

1-1 By: Watson, Hinojosa, Taylor of Collin S.B. No. 301  
 1-2 (In the Senate - Filed February 24, 2017; February 27, 2017,  
 1-3 read first time and referred to Committee on State Affairs;  
 1-4 March 29, 2017, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 8, Nays 0; March 29, 2017,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
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	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 301 By: Hughes

1-19 A BILL TO BE ENTITLED  
 1-20 AN ACT

1-21 relating to the operations and functions of the Employees  
 1-22 Retirement System of Texas and the sunset review date for,  
 1-23 financial management of, and programs administered by the agency.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. Section 815.005, Government Code, is amended to  
 1-26 read as follows:

1-27 Sec. 815.005. SUNSET PROVISION. The board of trustees of  
 1-28 the Employees Retirement System of Texas is subject to review under  
 1-29 Chapter 325 (Texas Sunset Act), but is not abolished under that  
 1-30 chapter. The board shall be reviewed during the period in which  
 1-31 state agencies abolished in 2029 [~~2017~~], and every 12th year after  
 1-32 that year, are reviewed.

1-33 SECTION 2. Subchapter A, Chapter 815, Government Code, is  
 1-34 amended by adding Section 815.009 to read as follows:

1-35 Sec. 815.009. BOARD MEMBER TRAINING. (a) A person who is  
 1-36 appointed to and qualifies for office as a member of the board of  
 1-37 trustees may not vote, deliberate, or be counted as a member in  
 1-38 attendance at a meeting of the board of trustees until the person  
 1-39 completes a training program that complies with this section.

1-40 (b) The training program must provide the person with  
 1-41 information regarding:

1-42 (1) the law governing the retirement system's  
 1-43 operations;

1-44 (2) the programs, functions, rules, and budget of the  
 1-45 retirement system;

1-46 (3) the scope of and limitations on the rulemaking  
 1-47 authority of the board of trustees;

1-48 (4) the results of the most recent formal audit of the  
 1-49 retirement system;

1-50 (5) the requirements of:

1-51 (A) laws relating to open meetings, public  
 1-52 information, administrative procedure, and disclosing conflicts of  
 1-53 interest; and

1-54 (B) other laws applicable to members of the board  
 1-55 of trustees in performing their duties; and

1-56 (6) any applicable ethics policies adopted by the  
 1-57 retirement system or the Texas Ethics Commission.

1-58 (c) A person appointed to the board of trustees is entitled  
 1-59 to reimbursement, as provided by the General Appropriations Act,  
 1-60 for the travel expenses incurred in attending the training program

2-1 regardless of whether the attendance at the program occurs before  
2-2 or after the person qualifies for office.

2-3 (d) The executive director shall create a training manual  
2-4 that includes the information required by Subsection (b). The  
2-5 executive director shall distribute a copy of the training manual  
2-6 annually to each member of the board of trustees. On receipt of the  
2-7 training manual, each member of the board of trustees shall sign and  
2-8 submit to the executive director a statement acknowledging receipt  
2-9 of the training manual.

2-10 SECTION 3. Subchapter B, Chapter 815, Government Code, is  
2-11 amended by adding Section 815.1025 to read as follows:

2-12 Sec. 815.1025. USE OF ALTERNATIVE RULEMAKING AND DISPUTE  
2-13 RESOLUTION. (a) The board of trustees shall develop a policy to  
2-14 encourage the use of:

2-15 (1) negotiated rulemaking procedures under Chapter  
2-16 2008 for the adoption of the retirement system's rules; and

2-17 (2) appropriate alternative dispute resolution  
2-18 procedures under Chapter 2009 to assist in the resolution of  
2-19 internal and external disputes under the retirement system's  
2-20 jurisdiction.

2-21 (b) The retirement system's procedures relating to  
2-22 alternative dispute resolution must conform, to the extent  
2-23 possible, to any model guidelines issued by the State Office of  
2-24 Administrative Hearings for the use of alternative dispute  
2-25 resolution by state agencies.

