

By: Patrick, Nichols

S.B. No. 200

A BILL TO BE ENTITLED

AN ACT

relating to the continuation and functions of the State Pension Review Board.

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

SECTION 1. Subsection (a), Section 801.102, Government Code, is amended to read as follows:

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

SECTION 2. Section 801.1021, Government Code, is amended to read as follows:

Sec. 801.1021. CONFLICT PROVISIONS. (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

(b) A person is not eligible for appointment as a member of the board if the person or the person's spouse:

(1) is employed by or participates in the management of a business entity or other organization receiving funds from the board;

(2) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the board; or

(3) uses or receives a substantial amount of tangible

1 goods, services, or funds from the board, other than compensation
2 or reimbursement authorized by law for board membership,
3 attendance, or expenses.

4 (c) ~~[(b)]~~ A person may not serve as a member of the board or
5 act as the general counsel to the board if the person is required to
6 register as a lobbyist under Chapter 305 because of the person's
7 activities for compensation on behalf of a profession related to
8 the operation of the board.

9 (d) A person may not be a member of the board and may not be a
10 board employee employed in a "bona fide executive, administrative,
11 or professional capacity," as that phrase is used for purposes of
12 establishing an exemption to the overtime provisions of the federal
13 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),
14 if:

15 (1) the person is an officer, employee, or paid
16 consultant of a Texas trade association in the field of pensions; or

17 (2) the person's spouse is an officer, manager, or paid
18 consultant of a Texas trade association in the field of pensions.

19 SECTION 3. Section 801.106, Government Code, is amended to
20 read as follows:

21 Sec. 801.106. TERMS OF OFFICE. Members of the board hold
22 office for staggered terms of six years, with the terms of two or
23 three members, as appropriate, expiring on January 31 of each
24 odd-numbered year.

25 SECTION 4. Subsection (a), Section 801.1061, Government
26 Code, is amended to read as follows:

27 (a) It is a ground for removal from the board that a member:

1 (1) does not have at the time of taking office the
2 qualifications required by Section 801.103 [~~or 801.104~~];

3 (2) does not maintain during service on the board the
4 qualifications required by Section 801.103 [~~or 801.104~~];

5 (3) is ineligible for membership under Section
6 801.1021;

7 (4) cannot, because of illness or disability,
8 discharge the member's duties for a substantial part of the member's
9 term; or

10 (5) is absent from more than half of the regularly
11 scheduled board meetings that the member is eligible to attend
12 during a calendar year without an excuse approved by a majority vote
13 of the board.

14 SECTION 5. Section 801.107, Government Code, is amended to
15 read as follows:

16 Sec. 801.107. SUNSET PROVISION. The State Pension Review
17 Board is subject to Chapter 325 (Texas Sunset Act). Unless
18 continued in existence as provided by that chapter, the board is
19 abolished and this chapter expires September 1, 2025 [~~2013~~].

20 SECTION 6. Subchapter C, Chapter 801, Government Code, is
21 amended by adding Section 801.2012 to read as follows:

22 Sec. 801.2012. NEGOTIATED RULEMAKING AND ALTERNATIVE
23 DISPUTE RESOLUTION PROCEDURES. (a) The board shall develop and
24 implement a policy to encourage the use of:

25 (1) negotiated rulemaking procedures under Chapter
26 2008 for the adoption of board rules; and

27 (2) appropriate alternative dispute resolution

1 procedures under Chapter 2009 to assist in the resolution of
2 internal and external disputes under the board's jurisdiction.

3 (b) The board's procedures relating to alternative dispute
4 resolution must conform, to the extent possible, to any model
5 guidelines issued by the State Office of Administrative Hearings
6 for the use of alternative dispute resolution by state agencies.

7 (c) The board shall:

8 (1) coordinate the implementation of the policy
9 adopted under Subsection (a);

10 (2) provide training as needed to implement the
11 procedures for negotiated rulemaking or alternative dispute
12 resolution; and

13 (3) collect data concerning the effectiveness of those
14 procedures.

15 SECTION 7. Subchapter C, Chapter 801, Government Code, is
16 amended by adding Section 801.208 to read as follows:

17 Sec. 801.208. EDUCATION AND TRAINING. As authorized by
18 Section 801.113(e), the board may develop and conduct training
19 sessions and other educational activities for trustees and
20 administrators of public retirement systems. In exercising the
21 board's authority under this section, the board may:

22 (1) conduct live training seminars on an Internet
23 website at intervals the board considers necessary to keep trustees
24 and administrators reasonably informed;

25 (2) maintain archives of previous seminars reasonably
26 accessible to trustees and administrators on the Internet website;
27 and

1 (3) use technologies and innovations the board
2 considers appropriate to educate the greatest practicable number of
3 trustees and administrators.

4 SECTION 8. Section 802.001, Government Code, is amended by
5 adding Subdivision (1-a) to read as follows:

6 (1-a) "Defined contribution plan" means a plan
7 provided by the governing body of a public retirement system that
8 provides for an individual account for each participant and for
9 benefits based solely on the amount contributed to the
10 participant's account, and any income, expenses, gains and losses,
11 and any forfeitures of accounts of other participants that may be
12 allocated to the participant's account.

