

By: Ogden

S.B. No. 1548

A BILL TO BE ENTITLED

AN ACT

relating to the monitoring and oversight of certain public retirement systems and public investments; providing civil penalties.

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

SECTION 1. The heading to Chapter 801, Government Code, is amended to read as follows:

CHAPTER 801. STATE PENSION AND INVESTMENT REVIEW BOARD

SECTION 2. Subdivision (1), Section 801.001, Government Code, is amended to read as follows:

(1) "Board" means the State Pension and Investment Review Board.

SECTION 3. Section 801.101, Government Code, is amended to read as follows:

Sec. 801.101. PENSION AND INVESTMENT REVIEW BOARD. The State Pension and Investment Review Board is an agency of the state.

SECTION 4. Subsection (a), Section 801.102, Government Code, is amended to read as follows:

(a) The board is composed of seven [~~nine~~] members.

SECTION 5. Section 801.103, Government Code, is amended to read as follows:

Sec. 801.103. MEMBERS APPOINTED BY GOVERNOR. (a) The governor shall appoint, with the advice and consent of the senate, five [~~seven~~] members to the board.

(b) The governor shall appoint to the board:

(1) three persons who have experience in the fields of securities investment, pension administration, ~~or~~ pension law, institutional investment, investment risk management, or institutional audits but who are not members or retirees of a public retirement system;

(2) one person who is a fellow of the Society of Actuaries, a member of the American Academy of Actuaries, or an enrolled actuary under the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. Sec. 1001 et seq.); and

~~(3) [one person who has experience in the field of governmental finance;~~

~~(4)]~~ one person who:

(A) is a contributing member of a public retirement system; or

(B) ~~and~~

~~(5) one person who]~~ is receiving retirement benefits from a public retirement system.

SECTION 6. Section 801.104, Government Code, is amended to read as follows:

Sec. 801.104. MEMBERS APPOINTED BY OTHERS. (a) The lieutenant governor shall appoint one member to the board ~~[one member of the senate]~~.

(b) The speaker of the house of representatives shall appoint one member to the board ~~[one member of the house]~~.

(c) Each person appointed to the board under this section must have experience in the field of securities investment, pension

1 administration, pension law, institutional investment, investment  
2 risk management, or institutional audits.

3 SECTION 7. Section 801.106, Government Code, is amended to  
4 read as follows:

5 Sec. 801.106. TERMS OF OFFICE. Members of the board hold  
6 office for staggered terms of six years, with the terms of two or  
7 three members expiring on January 31 of each odd-numbered year.

8 SECTION 8. Section 801.107, Government Code, is amended to  
9 read as follows:

10 Sec. 801.107. SUNSET PROVISION. The State Pension and  
11 Investment Review Board is subject to Chapter 325 (Texas Sunset  
12 Act). Unless continued in existence as provided by that chapter,  
13 the board is abolished and this chapter expires September 1, 2013.

14 SECTION 9. The heading to Section 801.113, Government Code,  
15 is amended to read as follows:

16 Sec. 801.113. PROVISION OF CERTAIN SERVICES [~~FUND~~].

17 SECTION 10. Subsection (e), Section 801.113, Government  
18 Code, is amended to read as follows:

19 (e) The board is authorized to conduct training sessions,  
20 schools, or other educational activities for trustees and  
21 administrators of public retirement systems. The board may also  
22 furnish other appropriate services such as actuarial studies or  
23 other requirements of systems and may establish appropriate fees  
24 for these activities and services. [~~The fees may be based on~~  
25 ~~whether or not the trustees, administrators, or systems contribute~~  
26 ~~to the State Pension Review Board fund under Subsection (c) of this~~  
27 ~~section. The net proceeds of these fees shall be deposited in the~~

1 ~~fund.]~~

2 SECTION 11. Subsections (b) and (c), Section 801.201,  
3 Government Code, are amended to read as follows:

4 (b) For the purpose of performing its duties under Section  
5 801.202(1) or (2), the board by rule may require clarification of  
6 information provided by a public retirement system or other entity  
7 subject to Subchapter D in a report that is required by law and is  
8 required to be filed with the board. ~~[A rule adopted under this~~  
9 ~~subsection may not be enforced against a public retirement system~~  
10 ~~if compliance with the rule would cause the system to incur a major~~  
11 ~~expense.]~~

12 (c) The board by rule shall:

13 (1) adopt actuarial guidelines that may be used by  
14 public retirement systems;

15 (2) adopt a brief standard form that will assist the  
16 board in efficiently determining the actuarial soundness, if  
17 applicable, and current financial condition of a public retirement  
18 system or other entity subject to Subchapter D; and

19 (3) ~~[(2)]~~ require that a retirement system or other  
20 entity subject to Subchapter D submitting information required for  
21 the review or study described under Section 801.202(1) or (2)  
22 include the form with the submission.

