

By: Flynn, Paul

H.B. No. 2434

Substitute the following for H.B. No. 2434:

By: Paul

C.S.H.B. No. 2434

A BILL TO BE ENTITLED

AN ACT

relating to requiring certain public retirement systems to take certain actions or implement certain plans designed to achieve actuarial soundness.

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

SECTION 1. Section 801.209(a), Government Code, is amended to read as follows:

(a) For each public retirement system, the board shall post on the board's Internet website, or on a publicly available website that is linked to the board's website, the most recent data from reports received under Sections 802.101, 802.103, 802.104, 802.105, 802.108, 802.2015, ~~[and]~~ 802.2016, 802.2017, and 802.2018.

SECTION 2. Sections 802.002(a) and (c), Government Code, are amended to read as follows:

(a) Except as provided by Subsection (b), the Employees Retirement System of Texas, the Teacher Retirement System of Texas, the Texas County and District Retirement System, the Texas Municipal Retirement System, and the Judicial Retirement System of Texas Plan Two are exempt from Sections 802.101(a), 802.101(b), 802.101(d), 802.102, 802.103(a), 802.103(b), 802.2015, 802.2016, 802.2017, 802.2018, 802.202, 802.203, 802.204, 802.205, 802.206, and 802.207. The Judicial Retirement System of Texas Plan One is exempt from all of Subchapters B and C except Sections 802.104 and

1 802.105. The optional retirement program governed by Chapter 830
2 is exempt from all of Subchapters B and C except Section 802.106.

3 (c) Notwithstanding any other law, a defined contribution
4 plan is exempt from Sections 802.101, 802.1012, 802.1014, 802.103,
5 802.104, 802.2017, 802.2018, and 802.202(d). This subsection may
6 not be construed to exempt any plan from Section 802.105 or
7 802.106(h).

8 SECTION 3. Section 802.2015(d), Government Code, is amended
9 to read as follows:

10 (d) The governing body of a public retirement system and the
11 associated governmental entity that have formulated a funding
12 soundness restoration plan under Subsection (e) are no longer
13 subject to this section and are subject to Section 802.2017 ~~[shall~~
14 ~~formulate a revised funding soundness restoration plan under that~~
15 ~~subsection, in accordance with the system's governing statute,~~ if
16 ~~[the system conducts an actuarial valuation showing that:~~

17 ~~[(1) the system's amortization period exceeds 40~~
18 ~~years, and~~

19 ~~[(2)]~~ the board determines, in accordance with Section
20 802.2017(b), that the previously formulated funding soundness
21 restoration plan has not been adhered to.

22 SECTION 4. Section 802.2016(d), Government Code, is amended
23 to read as follows:

24 (d) An associated governmental entity that has formulated a
25 funding soundness restoration plan under Subsection (e) is no
26 longer subject to this section and is subject to Section 802.2018
27 ~~[shall formulate a revised funding soundness restoration plan under~~

1 ~~that subsection, in accordance with the public retirement system's~~
2 ~~governing statute,~~ if ~~[the system conducts an actuarial valuation~~
3 ~~showing that:~~

4 ~~[(1) the system's amortization period exceeds 40~~
5 ~~years, and~~

6 ~~[(2)]~~ the board determines, in accordance with Section
7 802.2018(b), that the previously formulated funding soundness
8 restoration plan has not been adhered to.

9 SECTION 5. Subchapter C, Chapter 802, Government Code, is
10 amended by adding Sections 802.2017 and 802.2018 to read as
11 follows:

12 Sec. 802.2017. ACTIONS AND PLANS DESIGNED TO ACHIEVE
13 ACTUARIAL SOUNDNESS. (a) In this section, "governmental entity"
14 has the meaning assigned by Section 802.1012.

