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S.B. No. 301

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the operations and functions of the Employees  
3 Retirement System of Texas and the sunset review date for,  
4 financial management of, and programs administered by the agency.

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

6 SECTION 1. Section 815.005, Government Code, is amended to  
7 read as follows:

8 Sec. 815.005. SUNSET PROVISION. The board of trustees of  
9 the Employees Retirement System of Texas is subject to review under  
10 Chapter 325 (Texas Sunset Act), but is not abolished under that  
11 chapter. The board shall be reviewed during the period in which  
12 state agencies abolished in 2029 [~~2017~~], and every 12th year after  
13 that year, are reviewed.

14 SECTION 2. Subchapter A, Chapter 815, Government Code, is  
15 amended by adding Section 815.009 to read as follows:

16 Sec. 815.009. BOARD MEMBER TRAINING. (a) A person who is  
17 appointed to and qualifies for office as a member of the board of  
18 trustees may not vote, deliberate, or be counted as a member in  
19 attendance at a meeting of the board of trustees until the person  
20 completes a training program that complies with this section.

21 (b) The training program must provide the person with  
22 information regarding:

23 (1) the law governing the retirement system's  
24 operations;

1           (2) the programs, functions, rules, and budget of the  
2 retirement system;

3           (3) the scope of and limitations on the rulemaking  
4 authority of the board of trustees;

5           (4) the results of the most recent formal audit of the  
6 retirement system;

7           (5) the requirements of:

8                   (A) laws relating to open meetings, public  
9 information, administrative procedure, and disclosing conflicts of  
10 interest; and

11                   (B) other laws applicable to members of the board  
12 of trustees in performing their duties; and

13           (6) any applicable ethics policies adopted by the  
14 retirement system or the Texas Ethics Commission.

15           (c) A person appointed to the board of trustees is entitled  
16 to reimbursement, as provided by the General Appropriations Act,  
17 for the travel expenses incurred in attending the training program  
18 regardless of whether the attendance at the program occurs before  
19 or after the person qualifies for office.

20           (d) The executive director shall create a training manual  
21 that includes the information required by Subsection (b). The  
22 executive director shall distribute a copy of the training manual  
23 annually to each member of the board of trustees. On receipt of the  
24 training manual, each member of the board of trustees shall sign and  
25 submit to the executive director a statement acknowledging receipt  
26 of the training manual.

27           SECTION 3. Subchapter B, Chapter 815, Government Code, is

1 amended by adding Section 815.1025 to read as follows:

2 Sec. 815.1025. USE OF ALTERNATIVE RULEMAKING AND DISPUTE  
3 RESOLUTION. (a) The board of trustees shall develop a policy to  
4 encourage the use of:

5 (1) negotiated rulemaking procedures under Chapter  
6 2008 for the adoption of the retirement system's rules; and

7 (2) appropriate alternative dispute resolution  
8 procedures under Chapter 2009 to assist in the resolution of  
9 internal and external disputes under the retirement system's  
10 jurisdiction.

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

16 (c) The retirement system shall:

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

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

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

24 SECTION 4. Section 815.105, Government Code, is amended to  
25 read as follows:

26 Sec. 815.105. ADOPTING TABLES. At least once every four  
27 years, the [The] board of trustees shall adopt mortality, service,

1 and other tables the board considers necessary for the retirement  
2 system after considering the results of the actuary's investigation  
3 of the mortality, service, and compensation experience of the  
4 system's members and beneficiaries under Section 815.206.

5 SECTION 5. Section 815.202(f), Government Code, is amended  
6 to read as follows:

7 (f) Subject to Section 815.3016, the ~~The~~ board of trustees  
8 may specifically delegate any right, power, or duty imposed or  
9 conferred on the executive director by law to another employee of  
10 the retirement system. If not so specifically delegated and  
11 subject to Section 815.3016, the executive director may delegate to  
12 another employee of the retirement system any right, power, or duty  
13 assigned to the executive director.

14 SECTION 6. Section 815.206(c), Government Code, is amended  
15 to read as follows:

16 (c) At least once every four ~~five~~ years, the actuary,  
17 under the direction of the board of trustees, shall:

18 (1) make an actuarial investigation of the mortality,  
19 service, and compensation experience of the members and  
20 beneficiaries of the retirement system; and

21 (2) make a valuation of the assets and liabilities of  
22 the retirement system's funds.