23 SECTION 12. Section 801.202, Government Code, is amended to  
24 read as follows:

25 Sec. 801.202. GENERAL DUTIES. The board shall:

26 (1) conduct a continuing review of:

27 (A) public retirement systems, compiling and

1 comparing information about benefits, creditable service,  
2 financing, and administration of systems; and

3 (B) the investment practices of public  
4 retirement systems and other entities subject to Subchapter D;

5 (2) conduct intensive studies of potential or existing  
6 problems that threaten [~~the actuarial soundness of~~] or inhibit:

7 (A) the financial condition or actuarial  
8 soundness of public funds managed or invested by an entity subject  
9 to Subchapter D; or

10 (B) an equitable distribution of benefits in one  
11 or more public retirement systems;

12 (3) provide information and technical assistance on  
13 pension planning to public retirement systems on request; [~~and~~]

14 (4) review and document whether the board believes an  
15 entity subject to Subchapter D is investing funds in compliance  
16 with:

17 (A) the entity's investment strategy; and

18 (B) applicable law governing the entity's  
19 investments; and

20 (5) recommend policies, practices, and legislation to  
21 public retirement systems and other entities subject to Subchapter  
22 D and appropriate governmental entities.

23 SECTION 13. Subsection (a), Section 801.203, Government  
24 Code, is amended to read as follows:

25 (a) The board shall present to the legislature and the  
26 governor, in November of each even-numbered year, a public report  
27 explaining the work and findings of the board during the preceding

1 two-year period and including drafts or recommendations of any  
2 legislation relating to public retirement systems or other entities  
3 subject to Subchapter D that the board finds advisable.

4 SECTION 14. Section 801.204, Government Code, is amended to  
5 read as follows:

6 Sec. 801.204. INSPECTION OF RECORDS. To the extent it is  
7 necessary to perform [~~In performing~~] its functions, the board may  
8 inspect the books, records, or accounts of a public retirement  
9 system or another entity subject to Subchapter D during business  
10 hours of the system.

11 SECTION 15. Chapter 801, Government Code, is amended by  
12 adding Subchapter D to read as follows:

13 SUBCHAPTER D. BOARD INVESTMENT OVERSIGHT

14 Sec. 801.301. APPLICABILITY. (a) This subchapter applies  
15 only to the investment of:

16 (1) public funds by:

17 (A) the comptroller;

18 (B) the Employees Retirement System of Texas,  
19 including a retirement system administered by that system;

20 (C) the Teacher Retirement System of Texas;

21 (D) the Texas Municipal Retirement System;

22 (E) the Texas County and District Retirement  
23 System; and

24 (F) the Texas Emergency Services Retirement  
25 System;

26 (2) the permanent university fund by the board of  
27 regents of The University of Texas System or any entity acting on

behalf of the board of regents, including a nonprofit corporation acting under Section 66.08, Education Code; and

(3) the permanent school fund by the State Board of Education or any entity acting on behalf of the State Board of Education, including a nonprofit corporation acting under Section 43.006, Education Code.

(b) For purposes of this subchapter, a reference to "public retirement system" means a public retirement system subject to this subchapter.

Sec. 801.302. ANNUAL REPORT TO BOARD. An entity subject to this subchapter shall, not later than six months after the last day of the fiscal year under which the entity operates or, if a public retirement system, the plan year under which the entity operates, file with the board and post on the entity's Internet website information that the board determines is necessary to perform the board's duties under Section 801.202 unless the information is confidential under law.

Sec. 801.303. REPORT ON INVESTMENT STRATEGY. (a) An entity subject to this subchapter shall:

- (1) develop and adopt a written investment strategy;
- (2) file a copy of the strategy with the board not later than the 90th day after the date the strategy is adopted; and
- (3) file a copy of each change to the strategy with the board not later than the 90th day after the change is adopted.

