

1-1 By: Patrick, Nichols S.B. No. 200  
1-2 (In the Senate - Filed February 18, 2013; February 20, 2013,  
1-3 read first time and referred to Committee on State Affairs;  
1-4 March 26, 2013, reported favorably by the following vote: Yeas 9,  
1-5 Nays 0; March 26, 2013, sent to printer.)

1-6 COMMITTEE VOTE

1-7	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED  
1-18 AN ACT

1-19 relating to the continuation and functions of the State Pension  
1-20 Review Board.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-22 SECTION 1. Section 801.1021, Government Code, is amended to  
1-23 read as follows:

1-24 Sec. 801.1021. CONFLICT PROVISIONS. (a) In this section,  
1-25 "Texas trade association" means a cooperative and voluntarily  
1-26 joined statewide association of business or professional  
1-27 competitors in this state designed to assist its members and its  
1-28 industry or profession in dealing with mutual business or  
1-29 professional problems and in promoting their common interest.

1-30 (b) A person is not eligible for appointment as a member of  
1-31 the board if the person or the person's spouse:

1-32 (1) is employed by or participates in the management  
1-33 of a business entity or other organization receiving funds from the  
1-34 board;

1-35 (2) owns or controls, directly or indirectly, more  
1-36 than a 10 percent interest in a business entity or other  
1-37 organization receiving funds from the board; or

1-38 (3) uses or receives a substantial amount of tangible  
1-39 goods, services, or funds from the board, other than compensation  
1-40 or reimbursement authorized by law for board membership,  
1-41 attendance, or expenses.

1-42 (c) ~~[(b)]~~ A person may not serve as a member of the board or  
1-43 act as the general counsel to the board if the person is required to  
1-44 register as a lobbyist under Chapter 305 because of the person's  
1-45 activities for compensation on behalf of a profession related to  
1-46 the operation of the board.

1-47 (d) A person may not be a member of the board and may not be a  
1-48 board employee employed in a "bona fide executive, administrative,  
1-49 or professional capacity," as that phrase is used for purposes of  
1-50 establishing an exemption to the overtime provisions of the federal  
1-51 Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.),  
1-52 if:

1-53 (1) the person is an officer, employee, or paid  
1-54 consultant of a Texas trade association in the field of pensions; or

1-55 (2) the person's spouse is an officer, manager, or paid  
1-56 consultant of a Texas trade association in the field of pensions.

1-57 SECTION 2. Section 801.107, Government Code, is amended to  
1-58 read as follows:

1-59 Sec. 801.107. SUNSET PROVISION. The State Pension Review  
1-60 Board is subject to Chapter 325 (Texas Sunset Act). Unless  
1-61 continued in existence as provided by that chapter, the board is

abolished and this chapter expires September 1, 2025 [~~2013~~].

SECTION 3. Subchapter C, Chapter 801, Government Code, is amended by adding Section 801.2012 to read as follows:

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

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

(2) appropriate alternative dispute resolution procedures under Chapter 2009 to assist in the resolution of internal and external disputes under the board's jurisdiction.

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

(c) The board shall:

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

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

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

SECTION 4. Subchapter C, Chapter 801, Government Code, is amended by adding Section 801.208 to read as follows:

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

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

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

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

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

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

SECTION 6. Section 802.002, Government Code, is amended by amending Subsection (b) and adding Subsections (c) and (d) to read as follows:

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

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

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

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

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

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

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

SECTION 8. Section 802.102, Government Code, is amended to read as follows:

Sec. 802.102. AUDIT. The governing body of a public retirement system shall have the accounts of the system audited at least annually by a certified public accountant in accordance with generally accepted auditing standards. A general audit of a governmental entity, as defined by Section 802.1012, does not satisfy the requirement of this section.

SECTION 9. Section 802.103, Government Code, is amended by adding Subsection (d) to read as follows:

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

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

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

SECTION 11. Subsection (c), Section 802.103, Government Code, is repealed.

SECTION 12. (a) The change in law made by this Act to Section 801.1021, Government Code, regarding prohibitions on members of the State Pension Review Board does not affect the entitlement of a member serving on the board immediately before September 1, 2013, to continue to serve and function as a member of the board for the remainder of the member's term. The change in law made to that section applies only to a member appointed on or after September 1, 2013.

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

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

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

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

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