15 (b) This section does not apply to:

16 (1) a public retirement system and its associated
17 governmental entity subject to Section 802.2018; or

18 (2) a public retirement system and its associated
19 governmental entity if the retirement system and governmental
20 entity are adhering to, as determined by the board, a funding
21 soundness restoration plan formulated under Section 802.2015
22 before June 1, 2018, including a revised funding soundness
23 restoration plan that was formulated before June 1, 2018.

24 (c) Subsection (b)(2) does not prevent application of this
25 section to a public retirement system and its associated
26 governmental entity after the retirement system and governmental
27 entity have completed a funding soundness restoration plan

1 formulated under Section 802.2015.

2 (d) Except as otherwise provided by this section or the
3 Texas or United States Constitution and notwithstanding any other
4 law, if a public retirement system receives an actuarial valuation
5 showing that the retirement system's actual contributions are not
6 sufficient to amortize the retirement system's unfunded actuarial
7 accrued liability within 30 years:

8 (1) the governing body of the retirement system shall
9 immediately:

10 (A) suspend the provision of any prospective
11 benefit increases provided under the retirement system, including
12 any cost-of-living adjustments; and

13 (B) notify the retirement system's associated
14 governmental entity in writing of the fact that:

15 (i) the retirement system has received an
16 actuarial valuation showing that the retirement system's actual
17 contributions are not sufficient to amortize the retirement
18 system's unfunded actuarial accrued liability within 30 years; and

19 (ii) the associated governmental entity is
20 required to take the action required by Subdivision (2); and

21 (2) on receipt of a notice from the retirement system
22 under Subdivision (1)(B), the associated governmental entity:

23 (A) shall immediately pay to the retirement
24 system any employer contributions previously deferred by the
25 governmental entity; and

26 (B) may not defer the payment of any future
27 employer contributions to the retirement system.

1 (d-1) The governing body of a public retirement system and
2 its associated governmental entity subject to this section, as
3 effective June 1, 2018, are not required to comply with Subsection
4 (d) until June 1, 2024, if the retirement system has an amortization
5 period that exceeds 30 years and, not later than June 1, 2018, the
6 retirement system submits to the board a copy of a written plan that
7 is designed to achieve a contribution rate that is sufficient to
8 amortize the unfunded actuarial accrued liability of the retirement
9 system within 30 years not later than June 1, 2024, as determined by
10 the board. The plan must comply with Subsection (g), as effective
11 June 1, 2018, and the retirement system must adhere to the plan.
12 If, on June 1, 2018, a public retirement system's most recent
13 actuarial valuation conducted before that date shows that the
14 system's amortization period exceeds 30 years, and the retirement
15 system fails to submit or adhere to a written plan as provided by
16 this subsection, the governing body of the retirement system and
17 its associated governmental entity shall immediately comply with
18 the requirements of Subsection (d). This subsection expires June
19 1, 2024.

20 (e) If a public retirement system subject to Subsection (d)
21 later receives an actuarial valuation showing that the retirement
22 system's actual contributions are sufficient to amortize the
23 retirement system's unfunded actuarial accrued liability within 30
24 years, the retirement system shall immediately notify its
25 associated governmental entity in writing that the retirement
26 system has received an actuarial valuation showing that the
27 retirement system's actual contributions are sufficient to

1 amortize the retirement system's unfunded actuarial accrued
2 liability within 30 years.

3 (f) Except as otherwise provided by the Texas or United
4 States Constitution and notwithstanding any other law, if the
5 period required to amortize the unfunded actuarial liability of a
6 public retirement system has exceeded 30 years for the three most
7 recent consecutive annual actuarial valuations, or the two most
8 recent consecutive actuarial valuations in the case of a retirement
9 system that conducts the valuations every two or three years, the
10 retirement system and its associated governmental entity shall
11 jointly develop a written plan designed to achieve a contribution
12 rate that will be sufficient to amortize the unfunded actuarial
13 accrued liability of the retirement system within 30 years not
14 later than the sixth anniversary of the date on which the final
15 version of the plan is submitted to the board under this section.