2-26 (c) The retirement system shall:

2-27 (1) coordinate the implementation of the policy  
2-28 adopted under Subsection (a);

2-29 (2) provide training as needed to implement the  
2-30 procedures for negotiated rulemaking or alternative dispute  
2-31 resolution; and

2-32 (3) collect data concerning the effectiveness of those  
2-33 procedures.

2-34 (d) The board of trustees shall ensure that the  
2-35 implementation of this section and the negotiated rulemaking  
2-36 procedures and alternative dispute resolution procedures adopted  
2-37 under this section are consistent with the fiduciary responsibility  
2-38 imposed on the board by law.

2-39 SECTION 4. Section 815.105, Government Code, is amended to  
2-40 read as follows:

2-41 Sec. 815.105. ADOPTING TABLES. At least once every four  
2-42 years, the [The] board of trustees shall adopt mortality, service,  
2-43 and other tables the board considers necessary for the retirement  
2-44 system after considering the results of the actuary's investigation  
2-45 of the mortality, service, and compensation experience of the  
2-46 system's members and beneficiaries under Section 815.206.

2-47 SECTION 5. Section 815.202(f), Government Code, is amended  
2-48 to read as follows:

2-49 (f) Subject to Section 815.3016, the [The] board of trustees  
2-50 may specifically delegate any right, power, or duty imposed or  
2-51 conferred on the executive director by law to another employee of  
2-52 the retirement system. If not so specifically delegated and  
2-53 subject to Section 815.3016, the executive director may delegate to  
2-54 another employee of the retirement system any right, power, or duty  
2-55 assigned to the executive director.

2-56 SECTION 6. Section 815.206(c), Government Code, is amended  
2-57 to read as follows:

2-58 (c) At least once every four [~~five~~] years, the actuary,  
2-59 under the direction of the board of trustees, shall:

2-60 (1) make an actuarial investigation of the mortality,  
2-61 service, and compensation experience of the members and  
2-62 beneficiaries of the retirement system; and

2-63 (2) make a valuation of the assets and liabilities of  
2-64 the retirement system's funds.

2-65 SECTION 7. Sections 815.301(b) and (c), Government Code,  
2-66 are amended to read as follows:

2-67 (b) Except as provided by Section 815.3016, the [The] board  
2-68 of trustees may delegate its authority under Subsection (a) to the  
2-69 executive director. Subject to Section 815.3016, the [The] board

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

3-10 (c) Subject to Section 815.3016, the [The] board of trustees  
 3-11 may contract with private professional investment managers to  
 3-12 assist the board in investing the assets of the retirement system.

3-13 SECTION 8. Subchapter D, Chapter 815, Government Code, is  
 3-14 amended by adding Sections 815.3015 and 815.3016 to read as  
 3-15 follows:

3-16 Sec. 815.3015. TRACKING AND REPORTING OF PROFIT SHARE.

3-17 (a) In this section:

3-18 (1) "Alternative investment" means an investment in a  
 3-19 private equity fund, private real estate fund, hedge fund,  
 3-20 infrastructure fund, or another asset as further defined by rule of  
 3-21 the board of trustees.

3-22 (2) "Profit share" means an amount received by a  
 3-23 private professional investment manager either in consideration  
 3-24 for achieving certain investment returns or as part of the  
 3-25 negotiated division of investment returns between the private  
 3-26 professional investment manager and an investor. The term includes  
 3-27 a performance fee, incentive fee, and carried interest.

3-28 (b) The board of trustees shall develop a consistent method,  
 3-29 guided by best industry practices and standards, to collect or  
 3-30 calculate profit share data in connection with alternative  
 3-31 investments of the retirement system.

