

SENATE AMENDMENTS

2nd Printing

By: Truitt

H.B. No. 1070

A BILL TO BE ENTITLED

AN ACT

relating to audits of certain public retirement system actuarial valuations, studies, and reports.

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

SECTION 1. Sections 802.1012(a), (b), and (c), Government Code, are amended to read as follows:

(a) In this section:

(1) "Governmental [~~,"governmental]~~ entity" means a unit of government that is the employer of active members of a public retirement system.

(2) "Plan year" means the 12-month accounting period of the affected pension plan of a public retirement system subject to this section.

(b) Except as provided by Subsection (k), this section applies only to a public retirement system with total assets the book value of which, as of the last day of the retirement system's preceding plan [~~fiscal~~] year, is at least \$100 million.

(c) Not later than the date six months after the last day of the first plan year in which a public retirement system has total assets the book value of which as of the last day of that plan year is at least \$100 million, and, subject to continuing applicability under Subsection (b), every [~~Every~~] five years after that date, the actuarial valuations, studies, and reports of the [~~a public~~] retirement system most recently prepared for the retirement system

1 as required by Section 802.101 or other law under this title or
2 under Title 109, Revised Statutes, must be audited by an
3 independent actuary who:

4 (1) is engaged for the purpose of the audit by the
5 governmental entity; and

6 (2) has the credentials required for an actuary under
7 Section 802.101(d).

8 SECTION 2. (a) The change in law made by this Act applies
9 only to a public retirement system to which Section 802.1012,
10 Government Code, as amended by this Act, applies and that has a plan
11 year, as defined by Section 802.1012(a), Government Code, as
12 amended by this Act, that ends on or after September 1, 2009.

13 (b) A governmental entity that has received a final audit
14 report under Section 802.1012, Government Code, as added by Chapter
15 733 (H.B. 2664), Acts of the 80th Legislature, Regular Session,
16 2007, before the effective date of this Act is not required to
17 initiate another audit under Section 802.1012, Government Code, as
18 amended by this Act, before September 1, 2013.

19 (c) A governmental entity that was required to but has not
20 initiated an audit under Section 802.1012, Government Code, as
21 added by Chapter 733 (H.B. 2664), Acts of the 80th Legislature,
22 Regular Session, 2007, before the effective date of this Act shall
23 initiate the audit not later than March 1, 2010.

24 (d) The first audit initiated under Section 802.1012,
25 Government Code, as amended by this Act, must include an audit of
26 each actuarial valuation, study, and report of the public
27 retirement system prepared for that retirement system in the

1 preceding five years. This subsection does not apply to a
2 governmental entity that has initiated but has not completed an
3 audit under Section 802.1012, Government Code, as added by Chapter
4 733 (H.B. 2664), Acts of the 80th Legislature, Regular Session,
5 2007, before the effective date of this Act.

6 SECTION 3. This Act takes effect September 1, 2009.

ADOPTED

FLOOR AMENDMENT NO. 1

MAY 21 2005 BY

Stephen Eoghan

Arlene Spaw
Secretary of the Senate

1 Amend H.B. No. 1070 (senate committee printing) by adding
2 appropriately numbered SECTIONS to the bill to read as follows
3 and renumbering subsequent SECTIONS appropriately:

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

6 CHAPTER 801. STATE PENSION AND INVESTMENT REVIEW BOARD

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

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

11 SECTION ___. Section 801.101, Government Code, is amended
12 to read as follows:

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

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

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

19 SECTION ___. Section 801.103, Government Code, is amended
20 to read as follows:

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

24 (b) The governor shall appoint to the board:

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

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

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

7 [+4] one person who:

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

10 (B) ~~and~~

11 [+5] ~~one person who~~ is receiving retirement benefits
12 from a public retirement system.

13 SECTION __. Section 801.104, Government Code, is amended
14 to read as follows:

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

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

20 (c) Each person appointed to the board under this section
21 must have experience in the field of securities investment,
22 pension administration, pension law, institutional investment,
23 investment risk management, or institutional audits.

