

BILL ANALYSIS

C.S.S.B. 1372
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Pensions, Investments & Financial Services
Committee Report (Substituted)

BACKGROUND AND PURPOSE

During the 86th Legislature, S.B. 322 established requirements for public retirement systems to have an independent firm evaluate the retirement system's investment practices and performance. C.S.S.B. 1372 seeks to increase transparency, strengthen oversight, and protect retirement systems from self-inflicted investment catastrophes that jeopardize member benefits by requiring evaluations of public pension systems to include more details relating to the independent firm's relationship with the retirement system and requiring the State Pension Review Board (PRB) to establish a program under which the PRB evaluates and assigns public retirement systems a numerical grade based on the system's performance in carrying out its duties.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the State Pension Review Board in SECTION 3 of this bill.

ANALYSIS

C.S.S.B. 1372 amends the Government Code to require the requisite evaluation by an independent firm of a public retirement system's practices and performance to include the following:

- a summary of the independent firm's experience in evaluating institutional investment practices and performance and a statement that the firm's experience meets the required experience;
- a statement indicating the nature of any existing relationship between the firm and the public retirement system and confirming that the firm and any related entity are not involved in directly or indirectly managing the investments of the system;
- a list of the types of remuneration received by the firm from sources other than the system for services provided to the system;
- a statement identifying any potential conflict of interest or any appearance of a conflict of interest that could impact the analysis included in the evaluation due to an existing relationship between the firm and the system or any current or former member of the governing body of the system; and
- an explanation of the firm's determination regarding whether to include a recommendation for certain evaluated matters.

The bill revises provisions determining the frequency of the required evaluation, which is based on the book value of a system's total assets as of a specified day of a fiscal year, to remove the specification that the value is based on the book value as of the last day of the last fiscal year

considered in an evaluation and to instead specify that the frequency of the evaluation is based on the total assets of the retirement system as of the last day of the preceding fiscal year.

C.S.S.B. 1372 requires the independent firm, not later than the 30th day after the date the firm completes the evaluation, as revised by the bill, to do the following:

- submit to the public retirement system for purposes of discussion and clarification a substantially completed preliminary draft of the evaluation report; and
- request in writing that the system, on or before the 30th day after the date the system receives the preliminary draft, submit to the firm the following:
 - a description of any action taken or expected to be taken in response to a recommendation made in the evaluation; and
 - any written response of the system that the system wants to accompany the final evaluation report.

C.S.S.B. 1372 removes the requirement for the report of an evaluation to be filed with the governing body of the public retirement system not later than May 1 of each year following the year in which the system is evaluated and requires the independent firm to file the final evaluation report, including the evaluation results and any response received from the public retirement system with the governing body of the system not earlier than the 31st day after the date on which the preliminary draft is submitted to the system and not later than the later of the 60th day after the date on which the preliminary draft is submitted to the system or May 1 in the year following the year in which the system is evaluated. The bill removes the requirement that the system pay the costs of each evaluation. A governmental entity that is the employer of active members of an evaluated public retirement system may pay all or part of the costs of the evaluation with the system required to pay any remaining unpaid costs of the evaluation.

C.S.S.B. 1372 requires the State Pension Review Board (PRB) by rule to establish a program under which the PRB evaluates each public retirement system and assigns a numerical grade to the system based on the system's performance in carrying out the system's duties under state laws, including the system's procedures and capacity for satisfying accrued obligations. The bill requires the program to include the adoption of a rating schedule for use in the evaluation and grading of each public retirement system. The rating schedule must be based on a point system that measures, in accordance with the board's funding guidelines and nationally accepted standards for the operation of a public retirement system, the following:

- a system's funding using metrics such as the system's funding policy, amortization period for unfunded actuarial accrued liability, funding ratio, as defined by reference, cash flow, and contribution sufficiency;
- a system's investment program using metrics such as a comparison of actual returns to assumed returns, risk-adjusted returns, and investment fee benchmarking; and
- a system's governance using metrics such as the system's compliance with certain training requirements for trustees and system administrators, board member expertise, and engagement of the associated governmental entity, as defined by reference.

The bill requires the rating schedule to account for a public retirement system's efforts to measure and reduce financial and other risks to the system by implementing practices such as stress testing, scenario analysis, and asset-liability studies.

C.S.S.B. 1372 exempts a defined contribution plan and a retirement system organized under the Texas Local Fire Fighters Retirement Act for a fire department consisting exclusively of volunteers from the bill's provisions relating to the grading program.

EFFECTIVE DATE

September 1, 2021.

COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE

While C.S.S.B. 1372 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes a requirement for the PRB to establish a program under which the PRB evaluates each public retirement system and assigns a numerical grade to the system. This requirement was not included in the engrossed. The substitute includes exemptions from this evaluation requirement for a defined contribution plan and a retirement system for a fire department consisting exclusively of volunteers organized under the Texas Local Fire Fighters Retirement Act.