23 SECTION 7. Sections 815.301(b) and (c), Government Code,  
24 are amended to read as follows:

25 (b) Except as provided by Section 815.3016, the ~~The~~ board  
26 of trustees may delegate its authority under Subsection (a) to the  
27 executive director. Subject to Section 815.3016, the ~~The~~ board

1 of trustees or the executive director may, under the standard of  
2 care provided by Section 815.307, invest and reinvest any of the  
3 retirement system's assets and may commingle assets of the trust  
4 fund and the law enforcement and custodial officer supplemental  
5 retirement fund with the assets of the Judicial Retirement System  
6 of Texas Plan Two for investment purposes, as long as proportionate  
7 ownership records are maintained and credited. Investments may  
8 include home office facilities, including land, equipment, and  
9 office building, used in administering the retirement system.

10 (c) Subject to Section 815.3016, the [The] board of trustees  
11 may contract with private professional investment managers to  
12 assist the board in investing the assets of the retirement system.

13 SECTION 8. Subchapter D, Chapter 815, Government Code, is  
14 amended by adding Sections 815.3015 and 815.3016 to read as  
15 follows:

16 Sec. 815.3015. TRACKING AND REPORTING OF PROFIT SHARE. (a)  
17 In this section:

18 (1) "Alternative investment" means an investment in an  
19 asset other than a traditional asset. The term includes an  
20 investment in private equity funds, private real estate  
21 transactions, hedge funds, and infrastructure.

22 (2) "Profit share" means an amount received by a  
23 private professional investment manager either in consideration  
24 for achieving certain investment returns or as part of the  
25 negotiated division of investment returns between the private  
26 professional investment manager and an investor. The term includes  
27 a performance fee, incentive fee, and carried interest.

1           (3) "Traditional asset" includes stocks, bonds, and  
2 cash.

3           (b) The board of trustees shall develop a consistent method,  
4 guided by best industry practices and standards, to calculate  
5 profit share in connection with alternative investments of the  
6 retirement system.

7           (c) The board of trustees shall consistently track profit  
8 shares calculated in accordance with Subsection (b) and the amount  
9 of realized gains for the retirement system from the associated  
10 alternative investments.

11           (d) The board of trustees shall report, at a minimum, the  
12 aggregate amount of profit shares received by private professional  
13 investment managers in connection with alternative investments of  
14 the retirement system, categorized by asset type, in the annual  
15 financial report required under Section 2101.011 and in other  
16 appropriate investment reports and board presentations.

17           (e) The board of trustees may adopt rules necessary to  
18 implement this section.

19           Sec. 815.3016. APPROVAL OF CERTAIN ALTERNATIVE  
20 INVESTMENTS. (a) In this section, "alternative investment" has the  
21 meaning assigned by Section 815.3015.

22           (b) The executive director, a private professional  
23 investment manager, or any other person delegated authority to  
24 invest or reinvest retirement system assets under Section  
25 815.202(f) or 815.301 may not invest retirement system assets in a  
26 single alternative investment that exceeds \$100 million unless the  
27 board of trustees votes to approve the investment.

1        (c) The board of trustees may adopt rules necessary to  
2 implement this section.

3        SECTION 9. Section 840.005, Government Code, is amended to  
4 read as follows:

5        Sec. 840.005. ADOPTING TABLES AND RATES. At least once  
6 every four years, the [~~The~~] board of trustees by rule shall adopt  
7 interest rates and mortality, service, and other tables the board  
8 considers necessary for the retirement system after considering the  
9 results of the actuary's investigation of the mortality, service,  
10 and compensation experience of the system's members and  
11 beneficiaries under Section 815.206.