24 SECTION __. Section 801.106, Government Code, is amended
25 to read as follows:

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

30 SECTION __. Section 801.107, Government Code, is amended
31 to read as follows:

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

6 SECTION __. The heading to Section 801.113, Government
7 Code, is amended to read as follows:

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

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

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

21 SECTION __. Subsections (b) and (c), Section 801.201,
22 Government Code, are amended to read as follows:

23 (b) For the purpose of performing its duties under Section
24 801.202(1) or (2), the board by rule may require clarification
25 of information provided by a public retirement system or other
26 entity subject to Subchapter D in a report that is required by
27 law and is required to be filed with the board. [~~A rule adopted~~
28 ~~under this subsection may not be enforced against a public~~
29 ~~retirement system if compliance with the rule would cause the~~
30 ~~system to incur a major expense.]~~

31 (c) The board by rule shall:

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

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

7 (3) [+2+] require that a retirement system or other
8 entity subject to Subchapter D submitting information required
9 for the review or study described under Section 801.202(1) or
10 (2) include the form with the submission.

11 SECTION __. Section 801.202, Government Code, is amended
12 to read as follows:

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

14 (1) conduct a continuing review of:

15 (A) public retirement systems, compiling and
16 comparing information about benefits, creditable service,
17 financing, and administration of systems; and

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

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

23 (A) the financial condition or actuarial
24 soundness of public funds managed or invested by an entity
25 subject to Subchapter D; or

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

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

30 (4) review and document whether the board believes an
31 entity subject to Subchapter D is investing funds in compliance

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1 with:

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

3 (B) applicable law governing the entity's
4 investments; and

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

8 SECTION __. Subsection (a), Section 801.203, Government
9 Code, is amended to read as follows:

10 (a) The board shall present to the legislature and the
11 governor, in November of each even-numbered year, a public
12 report explaining the work and findings of the board during the
13 preceding two-year period and including drafts or
14 recommendations of any legislation relating to public retirement
15 systems or other entities subject to Subchapter D that the board
16 finds advisable.

17 SECTION __. Section 801.204, Government Code, is amended
18 to read as follows:

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

24 SECTION __. Chapter 801, Government Code, is amended by
25 adding Subchapter D to read as follows:

26 SUBCHAPTER D. BOARD INVESTMENT OVERSIGHT

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

29 (1) public funds by:

30 (A) the comptroller;

31 (B) the Employees Retirement System of Texas,

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1 including a retirement system administered by that system;
2 (C) the Teacher Retirement System of Texas;
3 (D) the Texas Municipal Retirement System;
4 (E) the Texas County and District Retirement
5 System; and
6 (F) the Texas Emergency Services Retirement
7 System;

8 (2) the permanent university fund by the board of
9 regents of The University of Texas System or any entity acting
10 on behalf of the board of regents, including a nonprofit
11 corporation acting under Section 66.08, Education Code; and

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

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

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

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

- 29 (1) develop and adopt a written investment strategy;
30 (2) file a copy of the strategy with the board not
31 later than the 90th day after the date the strategy is adopted;

1 and

2 (3) file a copy of each change to the strategy with
3 the board not later than the 90th day after the change is
4 adopted.

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

7 Sec. 801.304. TIMELY SUBMISSION OF CERTAIN REPORTS AND
8 RESPONSES REQUIRED. (a) The presiding officer of an entity
9 subject to this subchapter or the governing body of an entity
10 subject to this subchapter is responsible for ensuring that a
11 report or a response to a request for information made by the
12 board for the purpose of performing the board's duties under
13 Section 801.202 is filed timely with the board.

14 (b) It is grounds for removal by the appropriate
15 appointing officer if the presiding officer of an entity subject
16 to this subchapter or the governing body of an entity subject to
17 this subchapter consistently fails to timely submit a report or
18 respond to a request for information under Subsection (a).

19 (c) If the board determines that the presiding officer of
20 an entity subject to this subchapter consistently fails to
21 timely report or respond to a request for information under
22 Subsection (a), the board shall notify the appropriate
23 appointing officer, if any, the governor, if the governor is not
24 the appropriate appointing officer, and the Legislative Budget
25 Board of its determination.