(b) A report under this section may be combined with any other report required by this chapter or Chapter 802.

Sec. 801.304. TIMELY SUBMISSION OF CERTAIN REPORTS AND

1 RESPONSES REQUIRED. (a) The presiding officer of an entity  
2 subject to this subchapter or the governing body of an entity  
3 subject to this subchapter is responsible for ensuring that a  
4 report or a response to a request for information made by the board  
5 for the purpose of performing the board's duties under Section  
6 801.202 is filed timely with the board.

7 (b) It is grounds for removal by the appropriate appointing  
8 officer if the presiding officer of an entity subject to this  
9 subchapter or the governing body of an entity subject to this  
10 subchapter consistently fails to timely submit a report or respond  
11 to a request for information under Subsection (a).

12 (c) If the board determines that the presiding officer of an  
13 entity subject to this subchapter consistently fails to timely  
14 report or respond to a request for information under Subsection  
15 (a), the board shall notify the appropriate appointing officer, if  
16 any, the governor, if the governor is not the appropriate  
17 appointing officer, and the Legislative Budget Board of its  
18 determination.

19 Sec. 801.305. CONTRACTS WITH INVESTMENT MANAGERS AND  
20 CERTAIN OTHERS. A contract with an investment manager or other  
21 person to provide services to an entity subject to this subchapter  
22 relating to the management and investment of public funds for or on  
23 behalf of the entity is subject to review by the board regarding the  
24 fees charged and paid by the subject entity and the services  
25 rendered to the entity in consideration for the fees.

26 Sec. 801.306. DISCLOSURE OF CERTAIN POTENTIAL CONFLICTS OF  
27 INTEREST; ANNUAL FILING. (a) This section applies to:



1           (1) a member of the governing body of a public  
2 retirement system subject to this subchapter;

3           (2) an investment manager for a public retirement  
4 system appointed by contract;

5           (3) a member of the board of regents of The University  
6 of Texas System;

7           (4) the officers and directors of a nonprofit  
8 corporation under contract with the board of regents of The  
9 University of Texas System under Section 66.08, Education Code, to  
10 invest the funds of the permanent university fund on behalf of the  
11 board of regents;

12           (5) a member of the State Board of Education;

13           (6) the officers and directors of a nonprofit  
14 corporation acting under contract with the State Board of Education  
15 to invest the funds of the permanent school fund under Section  
16 43.006, Education Code;

17           (7) any private professional investment manager who  
18 has entered into a contract with the comptroller under Section  
19 404.024(k) to assist the comptroller in investing public funds; and

20           (8) any other person, including an investment manager,  
21 consultant, or advisor, providing services under contract to an  
22 entity subject to this subchapter relating to the management and  
23 investment of the entity's assets.

24           (b) A person to whom this section applies and who has a  
25 business, commercial, or other relationship that a reasonable  
26 person would find likely to materially diminish the person's  
27 independence of judgment in the performance of the person's

1 responsibilities with respect to the management or investment of  
2 public funds for or on behalf of an entity subject to this  
3 subchapter shall immediately disclose the relationship in writing  
4 to the entity.

5 (c) If a person described by Subsection (a)(1) or (3)  
6 intentionally fails to disclose a relationship under Subsection  
7 (b), it is a ground for removal from the governing body of the  
8 entity on which the person serves.

9 (d) If a person described by Subsection (a)(2), (4), (6),  
10 (7), or (8) intentionally fails to disclose a relationship under  
11 Subsection (b):

12 (1) the contract is voidable by the entity; and

13 (2) the governing body of the entity may enter an order  
14 declaring the person ineligible to contract for business relating  
15 to the management or investment of public funds for or on behalf of  
16 the entity.

17 (e) At least annually and not later than a date specified by  
18 the entity, a person to whom this section applies shall file a  
19 statement with the entity stating that the person is aware that the  
20 person is required to disclose material conflicts of interest under  
21 this section and that the person is in compliance with this section.