3-32 (c) The board of trustees shall consistently track profit  
 3-33 share data collected or calculated in accordance with Subsection  
 3-34 (b) and the amount of realized gains for the retirement system from  
 3-35 the associated alternative investments.

3-36 (d) The board of trustees shall report, at a minimum, the  
 3-37 aggregate amount of profit shares received by private professional  
 3-38 investment managers in connection with alternative investments of  
 3-39 the retirement system, categorized by asset class, in the annual  
 3-40 financial report required under Section 2101.011 and in other  
 3-41 appropriate investment reports and board presentations.

3-42 (e) The board of trustees may adopt rules necessary to  
 3-43 implement this section.

3-44 Sec. 815.3016. APPROVAL OF CERTAIN ALTERNATIVE  
 3-45 INVESTMENTS. (a) In this section, "alternative investment" has  
 3-46 the meaning assigned by Section 815.3015.

3-47 (b) The executive director, a private professional  
 3-48 investment manager, or any other person delegated authority to  
 3-49 invest or reinvest retirement system assets under Section  
 3-50 815.202(f) or 815.301 may not invest retirement system assets in a  
 3-51 single alternative investment that exceeds \$100 million unless the  
 3-52 board of trustees votes to approve the investment.

3-53 (c) The board of trustees may hold a closed meeting by  
 3-54 telephone conference call or video conference call to consider and  
 3-55 discuss an alternative investment or a potential alternative  
 3-56 investment under this section, regardless of whether a quorum is  
 3-57 physically present at one location of the meeting.

3-58 (d) Chapter 551 does not require the board of trustees to  
 3-59 confer with one or more employees, consultants, or legal counsel of  
 3-60 the retirement system or with a third party in an open meeting if  
 3-61 the only purpose of the conference is to receive information from or  
 3-62 question the employees, consultants, or legal counsel of the  
 3-63 retirement system or the third party relating to an alternative  
 3-64 investment or a potential alternative investment under this  
 3-65 section.

3-66 (e) During a closed meeting held under this section, members  
 3-67 of the board of trustees may not deliberate public business or  
 3-68 agency policy that affects public business.

3-69 (f) A final action, decision, or vote on a matter considered

4-1 or discussed in a closed meeting held under this section may only be  
 4-2 made in an open meeting that is held in compliance with the notice  
 4-3 provisions of Chapter 551.

4-4 (g) The board of trustees may adopt rules necessary to  
 4-5 implement this section.

4-6 SECTION 9. Section 840.005, Government Code, is amended to  
 4-7 read as follows:

4-8 Sec. 840.005. ADOPTING TABLES AND RATES. At least once  
 4-9 every four years, the [The] board of trustees by rule shall adopt  
 4-10 interest rates and mortality, service, and other tables the board  
 4-11 considers necessary for the retirement system after considering the  
 4-12 results of the actuary's investigation of the mortality, service,  
 4-13 and compensation experience of the system's members and  
 4-14 beneficiaries under Section 815.206.

4-15 SECTION 10. Section 1551.061, Insurance Code, is amended to  
 4-16 read as follows:

4-17 Sec. 1551.061. ANNUAL REPORT. The board of trustees shall  
 4-18 submit a written report not later than February [January] 1 of each  
 4-19 year to the governor, lieutenant governor, speaker of the house of  
 4-20 representatives, and Legislative Budget Board concerning the  
 4-21 coverages provided and the benefits and services being received by  
 4-22 all participants under this chapter. The report must include:

4-23 (1) information about the effectiveness and  
 4-24 efficiency of:

4-25 (A) [~~1~~] managed care cost containment  
 4-26 practices; and

4-27 (B) [~~2~~] fraud detection and prevention  
 4-28 procedures;

4-29 (2) basic information about each group coverage plan  
 4-30 provided under this chapter, including the number of participants  
 4-31 in each plan and the claims amounts and administrative expenses  
 4-32 incurred under each plan;

4-33 (3) a summary of recent changes to the benefits  
 4-34 provided under this chapter that highlights any key benefits the  
 4-35 board of trustees evaluated but did not implement;

4-36 (4) a discussion of trends in claims under group  
 4-37 coverage plans as well as other areas of interest identified by the  
 4-38 board of trustees;

4-39 (5) recommendations for any statutory changes the  
 4-40 board of trustees determines necessary to achieve its goals for the  
 4-41 group benefits program; and

4-42 (6) any other information the board of trustees  
 4-43 determines appropriate.