16 (g) A written plan under Subsection (f) must be based on:

17 (1) an increase in the contribution rates of the
18 governmental entity and the active members of the retirement
19 system;

20 (2) a reduction of benefits; or

21 (3) a combination of the actions described by
22 Subdivisions (1) and (2).

23 (h) A public retirement system shall submit to the board a
24 copy of the written plan developed under Subsection (f) or (k) and
25 any change to the plan not later than the 31st day after the date on
26 which the plan or change to the plan is agreed to with the system's
27 associated governmental entity. The system must submit the copy of

1 the plan not later than six months after the date on which the
2 retirement system:

3 (1) receives the actuarial valuation that subjects the
4 retirement system and governmental entity to the requirements of
5 Subsection (f); or

6 (2) is informed under Subsection (k) that the plan
7 does not comply with Subsection (f).

8 (i) A public retirement system and its associated
9 governmental entity may jointly develop and submit to the board a
10 written plan described by Subsection (f) at any time before the
11 retirement system receives an actuarial valuation that subjects the
12 retirement system and governmental entity to the requirements of
13 that subsection.

14 (j) Not later than the 90th day after the date the board
15 receives a copy of a plan under Subsection (h), the board shall
16 review the plan and make a determination regarding whether the plan
17 is designed to achieve a contribution rate that is sufficient to
18 amortize the unfunded actuarial accrued liability of the public
19 retirement system within 30 years not later than the sixth
20 anniversary of the date on which a copy of the plan is submitted to
21 the board in accordance with Subsection (h). The board may require
22 that the retirement system provide the board with an actuarial
23 analysis of the plan for purposes of making a determination under
24 this subsection.

25 (k) If, after reviewing the copy of a plan under Subsection
26 (j), the board determines that the plan is not designed to achieve a
27 contribution rate that is sufficient to amortize the unfunded

1 actuarial accrued liability of the public retirement system within
2 30 years not later than the sixth anniversary of the date on which a
3 copy of the plan is submitted to the board in accordance with
4 Subsection (h), the board shall inform the retirement system of
5 that determination, and the retirement system and its associated
6 governmental entity shall jointly develop and submit to the board,
7 in a manner prescribed by the board, amended or alternative plans
8 until the board informs the retirement system that, based on the
9 board's review, the plan complies with Subsection (f).

10 (l) If, after reviewing a plan submitted to the board under
11 Subsection (h) or (k), the board determines the plan is designed to
12 achieve a contribution rate that is sufficient to amortize the
13 unfunded actuarial accrued liability of the retirement system
14 within 30 years not later than the sixth anniversary of the date on
15 which a copy of the plan is submitted to the board in accordance
16 with Subsection (h), the public retirement system and its
17 associated governmental entity shall implement and adhere to the
18 plan and are not subject to Subsection (d) or the requirement to
19 develop a new written plan under Subsection (f) until the sixth
20 anniversary of the date the final version of the plan being
21 implemented under this subsection was submitted to the board.

22 (m) A public retirement system and its associated
23 governmental entity that develop and implement a plan under this
24 section shall report any updates of progress made by the public
25 retirement system and associated governmental entity toward
26 improved actuarial soundness to the board every two years.

27 (n) A determination of the board under this section is final

1 and not subject to judicial review.

2 (o) This section does not impose a fiduciary duty on the
3 board.

4 (p) The board may adopt rules necessary to implement this
5 section, including rules that allow a public retirement system and
6 its associated governmental entity to amend a plan implemented
7 under this section.

8 (q) A municipal ordinance or charter that conflicts with
9 this section is void to the extent of the conflict.

10 Sec. 802.2018. ACTIONS AND PLANS DESIGNED TO ACHIEVE
11 ACTUARIAL SOUNDNESS FOR CERTAIN RETIREMENT SYSTEMS. (a) In this
12 section, "governmental entity" has the meaning assigned by Section
13 [802.1012](#).