22 Sec. 801.307. PROHIBITION AGAINST ACCEPTANCE OF CERTAIN  
23 GIFTS. In any 12-month period, the comptroller or a person who is a  
24 member of the governing body of a public retirement system, the  
25 board of regents of The University of Texas System, or the State  
26 Board of Education or an employee of an entity subject to this  
27 subchapter employed in a "bona fide executive, administrative, or

professional capacity," as that phrase is used for purposes of  
establishing an exemption to the overtime provisions of the federal  
Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),  
may not accept a gift or gifts, the total value of which is more than  
\$250, including food, entertainment, and a promised future benefit,  
from another person doing business with or seeking to do business  
with the entity.

Sec. 801.308. PROHIBITED CONTRACTS. A public retirement  
system, the board of regents of The University of Texas System, or  
the State Board of Education may not directly or indirectly enter  
into a contract with a former member of the governing body of a  
public retirement system, the board of regents of The University of  
Texas System, or the State Board of Education, respectively, to  
provide services relating to the management and investment of  
public funds before the second anniversary of the date the person  
ceases to be a member of the body or board, as applicable.

Sec. 801.309. CIVIL PENALTY. (a) A person who commits a  
breach of the person's fiduciary duty, fraud, theft, embezzlement,  
fraudulent conversion, unlawful appropriation, or misapplication  
of property in relation to a service provided by the person to an  
entity subject to this subchapter is liable to this state for a  
civil penalty in an amount not to exceed \$250,000 for each offense.

(b) The attorney general may bring an action to recover the  
civil penalty imposed under this section.

(c) The penalty under this section is in addition to any  
other remedy provided by law.

Sec. 801.310. INVESTIGATION OF CERTAIN COMPLAINTS;

1 ASSISTANCE OF ATTORNEY GENERAL. (a) The board shall adopt rules  
2 and procedures for receiving and investigating a complaint against  
3 a person who provides management or investment services to an  
4 entity subject to this subchapter alleging that the person:

5 (1) violated or may have violated Section 801.306 or  
6 another applicable conflict of interest provision; or

7 (2) has been or may have been involved in criminal  
8 conduct relating to the services provided by the person to the  
9 entity.

10 (b) The board or the attorney general may, without receiving  
11 a complaint, initiate an investigation under this section if the  
12 board or the attorney general, as applicable, determines an  
13 investigation is appropriate.

14 (c) The board may enter into a memorandum of understanding  
15 with the attorney general to assist in an investigation under this  
16 section. The memorandum must specify the type, scope, and format of  
17 the investigative assistance provided by the attorney general.

18 (d) If the board or the attorney general determines that a  
19 criminal offense may have been committed, the board or the attorney  
20 general, as applicable, shall refer the case to the appropriate law  
21 enforcement agency for prosecution.

22 SECTION 16. Subdivision (1), Section 802.001, Government  
23 Code, is amended to read as follows:

24 (1) "Board" means the State Pension and Investment  
25 Review Board.

26 SECTION 17. Subsection (d), Section 802.003, Government  
27 Code, is amended to read as follows:

1           (d) The State Pension and Investment Review Board may file  
2 an appropriate pleading, in the manner provided by this section for  
3 filing by an individual, for the purpose of enforcing a requirement  
4 of Subchapter B or C, other than a requirement of Section  
5 802.101(a), 802.101(d), 802.102, 802.103(a), or 802.104.

6           SECTION 18. Subsection (c), Section 802.101, Government  
7 Code, is amended to read as follows:

8           (c) The governing body of a public retirement system shall  
9 file with the State Pension and Investment Review Board a copy of  
10 each actuarial study and each separate report made as required by  
11 law.

12          SECTION 19. Subsection (j), Section 802.1012, Government  
13 Code, is amended to read as follows:

14          (j) The governmental entity shall:

15               (1) maintain a copy of the final audit report at its  
16 main office for public inspection;

17               (2) submit a copy of the final audit report to the  
18 public retirement system and the State Pension and Investment  
19 Review Board not later than the 30th day after the date the final  
20 audit report is received by the governmental entity; and

21               (3) pay all costs associated with conducting the audit  
22 and preparing and distributing the report under this section.

23          SECTION 20. Subchapter B, Chapter 802, Government Code, is  
24 amended by adding Section 802.1013 to read as follows:

25          Sec. 802.1013. ACTUARIAL EXPERIENCE STUDIES. (a) In this  
26 section, "plan year" means the 12-month accounting period of the  
27 affected pension plan of a public retirement system subject to this

1 section.

