

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 82ND LEGISLATIVE REGULAR SESSION

May 3, 2011

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

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

IN RE: HB2731 by Truitt (Relating to contributions to, benefits from, and administration of certain public retirement systems; providing administrative penalties.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

Section 1 of the bill would amend Chapter 801 of Government Code by adding Section 801.208, which would require the Pension Review Board (PRB) to adopt rules and procedures for receiving and investigating a complaint against a person who provides management or investment services to a public retirement system that alleges the person violated, or may have violated, Sections 802.004 through 802.007 or other conflict of interest provisions, or had been or may have been in criminal conduct relating to services provided to the entity.

Section 1 also would authorize the PRB to request from a public retirement system a statement detailing the system's method for selecting persons who provide services related to the management and investment of the system's assets, with the Employees Retirement System (ERS), the Teacher Retirement System (TRS), the Texas County and District Retirement System (TCDRS), the Texas Municipal Retirement System (TMRS), and the Judicial Retirement System of Texas Plan Two (JRS-2) being exempt.

Section 2 of the bill would amend Chapter 802 of Government Code to exempt ERS, TRS, TCDRS, TMRS, and JRS-2 from Section 802.004, related to the disclosure of potential conflicts of interest, and 802.1013, related to actuarial experience studies.

Section 3 would amend Chapter 802 of Government Code to add Sections 802.004 through 802.007 relating to prohibitions and penalties with regard to members of the governing body of a public retirement system. Section 802.004 adds that a member of the governing body of a public retirement system, or an investment consultant or advisor providing investment management services to that public retirement system, must disclose immediately any employment, ownership, or control, directly or indirectly, of a business entity that receives funds from the public retirement system which could likely diminish the person's independence of judgment in the performance of responsibilities that person has to the management of system assets. This disclosure of potential conflicts of interest is also applicable to the person's immediate family. The person would be required to file a statement of understanding of the disclosure requirement with the retirement system each year.

Section 802.007 would add that a person who commits theft in relation to the service they are providing the public retirement system is liable for an administrative penalty not to exceed \$250,000 for each violation. Additionally, a person who commits a breach of the person's fiduciary duty would be liable for an administrative penalty not to exceed \$500 for each violation and \$10,000 in the aggregate for all similar violations.

Section 4 of the bill would amend Section 802.1012 (b) to reduce the total asset threshold requirement for public retirement systems required to conduct an actuarial audit every five years from \$100 million to \$10 million. Section 4 would also require public retirement systems with total assets of at least \$50

million to have an independent actuary audit its actuarial valuations, studies, and reports once every five years. Additionally, the PRB would be authorized to select five public retirement systems each calendar year with total assets of at least \$10 million and not more than \$50 million to have an independent audit conducted.

Section 5 of the bill would add Section 802.1013, which would authorize the PRB to require a public retirement system with total assets exceeding \$50 million to conduct and submit to PRB an actuarial experience study a maximum of once every five years.

Section 6 of the bill would amend Section 802.103 to have PRB notify appropriate local media outlets if a public retirement system fails to file an annual financial report before the 10th business day after the filing deadline. Additionally, the governing body of a public retirement system would be required to retain the work papers involved in the preparation of the annual financial report in compliance with the records retention schedule adopted by the Texas State Library and Archives Commission applicable to all local governments.

It is anticipated that any additional costs associated with implementation of the legislation could be absorbed within existing resources.

The bill would take effect September 1, 2011.

Local Government Impact

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

Source Agencies: 338 Pension Review Board, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 323 Teacher Retirement System, 327 Employees Retirement System

LBB Staff: JOB, KKR, AG, MS, DEH, JM