14 (b) This section applies only to a public retirement system
15 that is governed by Article 6243i, Revised Statutes. This section
16 does not apply to a public retirement system and its associated
17 governmental entity if the retirement system and governmental
18 entity are adhering to, as determined by the board, a funding
19 soundness restoration plan formulated under Section [802.2016](#)
20 before June 1, 2018, including a revised funding soundness
21 restoration plan that was formulated before June 1, 2018.

22 (c) Subsection (b) does not prevent application of this
23 section to a public retirement system and its associated
24 governmental entity after the governmental entity has completed a
25 funding soundness restoration plan formulated under Section
26 [802.2016](#).

27 (d) Except as otherwise provided by this section or the

Texas or United States Constitution and notwithstanding any other law, if a public retirement system receives an actuarial valuation showing that the retirement system's actual contributions are not sufficient to amortize the retirement system's unfunded actuarial accrued liability within 30 years:

(1) the governing body of the retirement system shall immediately:

(A) suspend the provision of any prospective benefit increases provided under the retirement system, including any cost-of-living adjustments; and

(B) notify the retirement system's associated governmental entity in writing of the fact that:

(i) the retirement system has received an actuarial valuation showing that the retirement system's actual contributions are not sufficient to amortize the retirement system's unfunded actuarial accrued liability within 30 years; and

(ii) the associated governmental entity is required to take the action required by Subdivision (2); and

(2) on receipt of a notice from the retirement system under Subdivision (1)(B), the associated governmental entity:

(A) shall immediately pay to the retirement system any employer contributions previously deferred by the governmental entity; and

(B) may not defer the payment of any future employer contributions to the retirement system.

(d-1) The governing body of a public retirement system and its associated governmental entity subject to this section, as

1 effective June 1, 2018, are not required to comply with Subsection
2 (d) until June 1, 2024, if the retirement system has an amortization
3 period that exceeds 30 years and, not later than June 1, 2018, the
4 governmental entity submits to the board a copy of a written plan
5 that is designed to achieve a contribution rate that is sufficient
6 to amortize the unfunded actuarial accrued liability of the
7 retirement system within 30 years not later than June 1, 2024, as
8 determined by the board. The plan must comply with Subsection (g),
9 as effective June 1, 2018, and the retirement system must adhere to
10 the plan. If, on June 1, 2018, a public retirement system's most
11 recent actuarial valuation conducted before that date shows that
12 the system's amortization period exceeds 30 years, and the
13 governmental entity fails to submit or adhere to a written plan as
14 provided by this subsection, the governing body of the retirement
15 system and its associated governmental entity shall immediately
16 comply with Subsection (d). This subsection expires June 1, 2024.

17 (e) If a public retirement system subject to Subsection (d)
18 later receives an actuarial valuation showing that the retirement
19 system's actual contributions are sufficient to amortize the
20 retirement system's unfunded actuarial accrued liability within 30
21 years, the retirement system shall immediately notify its
22 associated governmental entity in writing that the retirement
23 system has received an actuarial valuation showing that the
24 retirement system's actual contributions are sufficient to
25 amortize the retirement system's unfunded actuarial accrued
26 liability within 30 years.

27 (f) Except as otherwise provided by the Texas or United

1 States Constitution and notwithstanding any other law, if the
2 period required to amortize the unfunded actuarial liability of a
3 public retirement system has exceeded 30 years for the three most
4 recent consecutive annual actuarial valuations, or the two most
5 recent consecutive actuarial valuations in the case of a retirement
6 system that conducts the valuations every two or three years, the
7 associated governmental entity of the retirement system shall
8 develop a written plan designed to achieve a contribution rate that
9 will be sufficient to amortize the unfunded actuarial accrued
10 liability of the retirement system within 30 years not later than
11 the sixth anniversary of the date on which the final version of the
12 plan is submitted to the board under this section.