2 (b) Subject to Subsection (c), the board may require a  
3 public retirement system with total assets the book value of which,  
4 as of the last day of the preceding plan year, is at least \$100  
5 million to conduct an actuarial experience study.

6 (c) The board may not require a public retirement system to  
7 conduct more than one actuarial experience study every five years.

8 (d) The board may adopt rules to implement this section.

9 SECTION 21. Subsections (b) and (c), Section 802.103,  
10 Government Code, are amended to read as follows:

11 (b) The governing body of a public retirement system shall,  
12 before the 211th day after the last day of the fiscal year under  
13 which the system operates, file with the State Pension and  
14 Investment Review Board a copy of each annual financial report it  
15 makes as required by law.

16 (c) A public retirement system that is subject to Chapter  
17 125, Acts of the 45th Legislature, Regular Session, 1937 (Article  
18 6243e, Vernon's Texas Civil Statutes), and that has total assets  
19 with a book value, as of the last day of the fiscal year, of less  
20 than \$50,000, may submit to the State Pension and Investment Review  
21 Board for that year, instead of the financial report otherwise  
22 required by this section to be published and submitted, a copy of  
23 the financial report it submits to the firemen's pension  
24 commissioner.

25 SECTION 22. Subsection (a), Section 802.105, Government  
26 Code, is amended to read as follows:

27 (a) Each public retirement system shall, before the 91st day

1 after the date of its creation, register with the State Pension and  
2 Investment Review Board.

3 SECTION 23. Subsection (h), Section 802.106, Government  
4 Code, is amended to read as follows:

5 (h) A public retirement system shall submit to the State  
6 Pension and Investment Review Board copies of the summarized  
7 information required by Subsections (a) and (b). A system shall  
8 submit a copy of the information required by Subsection (a) before  
9 the 31st day after the date of publication and a copy of the  
10 information required by Subsection (b) before the 271st day after  
11 the date a change is adopted.

12 SECTION 24. Section 802.107, Government Code, is amended to  
13 read as follows:

14 Sec. 802.107. GENERAL PROVISIONS RELATING TO REPORTS.

15 (a) A public retirement system shall maintain for public review at  
16 its main office and at such other locations as the retirement system  
17 considers appropriate copies of the most recent edition of each  
18 type of report or other information required by this chapter to be  
19 submitted to the State Pension and Investment Review Board unless  
20 the information is confidential under law. Public information  
21 required to be reported annually to the board may be posted on the  
22 retirement system's Internet website or on the website of the  
23 board.

24 (b) Information required by this chapter to be submitted to  
25 the State Pension and Investment Review Board may be contained in  
26 one or more documents but must be submitted within the period  
27 provided by the provision requiring the information.

SECTION 25. Subsection (d), Section 802.202, Government Code, is amended to read as follows:

- (d) The governing body of a public retirement system shall:
- (1) develop and adopt a written investment policy;
  - (2) maintain for public review at its main office a copy of the policy;
  - (3) file a copy of the policy with the State Pension and Investment Review Board not later than the 90th day after the date the policy is adopted; and
  - (4) file a copy of each change to the policy with the State Pension and Investment Review Board not later than the 90th day after the change is adopted.

SECTION 26. The heading to Section 802.3021, Government Code, is amended to read as follows:

Sec. 802.3021. STATE PENSION AND INVESTMENT REVIEW BOARD ACTUARY.

SECTION 27. Subsection (f), Section 810.001, Government Code, is amended to read as follows:

(f) Every political entity which establishes or maintains a public retirement system covered under this Act shall file all reports with the State Pension and Investment Review Board required by Chapter 802. If a political subdivision establishes a retirement program that would be a "public retirement system" within the meaning ascribed to that term by Section 801.001, but for the fact that the program is administered by a life insurance company, the subdivision shall notify the State Pension and Investment Review Board of the establishment of the program and the



1 name of the administering company.

2 SECTION 28. Subsection (d), Section 815.110, Government  
3 Code, is amended to read as follows:

4 (d) No later than 30 days after the legislative audit  
5 committee receives an audit report, the committee shall file a copy  
6 of the report with the retirement system, the governor, the  
7 lieutenant governor, the speaker of the house of representatives,  
8 the State Pension and Investment Review Board, the state auditor,  
9 and the secretary of state for publication in the Texas Register.