26 Sec. 801.305. CONTRACTS WITH INVESTMENT MANAGERS AND
27 CERTAIN OTHERS. A contract with an investment manager or other
28 person to provide services to an entity subject to this
29 subchapter relating to the management and investment of public
30 funds for or on behalf of the entity is subject to review by the
31 board regarding the fees charged and paid by the subject entity

1 and the services rendered to the entity in consideration for the
2 fees.

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

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

7 (2) an investment manager for a public retirement
8 system appointed by contract;

9 (3) a member of the board of regents of The
10 University of Texas System;

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

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

17 (6) the officers and directors of a nonprofit
18 corporation acting under contract with the State Board of
19 Education to invest the funds of the permanent school fund under
20 Section 43.006, Education Code; and

21 (7) any private professional investment manager who
22 has entered into a contract with the comptroller under Section
23 404.024(k) to assist the comptroller in investing public funds.

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
28 responsibilities with respect to the management or investment of
29 public funds for or on behalf of an entity subject to this
30 subchapter shall immediately disclose the relationship in
31 writing to the entity.

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

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

- 8 (1) the contract is voidable by the entity; and
- 9 (2) the governing body of the entity may enter an
10 order declaring the person ineligible to contract for business
11 relating to the management or investment of public funds for or
12 on behalf of the entity.

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

19 Sec. 801.307. PROHIBITION AGAINST ACCEPTANCE OF CERTAIN
20 GIFTS. In any 12-month period, the comptroller or a person who
21 is a member of the governing body of a public retirement system,
22 the board of regents of The University of Texas System, or the
23 State Board of Education or an employee of an entity subject to
24 this subchapter employed in a "bona fide executive,
25 administrative, or professional capacity," as that phrase is
26 used for purposes of establishing an exemption to the overtime
27 provisions of the federal Fair Labor Standards Act of 1938 (29
28 U.S.C. Section 201 et seq.), may not accept a gift or gifts, the
29 total value of which is more than \$250, including food,
30 entertainment, and a promised future benefit, from another
31 person doing business with or seeking to do business with the

1 entity.

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

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

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

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

22 Sec. 801.310. INVESTIGATION OF CERTAIN COMPLAINTS;
23 ASSISTANCE OF ATTORNEY GENERAL. (a) The board shall adopt
24 rules and procedures for receiving and investigating a complaint
25 against a person who provides management or investment services
26 to an entity subject to this subchapter alleging that the
27 person:

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

30 (2) has been or may have been involved in criminal
31 conduct relating to the services provided by the person to the

1 entity.

2 (b) The board or the attorney general may, without
3 receiving a complaint, initiate an investigation under this
4 section if the board or the attorney general, as applicable,
5 determines an investigation is appropriate.

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

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

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

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

19 SECTION __. Subsection (d), Section 802.003, Government
20 Code, is amended to read as follows:

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

26 SECTION __. Subsection (c), Section 802.101, Government
27 Code, is amended to read as follows:

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

1 SECTION __. Subsection (j), Section 802.1012, Government
2 Code, is amended to read as follows:

3 (j) The governmental entity shall:

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

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

10 (3) pay all costs associated with conducting the
11 audit and preparing and distributing the report under this
12 section.

13 SECTION __. Subchapter B, Chapter 802, Government Code, is
14 amended by adding Section 802.1013 to read as follows:

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

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

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

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

27 SECTION __. Subsections (b) and (c), Section 802.103,
28 Government Code, are amended to read as follows:

29 (b) The governing body of a public retirement system
30 shall, before the 211th day after the last day of the fiscal
31 year under which the system operates, file with the State

1 Pension and Investment Review Board a copy of each annual
2 financial report it makes as required by law.

3 (c) A public retirement system that is subject to Chapter
4 125, Acts of the 45th Legislature, Regular Session, 1937
5 (Article 6243e, Vernon's Texas Civil Statutes), and that has
6 total assets with a book value, as of the last day of the fiscal
7 year, of less than \$50,000, may submit to the State Pension and
8 Investment Review Board for that year, instead of the financial
9 report otherwise required by this section to be published and
10 submitted, a copy of the financial report it submits to the
11 firemen's pension commissioner.