13 (g) A written plan under Subsection (f) must be based on:

14 (1) an increase in the contribution rates of the
15 governmental entity and the active members of the retirement
16 system;

17 (2) a reduction of benefits; or

18 (3) a combination of the actions described by
19 Subdivisions (1) and (2).

20 (h) An associated governmental entity of a public
21 retirement system shall submit a copy of the written plan developed
22 under Subsection (f) or (k) to the board and any change to the plan
23 not later than the 31st day after the date on which the plan or
24 change to the plan is developed. The entity must submit the copy of
25 the plan not later than six months after the date on which the
26 retirement system:

27 (1) receives the actuarial valuation that subjects the

1 associated governmental entity to the requirements of Subsection
2 (f); or

3 (2) is informed under Subsection (k) that the plan
4 does not comply with Subsection (f).

5 (i) An associated governmental entity of a public
6 retirement system may develop and submit to the board a written plan
7 described by Subsection (k) at any time before the retirement
8 system receives an actuarial valuation that subjects the
9 governmental entity to the requirements of that subsection.

10 (j) Not later than the 90th day after the date the board
11 receives a copy of a plan under Subsection (h), the board shall
12 review the plan and make a determination regarding whether the plan
13 is designed to achieve a contribution rate that is sufficient to
14 amortize the unfunded actuarial accrued liability of the public
15 retirement system within 30 years not later than the sixth
16 anniversary of the date on which a copy of the plan is submitted to
17 the board in accordance with Subsection (h). The board may require
18 that the governmental entity provide the board with an actuarial
19 analysis of the plan for purposes of making a determination under
20 this subsection.

21 (k) If, after reviewing the copy of a plan under Subsection
22 (j), the board determines that the plan is not designed to achieve a
23 contribution rate that is sufficient to amortize the unfunded
24 actuarial accrued liability of the public retirement system within
25 30 years not later than the sixth anniversary of the date on which a
26 copy of the plan is submitted to the board in accordance with
27 Subsection (h), the board shall inform the associated governmental

1 entity of that determination and the governmental entity shall
2 develop and submit to the board, in a manner prescribed by the
3 board, amended or alternative plans until the board informs the
4 governmental entity that, based on the board's review, the plan
5 complies with Subsection (f).

6 (l) If, after reviewing a plan submitted to the board under
7 Subsection (h) or (k), the board determines the plan is designed to
8 achieve a contribution rate that is sufficient to amortize the
9 unfunded actuarial accrued liability of the retirement system
10 within 30 years not later than the sixth anniversary of the date on
11 which a copy of the plan is submitted to the board in accordance
12 with Subsection (h), the public retirement system and its
13 associated governmental entity shall implement and adhere to the
14 plan and are not subject to Subsection (d) or the requirement to
15 develop a new written plan under Subsection (f) until the sixth
16 anniversary of the date the final version of the plan being
17 implemented under this subsection was submitted to the board.

18 (m) An associated governmental entity that develops a plan
19 under this section shall report any updates of progress made by the
20 public retirement system and associated governmental entity toward
21 improved actuarial soundness to the board every two years.

22 (n) A determination of the board under this section is final
23 and not subject to judicial review.

24 (o) This section does not impose a fiduciary duty on the
25 board.

26 (p) The board may adopt rules necessary to implement this
27 section, including rules that allow the associated governmental

1 entity of a public retirement system to amend a plan implemented
2 under this section.

3 (g) A municipal ordinance or charter that conflicts with
4 this section is void to the extent of the conflict.

5 SECTION 6. Sections 802.2017(f) and 802.2018(f),
6 Government Code, as added by this Act, apply only to an actuarial
7 valuation conducted on or after June 1, 2018.

8 SECTION 7. (a) Except as provided by Subsection (b) of this
9 section, this Act takes effect June 1, 2018.

10 (b) Sections 802.2017(d-1) and 802.2018(d-1), Government
11 Code, as added by this Act, take effect September 1, 2017.