10 SECTION 29. Subsection (a), Section 815.510, Government  
11 Code, is amended to read as follows:

12 (a) The Employees Retirement System of Texas shall submit a  
13 report not later than the 25th day of the month following the end of  
14 each fiscal year to the governor, the lieutenant governor, the  
15 speaker of the house of representatives, the executive director of  
16 the State Pension and Investment Review Board, the appropriate  
17 oversight committees of the house and senate, and the Legislative  
18 Budget Board. The report shall include the following:

19 (1) the current end-of-fiscal-year market value of the  
20 trust fund;

21 (2) the asset allocations of the trust fund expressed  
22 in percentages of stocks, fixed income, cash, or other financial  
23 investments; and

24 (3) the investment performance of the trust fund  
25 utilizing accepted industry measurement standards.

26 SECTION 30. Subsections (c) and (d), Section 825.108,  
27 Government Code, are amended to read as follows:

1           (c) A copy of the report required by Subsection (a) must be  
2 filed with the governor, the lieutenant governor, the speaker of  
3 the house of representatives, the State Pension and Investment  
4 Review Board, the legislative audit committee, and the state  
5 auditor no later than December 15 of each year.

6           (d) A copy of the report required by Subsection (b) must be  
7 filed with the governor, the lieutenant governor, the speaker of  
8 the house of representatives, the State Pension and Investment  
9 Review Board, the legislative audit committee, and the state  
10 auditor no later than March 1 of each year.

11           SECTION 31. Subsection (d), Section 825.111, Government  
12 Code, is amended to read as follows:

13           (d) No later than 30 days after the legislative audit  
14 committee receives an audit report, the committee shall file a copy  
15 of the report with the retirement system, the governor, the  
16 lieutenant governor, the speaker of the house of representatives,  
17 the State Pension and Investment Review Board, the state auditor,  
18 and the secretary of state for publication in the Texas Register.

19           SECTION 32. Subsection (e), Section 825.512, Government  
20 Code, is amended to read as follows:

21           (e) The retirement system shall submit an annual investment  
22 performance report not later than the 45th day after the end of each  
23 fiscal year to the governor, the lieutenant governor, the speaker  
24 of the house of representatives, the executive director of the  
25 State Pension and Investment Review Board, the legislative audit  
26 committee, the committees of the senate and the house of  
27 representatives having jurisdiction over appropriations, the

1 committees of the senate and the house of representatives having  
2 principal jurisdiction over legislation governing the retirement  
3 system, and the Legislative Budget Board. The report shall include  
4 a listing of all commissions and fees paid by the system during the  
5 reporting period for the sale, purchase, or management of system  
6 assets.

7 SECTION 33. Section 825.513, Government Code, is amended to  
8 read as follows:

9 Sec. 825.513. INFORMATION FOR PUBLICATION. The retirement  
10 system shall verify with the State Pension and Investment Review  
11 Board the accuracy of information about the effects of proposed  
12 legislation on benefits and the trust fund before including the  
13 information in an official publication of the retirement system.

14 SECTION 34. Section 825.518, Government Code, is amended to  
15 read as follows:

16 Sec. 825.518. ANNUAL REPORT. The Teacher Retirement System  
17 of Texas shall submit a statistical analysis based on information  
18 compiled under Section 822.005(d) not later than the 25th day of the  
19 month following the end of each fiscal year to the governor, the  
20 lieutenant governor, the speaker of the house of representatives,  
21 the executive director of the State Pension and Investment Review  
22 Board, the appropriate oversight committees of the house and  
23 senate, and the Legislative Budget Board.

24 SECTION 35. Section 2, Chapter 817 (S.B. 127), Acts of the  
25 73rd Legislature, Regular Session, 1993 (Article 4413(34e),  
26 Vernon's Texas Civil Statutes), is amended to read as follows:

27 Sec. 2. The manager of each state trust fund shall submit to

1 the governor, the lieutenant governor, the speaker of the house of  
2 representatives, and the executive director of the State Pension  
3 and Investment Review Board:

4 (1) not later than January 25 of each year, a report  
5 with the information required by Section 3 of this Act covering the  
6 last six months of the previous calendar year; and

7 (2) not later than June 25 of each year, a report with  
8 the information required by Section 3 of this Act covering the first  
9 six months of that calendar year.