12 SECTION __. Subsection (a), Section 802.105, Government
13 Code, is amended to read as follows:

14 (a) Each public retirement system shall, before the 91st
15 day after the date of its creation, register with the State
16 Pension and Investment Review Board.

17 SECTION __. Subsection (h), Section 802.106, Government
18 Code, is amended to read as follows:

19 (h) A public retirement system shall submit to the State
20 Pension and Investment Review Board copies of the summarized
21 information required by Subsections (a) and (b). A system shall
22 submit a copy of the information required by Subsection (a)
23 before the 31st day after the date of publication and a copy of
24 the information required by Subsection (b) before the 271st day
25 after the date a change is adopted.

26 SECTION __. Section 802.107, Government Code, is amended
27 to read as follows:

28 Sec. 802.107. GENERAL PROVISIONS RELATING TO REPORTS.

29 (a) A public retirement system shall maintain for public review
30 at its main office and at such other locations as the retirement
31 system considers appropriate copies of the most recent edition

1 of each type of report or other information required by this
2 chapter to be submitted to the State Pension and Investment
3 Review Board unless the information is confidential under law.
4 Public information required to be reported annually to the board
5 may be posted on the retirement system's Internet website or on
6 the website of the board.

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

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

13 (d) The governing body of a public retirement system
14 shall:

15 (1) develop and adopt a written investment policy;

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

18 (3) file a copy of the policy with the State Pension
19 and Investment Review Board not later than the 90th day after
20 the date the policy is adopted; and

21 (4) file a copy of each change to the policy with the
22 State Pension and Investment Review Board not later than the
23 90th day after the change is adopted.

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

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

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

30 (f) Every political entity which establishes or maintains
31 a public retirement system covered under this Act shall file all

1 reports with the State Pension and Investment Review Board
2 required by Chapter 802. If a political subdivision establishes
3 a retirement program that would be a "public retirement system"
4 within the meaning ascribed to that term by Section 801.001, but
5 for the fact that the program is administered by a life
6 insurance company, the subdivision shall notify the State
7 Pension and Investment Review Board of the establishment of the
8 program and the name of the administering company.

9 SECTION __. Subsection (d), Section 815.110, Government
10 Code, is amended to read as follows:

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

18 SECTION __. Subsection (a), Section 815.510, Government
19 Code, is amended to read as follows:

20 (a) The Employees Retirement System of Texas shall submit
21 a report not later than the 25th day of the month following the
22 end of each fiscal year to the governor, the lieutenant
23 governor, the speaker of the house of representatives, the
24 executive director of the State Pension and Investment Review
25 Board, the appropriate oversight committees of the house and
26 senate, and the Legislative Budget Board. The report shall
27 include the following:

28 (1) the current end-of-fiscal-year market value of
29 the trust fund;

30 (2) the asset allocations of the trust fund expressed
31 in percentages of stocks, fixed income, cash, or other financial

1 investments; and

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

4 SECTION __. Subsections (c) and (d), Section 825.108,
5 Government Code, are amended to read as follows:

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

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

16 SECTION __. Subsection (d), Section 825.111, Government
17 Code, is amended to read as follows:

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

25 SECTION __. Subsection (e), Section 825.512, Government
26 Code, is amended to read as follows:

27 (e) The retirement system shall submit an annual
28 investment performance report not later than the 45th day after
29 the end of each fiscal year to the governor, the lieutenant
30 governor, the speaker of the house of representatives, the
31 executive director of the State Pension and Investment Review

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

9 SECTION __. Section 825.513, Government Code, is amended
10 to read as follows:

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

16 SECTION __. Section 825.518, Government Code, is amended
17 to read as follows:

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

27 SECTION __. Section 2, Chapter 817 (S.B. 127), Acts of the
28 73rd Legislature, Regular Session, 1993 (Article 4413(34e),
29 Vernon's Texas Civil Statutes), is amended to read as follows:

30 Sec. 2. The manager of each state trust fund shall submit
31 to the governor, the lieutenant governor, the speaker of the

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

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

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

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

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

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

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

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

26 (2) a majority of the participating members of the
27 fund vote for the increase by a secret ballot;

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

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

6 SECTION __. Subsections (a), (b), (c), (d), and (f),
7 Section 801.113, Government Code, are repealed.

8 SECTION __. (a) The name of the State Pension Review
9 Board is changed to the State Pension and Investment Review
10 Board. A reference in law to the State Pension Review Board
11 means the State Pension and Investment Review Board. A
12 reference in law to the State Pension Review Board fund means
13 the State Pension and Investment Review Board fund.

14 (b) An appropriation for the use and benefit of the State
15 Pension Review Board is available for the use and benefit of the
16 State Pension and Investment Review Board.

17 SECTION __. (a) As soon as practicable on or after the
18 effective date of this Act:

19 (1) the governor shall appoint five members to the
20 State Pension and Investment Review Board as provided by Section
21 801.103, Government Code, as amended by this Act, as follows:

22 (A) two members for a term expiring January 31,
23 2011;

24 (B) two members for a term expiring January 31,
25 2013; and

26 (C) one member for a term expiring January 31,
27 2015;

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

1 (3) the speaker of the house of representatives shall
2 appoint one member to the State Pension and Investment Review
3 Board as provided by Subsection (b), Section 801.104, Government
4 Code, as amended by this Act, for a term expiring January 31,
5 2015.

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

14 SECTION __. Subchapter D, Chapter 801, Government Code, as
15 added by this Act, applies to the oversight of funds by the
16 State Pension and Investment Review Board, regardless of whether
17 the investment of those funds was made before, on, or after the
18 effective date of this Act.

19 SECTION __. This Act does not make an appropriation. A
20 provision in this Act that creates a new governmental program,
21 creates a new entitlement, or imposes a new duty on a
22 governmental entity is not mandatory during a fiscal period for
23 which the legislature has not made a specific appropriation to
24 implement the provision.

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 21, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1070 by Truitt (Relating to audits of certain public retirement system actuarial valuations, studies, and reports.), **As Passed 2nd House**

Estimated Two-year Net Impact to General Revenue Related Funds for HB1070, As Passed 2nd House: a negative impact of (\$2,186,982) through the biennium ending August 31, 2011.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill.

General Revenue-Related Funds, Five-Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to General Revenue Related Funds
2010	(\$1,125,991)
2011	(\$1,060,991)
2012	(\$1,060,991)
2013	(\$1,060,991)
2014	(\$1,060,991)

All Funds, Five-Year Impact:

Fiscal Year	Probable Savings/(Cost) from <i>General Revenue Fund</i> 1
2010	(\$1,125,991)
2011	(\$1,060,991)
2012	(\$1,060,991)
2013	(\$1,060,991)
2014	(\$1,060,991)

Fiscal Analysis

The bill would amend Government Code 802.1012 pertaining to retirement plans with over \$100 million in assets, which requires them to have actuarial audits every five years. Under the provisions of the bill, plans which have not recently obtained an appropriate actuarial audit would be required to initiate one before March 1, 2010. Statewide plans are not subject to Section 802.1012.

Additionally, the bill would amend Chapter 801 of the Government Code to change the scope of the Pension Review Board (PRB) beyond its oversight of public retirement systems in Texas, and add board oversight of the investment of public funds by the Comptroller; the Permanent University Fund (PUF); Permanent School Fund (PSF); the Employees Retirement System, including a retirement system administered by the system; the Teacher Retirement System; the Texas Municipal Retirement System; the Texas County and District Retirement System; and the Texas Emergency Services

Retirement System. The bill would also direct the PRB to develop, by rule, actuarial standards, procedures for receiving and investigating complaints against investment managers, and the review of contracts and fees paid to investment managers.

