

1-1 By: Duncan S.B. No. 1447
1-2 (In the Senate - Filed March 8, 2007; March 20, 2007, read
1-3 first time and referred to Committee on State Affairs;
1-4 April 4, 2007, reported favorably by the following vote: Yeas 8,
1-5 Nays 0; April 4, 2007, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the investment authority of the Teacher Retirement
1-9 System of Texas.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. Section 825.301, Government Code, is amended by
1-12 amending Subsections (a) and (b) and adding Subsections (a-1),
1-13 (a-2), (a-3), and (b-1) to read as follows:

1-14 (a) The board of trustees shall invest and reinvest assets
1-15 of the retirement system without distinction as to their source in
1-16 accordance with Section 67, Article XVI, Texas Constitution. The
1-17 board of trustees may invest and reinvest retirement system assets
1-18 in any investment instrument commonly known as a security,
1-19 including those instruments described [~~For purposes of the~~
1-20 ~~investment authority of the board of trustees under Section 67,~~
1-21 ~~Article XVI, Texas Constitution, "securities" means any investment~~
1-22 ~~instrument within the meaning of the term as defined]~~ by Section 4,
1-23 The Securities Act (Article 581-4, Vernon's Texas Civil Statutes),
1-24 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10). An
1-25 investment is authorized for investment under this section even if
1-26 the retirement system is the only investor or has rights or
1-27 privileges pertaining to the investment that are not granted to
1-28 other investors [~~interest in a limited partnership or investment~~
1-29 ~~contract is considered a security without regard to the number of~~
1-30 ~~investors or the control, access to information, or rights granted~~
1-31 ~~to or retained by the retirement system]~~. The board of trustees may
1-32 buy and sell:

1-33 (1) futures contracts;

1-34 (2) options;

1-35 (3) options on futures contracts;

1-36 (4) forward contracts;

1-37 (5) swap contracts, including swap contracts with
1-38 embedded options;

1-39 (6) any [~~Any~~] instrument or contract intended to
1-40 manage transaction or currency exchange risk in purchasing,
1-41 selling, or holding investments; and

1-42 (7) any other instrument commonly used by
1-43 institutional investors to manage institutional investment
1-44 portfolios [~~securities is considered to be a security~~].

1-45 (a-1) Investment decisions under this section are subject
1-46 to the standard provided in the Texas Trust Code by Section
1-47 117.004(b), Property Code.

1-48 (a-2) The board of trustees may delegate investment
1-49 authority and contract with private professional investment
1-50 managers for investment and management of assets held in trust by
1-51 the retirement system. In a contract made under this subsection,
1-52 the board of trustees shall specify any applicable policies,
1-53 requirements, or restrictions, including criteria for determining
1-54 the quality of investments or the use of standard rating services,
1-55 that the board of trustees adopts for investments of the system.

1-56 (a-3) The board of trustees may delegate investment
1-57 authority with respect to assets held by the retirement system to
1-58 the executive director or the staff of the retirement system.

1-59 (b) In addition to the board's authority under Subsection
1-60 (a-2), the [~~The~~] board of trustees may contract with private
1-61 professional investment managers, advisors, and consultants to
1-62 assist and advise the board and the staff of the retirement system
1-63 in investing the assets of the retirement system.

1-64 (b-1) By accepting a delegation of investment authority

2-1 under Subsection (a-2) or an engagement to assist or advise the
2-2 board or the staff of the retirement system under Subsection (b), a
2-3 professional investment manager, advisor, or consultant submits to
2-4 the jurisdiction of the courts of this state in all proceedings
2-5 arising from or related to performance of the delegated authority
2-6 or engagement. An action relating to services rendered under this
2-7 section shall be brought only in a state district court sitting in
2-8 Travis County, Texas. Chapter 2260 does not apply to a contract
2-9 under Subsection (a-2) or (b). This subsection does not waive any
2-10 immunity of the retirement system.

2-11 SECTION 2. Subchapter D, Chapter 825, Government Code, is
2-12 amended by adding Section 825.3011 to read as follows:

2-13 Sec. 825.3011. CERTAIN CONSULTATIONS CONCERNING
2-14 INVESTMENTS. (a) In this section, "private investment fund,"
2-15 "reinvestment," and "restricted securities" have the meanings
2-16 assigned by Section 552.143.

2-17 (b) Chapter 551 does not require the board of trustees to
2-18 confer with one or more employees, consultants, or legal counsel of
2-19 the retirement system or with a third party, including
2-20 representatives of an issuer of restricted securities or a private
2-21 investment fund, in an open meeting if the only purpose of the
2-22 conference is to receive information from or question the
2-23 employees, consultants, or legal counsel of the retirement system
2-24 or the third party relating to:

2-25 (1) an investment or a potential investment by the
2-26 board of trustees in a private investment fund; or

2-27 (2) the purchase, holding, or disposal of restricted
2-28 securities or a private investment fund's investment in restricted
2-29 securities if, under Section 552.143, the information discussed
2-30 would be confidential and excepted from the requirements of Section
2-31 552.021 if the information was included in the records of a
2-32 governmental body.

2-33 (c) This section applies notwithstanding Section 825.115.

2-34 SECTION 3. This Act takes effect immediately if it receives
2-35 a vote of two-thirds of all the members elected to each house, as
2-36 provided by Section 39, Article III, Texas Constitution. If this
2-37 Act does not receive the vote necessary for immediate effect, this
2-38 Act takes effect September 1, 2007.

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