10 SECTION 36. Subsection (d), Section 12.03, Chapter 183  
11 (S.B. 598), Acts of the 64th Legislature, Regular Session, 1975  
12 (Article 6243e.1, Vernon's Texas Civil Statutes), is amended to  
13 read as follows:

14 (d) The board of trustees shall file with the State Pension  
15 and Investment Review Board a copy of each actuarial study and each  
16 separate report made as required by law.

17 SECTION 37. Section 10, Article 6243e.2(1), Revised  
18 Statutes, is amended to read as follows:

19 Sec. 10. NONSTATUTORY BENEFIT INCREASES. The benefits  
20 provided by this article may be increased if:

21 (1) an actuary selected by the board who, if an  
22 individual, is a Fellow of the Society of Actuaries, a Fellow of the  
23 Conference of Actuaries in Public Practice, or a member of the  
24 American Academy of Actuaries determines that the increase cannot  
25 reasonably be viewed as posing a material risk of jeopardizing the  
26 fund's ability to pay any existing benefit;

27 (2) a majority of the participating members of the

1 fund vote for the increase by a secret ballot;

2 (3) the increase does not deprive a member, without  
3 the member's written consent, of a right to receive benefits that  
4 have already become fully vested and matured in a member; and

5 (4) the State Pension and Investment Review Board  
6 approves the determination by the actuary selected by the board  
7 that the increase cannot reasonably be viewed as posing a material  
8 risk of jeopardizing the fund's ability to pay any existing  
9 benefit.

10 SECTION 38. Subsections (a), (b), (c), (d), and (f),  
11 Section 801.113, Government Code, are repealed.

12 SECTION 39. (a) The name of the State Pension Review Board  
13 is changed to the State Pension and Investment Review Board. A  
14 reference in law to the State Pension Review Board means the State  
15 Pension and Investment Review Board. A reference in law to the  
16 State Pension Review Board fund means the State Pension and  
17 Investment Review Board fund.

18 (b) An appropriation for the use and benefit of the State  
19 Pension Review Board is available for the use and benefit of the  
20 State Pension and Investment Review Board.

21 SECTION 40. (a) As soon as practicable on or after the  
22 effective date of this Act:

23 (1) the governor shall appoint five members to the  
24 State Pension and Investment Review Board as provided by Section  
25 801.103, Government Code, as amended by this Act, as follows:

26 (A) two members for a term expiring January 31,  
27 2011;

1 (B) two members for a term expiring January 31,  
2 2013; and

3 (C) one member for a term expiring January 31,  
4 2015;

5 (2) the lieutenant governor shall appoint one member  
6 to the State Pension and Investment Review Board as provided by  
7 Subsection (a), Section 801.104, Government Code, as amended by  
8 this Act, for a term expiring January 31, 2013; and

9 (3) the speaker of the house of representatives shall  
10 appoint one member to the State Pension and Investment Review Board  
11 as provided by Subsection (b), Section 801.104, Government Code, as  
12 amended by this Act, for a term expiring January 31, 2015.

13 (b) The term of a member of the State Pension Review Board  
14 serving immediately before the effective date of this Act expires  
15 at the time five or more of the members appointed to the State  
16 Pension and Investment Review Board under Subsection (a) of this  
17 section qualify for office. Until the expiration of a member's term  
18 occurs under this subsection, the member has the same powers and  
19 duties that the member had immediately before that date.

20 SECTION 41. Subchapter D, Chapter 801, Government Code, as  
21 added by this Act, applies to the oversight of funds by the State  
22 Pension and Investment Review Board, regardless of whether the  
23 investment of those funds was made before, on, or after the  
24 effective date of this Act.

25 SECTION 42. This Act does not make an appropriation. A  
26 provision in this Act that creates a new governmental program,  
27 creates a new entitlement, or imposes a new duty on a governmental

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1 entity is not mandatory during a fiscal period for which the  
2 legislature has not made a specific appropriation to implement the  
3 provision.

4       SECTION 43. This Act takes effect September 1, 2009.