The Texas Education Agency (TEA) reports that the bill would have no direct fiscal implication for the Foundation School Program (FSP) and no significant impact on the operations of TEA, but that it may be required to seek an opinion from the Attorney General to clarify the relationship between the PRB and the State Board of Education, which has the current oversight of the PSF.

Methodology

The PRB reports it would need eleven additional full-time-equivalents (FTEs) to carry out the provisions of the bill. These would include a General Counsel and a staff attorney to ensure that the agency has sufficient legal expertise to meet the board's new oversight authority. An Investment Analyst IV would serve in a senior-level position, with two Investment Analyst I positions to provide support. A full-time Database Administrator V would ensure that all information and data received by the PRB is securely and properly stored in the agency databases. A Program Specialist III would work with the staff actuary, and two additional Research Specialist I positions would provide data entry support. Finally, two additional Administrative Assistant I positions would support the administrative functions of the agency. The projected salary and benefits costs for these positions is approximately \$1.6 million for the 2010-11 biennium. The PRB reports that other costs associated with the new FTEs total approximately \$0.7 million for the 2010-11 biennium, which includes approximately \$0.1 million in one-time costs for new office furniture equipment and moving costs.

Although not reflected in the tables above, the University of Texas Investment Management Company (UTIMCO), the investment manager of the PUF, estimates increased administrative costs of approximately \$0.3 million for the 2010-11 biennium as a result of the bill's provisions. It is believed that these costs could be absorbed with current resources.

Both the Comptroller of Public Accounts and the State Auditor's Office report that the bill's provisions would have no fiscal impact on their operations.

Local Government Impact

The bill would remove the language that a rule adopted by the board may not be enforced against a public retirement system if compliance with the rule would cause the system to incur a major expense. The fiscal impact on local governmental entities public retirement system could be significant related to implementation of this provision of the bill.

Two public retirement system entities reported the provisions of the bill could have a significant fiscal impact on counties and cities.

The Texas County and District Retirement System (TCDRS), a statewide public employee retirement system that provides retirement, death and disability benefits for full-time employees reported some of the provisions that require certain reports and filings would have a cost impact, but until there is an opportunity to review the policies and procedures that would be set by PRB, TCERS is unable to provide a definitive amount or a reasonable estimate of the total fiscal impact of the bill. The TCERS also noted that they do not receive state funds; each subdivision participating in TCERS separately funds its own benefits from both employers and employees contributions to the system.

The Texas Municipal Retirement System (TMRS) which centrally administers retirement plans for over 830 cities and receives no state funding reported that funds held in trust for the members of the plans are invested by the TMRS Board of Trustees. Investment earnings are used to supplement and offset employer contributions made by the cities to their plans. The ability of the TMRS Board to perform its fiduciary duty with regard to investments could be impaired or delayed by the provisions of the bill, which could result in losses (or lower gains) to the fund. The impairment or delay could also result in increasing city contribution rates which pay for the current level of benefits provided by each TMRS city. It is impossible to quantify such increases. Because the procedures and policies created by the bill would be new, it is difficult to assess what effect the reviewing function of the PRB

would have on TMRS' investment practices. TMRS also noted the potential costs of a slower contracting process may be higher than for other funds. TMRS began the diversification of its \$14 billion trust fund in 2008, moving from a 100 percent fixed income portfolio into a diversified one more typical of large investment funds. As diversification progresses, the timing of individual contracts may play a critical role, and losses resulting from the system's delay in diversification would translate directly into increased benefit costs for the cities.

Source Agencies: 304 Comptroller of Public Accounts, 308 State Auditor's Office, 338 Pension Review Board, 701 Central Education Agency, 720 The University of Texas System Administration

LBB Staff: JOB, KJG, SD, JRO, MS, DEH, WM, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 8, 2009

TO: Honorable Robert Duncan, Chair, Senate Committee on State Affairs

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1070 by Truitt (Relating to audits of certain public retirement system actuarial valuations, studies, and reports.), **As Engrossed**

No fiscal implication to the State is anticipated.

