

BILL ANALYSIS

H.B. 1259
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Pensions, Investments & Financial Services
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Although the Government Code requires the attorney general to approve a contract for legal services between outside legal counsel and a state agency in the executive department, there has been some debate about the attorney general's role in the approval of outside legal counsel for the Teacher Retirement System of Texas (TRS). At issue is the question as to whether a TRS contract for outside legal counsel where the legal counsel is paid with funds derived internally from the TRS pension fund, rather than from the state general revenue fund, is subject to approval from the attorney general.

Because of the recent failures among many alternative investment strategies, there exists today a strong demand for increased scrutiny of fiduciary and ethical responsibilities among public pension plans. As a result, many TRS members have requested a clarification of the law, to make clear that any outside legal counsel being considered by the TRS board must first receive approval by the attorney general.

H.B. 1259 clarifies that the attorney general is the legal adviser for the TRS board and that any outside legal counsel hired to advise TRS must first be approved by the attorney general, regardless of the source of the funds to be used to pay the outside counsel.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 1259 amends the Government Code to prohibit the Teacher Retirement System board of trustees from employing outside legal counsel to provide legal services to the retirement system unless the contract for such services is approved by the attorney general, regardless of the source of funds to be used to pay the outside counsel. The bill provides that the term "legal services" includes services provided by an attorney regarding ethics and fiduciary responsibilities. The bill expressly states that its provisions are intended to clarify rather than change existing law.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.