4-44 SECTION 11. Section 1551.355, Insurance Code, is amended by  
 4-45 adding Subsection (d) to read as follows:

4-46 (d) The board of trustees shall develop and implement a  
 4-47 process to allow an employee, participant, annuitant, or covered  
 4-48 dependent affected by a determination described by Section 1551.352  
 4-49 to participate directly in the process of appealing the  
 4-50 determination.

4-51 SECTION 12. Subchapter H, Chapter 1551, Insurance Code, is  
 4-52 amended by adding Section 1551.363 to read as follows:

4-53 Sec. 1551.363. PRECEDENT MANUAL. (a) The board of  
 4-54 trustees shall develop and maintain a precedent manual relating to  
 4-55 the enrollment and claims determinations under Section 1551.352 and  
 4-56 appeals of those determinations. The precedent manual:

4-57 (1) must be composed of precedent-establishing  
 4-58 determinations made by the board, executive director, or other  
 4-59 staff, initially and on appeal, and include examples of previous  
 4-60 determinations that are consistent with the identified precedent;  
 4-61 and

4-62 (2) may include other information identified by the  
 4-63 board.

4-64 (b) The board of trustees shall make the precedent manual  
 4-65 available to appropriate staff and to employees, participants,  
 4-66 annuitants, and covered dependents.

4-67 (c) The board of trustees and staff involved in the claims  
 4-68 appeal process are not bound by a decision in the manual.

4-69 SECTION 13. Notwithstanding Section 815.009(a), Government

5-1 Code, as added by this Act, a member of the board of trustees of the  
5-2 Employees Retirement System of Texas who has not completed the  
5-3 training required by Section 815.009, Government Code, as added by  
5-4 this Act, may vote, deliberate, and be counted as a member in  
5-5 attendance at a meeting of the board of trustees until December 31,  
5-6 2017.

5-7 SECTION 14. The board of trustees of the Employees  
5-8 Retirement System of Texas, and the actuary designated by the  
5-9 board, are not required to complete an actuarial investigation in  
5-10 the period prescribed by Section 815.206(c), Government Code, as  
5-11 amended by this Act, or adopt interest rates or mortality, service,  
5-12 or other tables based on that investigation in the period  
5-13 prescribed by Sections 815.105 and 840.005, Government Code, as  
5-14 amended by this Act, until the later of December 31, 2022, or the  
5-15 fourth anniversary of the date the board of trustees adopts  
5-16 actuarial assumptions and tables under those sections for the first  
5-17 time after the effective date of this Act.

5-18 SECTION 15. The Employees Retirement System of Texas shall,  
5-19 in a contract between the retirement system and a private  
5-20 professional investment manager or other person under authority of  
5-21 Sections 815.202(f) and 815.301, Government Code, as amended by  
5-22 this Act, that is entered into or renewed on or after the effective  
5-23 date of this Act, require that the private professional investment  
5-24 manager or other person comply with Section 815.3016, Government  
5-25 Code, as added by this Act.

5-26 SECTION 16. Notwithstanding Section 815.3015, Government  
5-27 Code, as added by this Act, the board of trustees of the Employees  
5-28 Retirement System of Texas is not required to include in a report  
5-29 the aggregate amount of profit share data collected or calculated  
5-30 under that section until the first annual financial report by the  
5-31 board of trustees issued after September 1, 2018.

5-32 SECTION 17. This Act takes effect September 1, 2017.

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