The bill would amend Government Code 802.1012 pertaining to retirement plans with over \$100 million in assets, which requires them to have actuarial audits every five years. Under the bill, plans which have not recently gotten an appropriate actuarial audit will be required to initiate one before March 1, 2010. Statewide plans are not subject to Section 802.1012.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 327 Employees Retirement System, 338 Pension Review Board

LBB Staff: JOB, KJG, JRO, SD, WM, TP

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 27, 2009

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1070 by Truitt (relating to audits of certain public retirement system actuarial valuations, studies, and reports.), **Committee Report 1st House, Substituted**

No fiscal implication to the State is anticipated.

The bill would amend Government Code 802.1012 pertaining to retirement plans with over \$100 million in assets, which requires them to have actuarial audits every five years. Under the bill, plans which have not recently gotten an appropriate actuarial audit will be required to initiate one before March 1, 2010. Statewide plans are not subject to 802.1012.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 327 Employees Retirement System, 338 Pension Review Board

LBB Staff: JOB, JRO, SD, WM, TP

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LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

March 17, 2009

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1070 by Truitt (Relating to audits of certain public retirement system actuarial valuations, studies, and reports.), **As Introduced**

No fiscal implication to the State is anticipated.

The bill would amend Government Code 802.1012 pertaining to retirement plans with over \$100 million in assets, which requires them to have actuarial audits every five years. Under the bill, plans which have not recently gotten an appropriate actuarial audit will be required to get one before March 1, 2010. Statewide plans are not subject to 802.1012.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 327 Employees Retirement System, 338 Pension Review Board

LBB Staff: JOB, JRO, SD, WM, TP

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LEGISLATIVE BUDGET BOARD
Austin, Texas

ACTUARIAL IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

March 26, 2009

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1070 by Truitt (Relating to audits of certain public retirement system actuarial valuations, studies, and reports), **Committee Report 1st House, Substituted**

CSHB 1070 would amend Chapter 802, Government Code, by adding the definition of "plan year" to section 802.1012(a). Currently, the term "fiscal year" is used to identify the date that a plan would use to gauge the dates that reports are due to the Pension Review Board. The definition of "plan year" clarifies that the fiscal year used should be that of the affected pension plan of a public retirement system.

Currently, pension plans with a book value of total assets over \$100 million are required to have their actuarial valuations audited every five years. CSHB 1070 would add a due date to 802.1012(c), making the audit due to the PRB no later than six months after the end of the retirement system's plan year.

CSHB 1070 would take effect September 1, 2009. Those governmental entities that have already initiated an audit before the effective date of the Act are not required to initiate another audit before September 1, 2013. Governmental entities that are required but have not initiated an audit before the effective date of the Act are to initiate the audit no later than March 1, 2010.

The bill, if enacted, will not have a significant actuarial effect because it does not propose to change the funding or obligations of any public retirement system.

Source Agencies: 338 Pension Review Board

LBB Staff: JOB, WM

LEGISLATIVE BUDGET BOARD
Austin, Texas

ACTUARIAL IMPACT STATEMENT

81ST LEGISLATIVE REGULAR SESSION

March 17, 2009

TO: Honorable Vicki Truitt, Chair, House Committee on Pensions, Investments & Financial Services

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB1070 by Truitt (Relating to audits of certain public retirement system actuarial valuations, studies, and reports.), **As Introduced**

HB 1070 would amend Chapter 802, Government Code, by adding the definition of "plan year" to section 802.1012(a). Currently, the term "fiscal year" is used to identify the date that a plan would use to gauge the dates that reports are due to the PRB. The definition of "plan year" clarifies that the fiscal year used should be that of the affected pension plan of a public retirement system.

Currently, pension plans with a book value of total assets over \$100 million are required to have their actuarial valuations audited every five years. HB 1070 would add a due date to 802.1012(c), making the audit due to the PRB no later than six months after the end of the retirement system's plan year.

The bill, if enacted, will not have a significant actuarial effect because it does not propose to change the funding or obligations of any public retirement system.

Source Agencies: 338 Pension Review Board

LBB Staff: JOB, WM