12        SECTION 10. Section 1551.061, Insurance Code, is amended to  
13 read as follows:

14        Sec. 1551.061. ANNUAL REPORT. The board of trustees shall  
15 submit a written report not later than February [~~January~~] 1 of each  
16 year to the governor, lieutenant governor, speaker of the house of  
17 representatives, and Legislative Budget Board concerning the  
18 coverages provided and the benefits and services being received by  
19 all participants under this chapter. The report must include:

20        (1) information about the effectiveness and  
21 efficiency of:

22                (A) [~~(1)~~] managed care cost containment  
23 practices; and

24                (B) [~~(2)~~] fraud detection and prevention  
25 procedures;

26        (2) basic information about each group coverage plan  
27 provided under this chapter, including the number of participants

1 in each plan and the claims amounts and administrative expenses  
2 incurred under each plan;

3 (3) a summary of recent changes to the benefits  
4 provided under this chapter that highlights any key benefits the  
5 board of trustees evaluated but did not implement;

6 (4) a discussion of trends in claims under group  
7 coverage plans as well as other areas of interest identified by the  
8 board of trustees;

9 (5) recommendations for any statutory changes the  
10 board of trustees determines necessary to achieve its goals for the  
11 group benefits program; and

12 (6) any other information the board of trustees  
13 determines appropriate.

14 SECTION 11. Section 1551.355, Insurance Code, is amended by  
15 adding Subsection (d) to read as follows:

16 (d) The board of trustees shall develop and implement a  
17 process to allow an employee, participant, annuitant, or covered  
18 dependent affected by a determination described by Section 1551.352  
19 to participate directly in the process of appealing the  
20 determination.

21 SECTION 12. Subchapter H, Chapter 1551, Insurance Code, is  
22 amended by adding Section 1551.363 to read as follows:

23 Sec. 1551.363. PRECEDENT MANUAL. (a) The board of trustees  
24 shall develop and maintain a precedent manual relating to the  
25 enrollment and claims determinations under Section 1551.352 and  
26 appeals of those determinations. The precedent manual:

27 (1) must be composed of precedent-establishing



1 determinations made by the board, executive director, or other  
2 staff, initially and on appeal, and include examples of previous  
3 determinations that are consistent with the identified precedent;  
4 and

5 (2) may include other information identified by the  
6 board.

7 (b) The board of trustees shall make the precedent manual  
8 available to appropriate staff and to employees, participants,  
9 annuitants, and covered dependents.

10 (c) The board of trustees and staff involved in the claims  
11 appeal process are not bound by a decision in the manual.

12 SECTION 13. Notwithstanding Section 815.009(a), Government  
13 Code, as added by this Act, a member of the board of trustees of the  
14 Employees Retirement System of Texas who has not completed the  
15 training required by Section 815.009, Government Code, as added by  
16 this Act, may vote, deliberate, and be counted as a member in  
17 attendance at a meeting of the board of trustees until December 1,  
18 2017.

19 SECTION 14. The board of trustees of the Employees  
20 Retirement System of Texas, and the actuary designated by the  
21 board, are not required to complete an actuarial investigation in  
22 the period prescribed by Section 815.206(c), Government Code, as  
23 amended by this Act, or adopt interest rates or mortality, service,  
24 or other tables based on that investigation in the period  
25 prescribed by Sections 815.105 and 840.005, Government Code, as  
26 amended by this Act, until the later of December 31, 2022, or the  
27 fourth anniversary of the date the board of trustees adopts

1 actuarial assumptions and tables under those sections for the first  
2 time after the effective date of this Act.

3 SECTION 15. (a) The Employees Retirement System of Texas  
4 shall, in a contract between the retirement system and a private  
5 professional investment manager or other person under authority of  
6 Sections 815.202(f) and 815.301, Government Code, as amended by  
7 this Act, that is entered into or renewed on or after the effective  
8 date of this Act, require that the private professional investment  
9 manager or other person comply with Section 815.3016, Government  
10 Code, as added by this Act.

11 (b) The Employees Retirement System of Texas shall seek to  
12 amend a contract entered into with a private professional  
13 investment manager or other person under authority of Sections  
14 815.202(f) and 815.301, Government Code, as those sections existed  
15 before the effective date of this Act, to require that the private  
16 professional investment manager or other person comply with Section  
17 815.3016, Government Code, as added by this Act. To the extent of a  
18 conflict between the requirement of Section 815.3016, Government  
19 Code, and a provision of a contract with a private professional  
20 investment manager or other person entered into before the  
21 effective date of this Act, the contract provision prevails.

22 SECTION 16. This Act takes effect September 1, 2017.