to the investment authority of the Teacher Retirement System of Texas.

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

SECTION 1. Section 825.301, Government Code, is amended by amending Subsections (a) and (b) and adding Subsections (a-1), (a-2), (a-3), and (b-1) to read as follows:

(a) The board of trustees shall invest and reinvest assets of the retirement system without distinction as to their source in accordance with Section 67, Article XVI, Texas Constitution. The board of trustees may invest and reinvest retirement system assets in any investment instrument commonly known as a security, including those instruments described ~~[For purposes of the investment authority of the board of trustees under Section 67, Article XVI, Texas Constitution, "securities" means any investment instrument within the meaning of the term as defined]~~ by Section 4, The Securities Act (Article 581-4, Vernon's Texas Civil Statutes), 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10). An investment is authorized for investment under this section even if the retirement system is the only investor or has rights or privileges pertaining to the investment that are not granted to other investors ~~[An interest in a limited partnership or investment contract is considered a security without regard to the number of investors or the control, access to information, or~~

1 ~~rights granted to or retained by the retirement system]~~. The board
2 of trustees may buy and sell:

3 (1) futures contracts;

4 (2) options;

5 (3) options on futures contracts;

6 (4) forward contracts;

7 (5) swap contracts, including swap contracts with
8 embedded options;

9 (6) any ~~[Any]~~ instrument or contract intended to
10 manage transaction or currency exchange risk in purchasing,
11 selling, or holding investments; and

12 (7) any other instrument commonly used by
13 institutional investors to manage institutional investment
14 portfolios ~~[securities is considered to be a security]~~.

15 (a-1) Investment decisions under this section are subject
16 to the standard provided in the Texas Trust Code by Section
17 117.004(b), Property Code.

18 (a-2) The board of trustees may delegate investment
19 authority and contract with private professional investment
20 managers for investment and management of assets held in trust by
21 the retirement system. In a contract made under this subsection,
22 the board of trustees shall specify any applicable policies,
23 requirements, or restrictions, including criteria for determining
24 the quality of investments or the use of standard rating services,
25 that the board of trustees adopts for investments of the system.

26 (a-3) The board of trustees may delegate investment
27 authority with respect to assets held by the retirement system to

1 the executive director or the staff of the retirement system.

2 (b) In addition to the board's authority under Subsection
3 (a-2), the [The] board of trustees may contract with private
4 professional investment managers, advisors, and consultants to
5 assist and advise the board and the staff of the retirement system
6 in investing the assets of the retirement system.

7 (b-1) By accepting a delegation of investment authority
8 under Subsection (a-2) or an engagement to assist or advise the
9 board or the staff of the retirement system under Subsection (b), a
10 professional investment manager, advisor, or consultant submits to
11 the jurisdiction of the courts of this state in all proceedings
12 arising from or related to performance of the delegated authority
13 or engagement. An action relating to services rendered under this
14 section shall be brought only in a state district court sitting in
15 Travis County, Texas. Chapter 2260 does not apply to a contract
16 under Subsection (a-2) or (b). This subsection does not waive any
17 immunity of the retirement system.

18 SECTION 2. Subchapter D, Chapter 825, Government Code, is
19 amended by adding Section 825.3011 to read as follows:

20 Sec. 825.3011. CERTAIN CONSULTATIONS CONCERNING
21 INVESTMENTS. (a) In this section, "private investment fund,"
22 "reinvestment," and "restricted securities" have the meanings
23 assigned by Section 552.143.

24 (b) Chapter 551 does not require the board of trustees to
25 confer with one or more employees, consultants, or legal counsel of
26 the retirement system or with a third party, including
27 representatives of an issuer of restricted securities or a private

1 investment fund, in an open meeting if the only purpose of the
2 conference is to receive information from or question the
3 employees, consultants, or legal counsel of the retirement system
4 or the third party relating to:

5 (1) an investment or a potential investment by the
6 board of trustees in a private investment fund; or

7 (2) the purchase, holding, or disposal of restricted
8 securities or a private investment fund's investment in restricted
9 securities if, under Section 552.143, the information discussed
10 would be confidential and excepted from the requirements of Section
11 552.021 if the information was included in the records of a
12 governmental body.

13 (c) This section applies notwithstanding Section 825.115.

14 SECTION 3. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2007.