13 SECTION 9. Section 802.002, Government Code, is amended by
14 amending Subsection (b) and adding Subsections (c) and (d) to read
15 as follows:

16 (b) If a public ~~[an exempt]~~ retirement system or program
17 that is exempt under Subsection (a) is required by law to make an
18 actuarial valuation of the assets of the system or program and
19 publish actuarial information about the system or program, the
20 actuary making the valuation and the governing body publishing the
21 information must include the information required by Section
22 802.101(b).

23 (c) Notwithstanding any other law, a defined contribution
24 plan is exempt from Sections 802.101, 802.1012, 802.1014, 802.103,
25 802.104, and 802.202(d). This subsection may not be construed to
26 exempt any plan from Section 802.105 or 802.106(h).

27 (d) Notwithstanding any other law, a retirement system that

1 is organized under the Texas Local Fire Fighters Retirement Act
2 (Article 6243e, Vernon's Texas Civil Statutes) for a fire
3 department consisting exclusively of volunteers as defined by that
4 Act is exempt from Sections 802.101, 802.1012, 802.1014, 802.102,
5 802.103, 802.104, and 802.202(d). This subsection may not be
6 construed to exempt any plan from Section 802.105 or 802.106(h).

7 SECTION 10. Subchapter B, Chapter 802, Government Code, is
8 amended by adding Section 802.1014 to read as follows:

9 Sec. 802.1014. ACTUARIAL EXPERIENCE STUDY. (a) In this
10 section, "actuarial experience study" means a study in which
11 actuarial assumptions are reviewed in light of relevant experience
12 factors, important trends, and economic projections with the
13 purpose of determining whether actuarial assumptions require
14 adjustment.

15 (b) Except as provided by Subsection (c), a public
16 retirement system that conducts an actuarial experience study shall
17 submit to the board a copy of the actuarial experience study before
18 the 31st day after the date of the study's adoption.

19 (c) This section does not apply to the Employees Retirement
20 System of Texas, the Teacher Retirement System of Texas, the Texas
21 County and District Retirement System, the Texas Municipal
22 Retirement System, or the Judicial Retirement System of Texas Plan
23 Two.

24 SECTION 11. Section 802.102, Government Code, is amended to
25 read as follows:

26 Sec. 802.102. AUDIT. The governing body of a public
27 retirement system shall have the accounts of the system audited at

1 least annually by a certified public accountant in accordance with
2 generally accepted auditing standards. A general audit of a
3 governmental entity, as defined by Section 802.1012, does not
4 satisfy the requirement of this section.

5 SECTION 12. Section 802.103, Government Code, is amended by
6 adding Subsection (d) to read as follows:

7 (d) A general audit of a governmental entity, as defined by
8 Section 802.1012, does not satisfy the requirement of this section.

9 SECTION 13. Subsection (h), Section 802.106, Government
10 Code, is amended to read as follows:

11 (h) A public retirement system shall submit to the board
12 ~~[State Pension Review Board]~~ copies of the summarized information
13 required by Subsections (a) and (b) ~~[. A system shall submit a copy~~
14 ~~of the information required by Subsection (a)]~~ before the 31st day
15 after the date of publication or ~~[and a copy of the information~~
16 ~~required by Subsection (b) before the 271st day after]~~ the date a
17 change is adopted, as appropriate.

18 SECTION 14. Section 801.104 and Subsection (c), Section
19 802.103, Government Code, are repealed.

20 SECTION 15. (a) The change in law made by this Act to
21 Section 801.1021, Government Code, regarding prohibitions on
22 members of the State Pension Review Board does not affect the
23 entitlement of a member serving on the board immediately before
24 September 1, 2013, to continue to serve and function as a member of
25 the board for the remainder of the member's term. The change in law
26 made to that section applies only to a member appointed on or after
27 September 1, 2013.

1 (b) Section 802.1014, Government Code, as added by this Act,
2 applies only to an actuarial experience study conducted on or after
3 the effective date of this Act. An actuarial experience study
4 conducted before the effective date of this Act is governed by the
5 law in effect immediately before that date, and that law is
6 continued in effect for that purpose.

7 (c) Section 802.102, Government Code, as amended by this
8 Act, is intended to clarify existing law with respect to the audit
9 required by that section.

10 (d) Subsection (d), Section 802.103, Government Code, as
11 added by this Act, is intended to clarify existing law with respect
12 to the annual financial report required by Section 802.103,
13 Government Code.

14 (e) Subsection (h), Section 802.106, Government Code, as
15 amended by this Act, applies only to a change in statutes or
16 ordinances governing a retirement system described by Subsection
17 (b), Section 802.106, Government Code, that is adopted on or after
18 the effective date of this Act. A change in statutes or ordinances
19 that is adopted before the effective date of this Act is governed by
20 the law in effect immediately before that date, and that law is
21 continued in effect for that purpose.

22 SECTION 16. (a) A person who is serving as a member of the
23 State Pension Review Board appointed under Section 801.103,
24 Government Code, on the effective date of this Act continues to
25 serve until the person's term expires.

26 (b) The governor shall make appointments to fill vacancies
27 on the State Pension Review Board so that board members' terms of

1 office expire in compliance with Section 801.106, Government Code,
2 as amended by this Act, and, if necessary for compliance with that
3 section, a person may be appointed to a term of office that expires
4 in less than six years.

5 (c) The term of a person who is serving as a member of the
6 State Pension Review Board appointed under Section 801.104,
7 Government Code, expires on the effective date of this Act.

8 SECTION 17. This Act takes effect September 1, 2013.