

1-1 By: Anchia (Senate Sponsor - Huffman, Schwertner) H.B. No. 3898
 1-2 (In the Senate - Received from the House May 12, 2021;
 1-3 May 14, 2021, read first time and referred to Committee on Finance;
 1-4 May 21, 2021, reported adversely, with favorable Committee
 1-5 Substitute by the following vote: Yeas 10, Nays 0; May 21, 2021,
 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	X			
1-19	X			
1-20			X	
1-21			X	
1-22	X			
1-23			X	

1-24 COMMITTEE SUBSTITUTE FOR H.B. No. 3898 By: Huffman

1-25 A BILL TO BE ENTITLED
 1-26 AN ACT

1-27 relating to the funding of public retirement systems.
 1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-29 SECTION 1. Section 28(h), Texas Local Fire Fighters
 1-30 Retirement Act (Article 6243e, Vernon's Texas Civil Statutes), is
 1-31 amended to read as follows:
 1-32 (h) A retirement system established under this Act is exempt
 1-33 from Subchapter C, Chapter 802, Government Code, except Sections
 1-34 802.2011, 802.2015, 802.202, 802.205, and 802.207.
 1-35 SECTION 2. Section 802.2011, Government Code, is amended to
 1-36 read as follows:
 1-37 Sec. 802.2011. FUNDING POLICY. (a) In this section:
 1-38 (1) "Funded ratio" means the ratio of a public
 1-39 retirement system's actuarial value of assets divided by the
 1-40 system's actuarial accrued liability.
 1-41 (2) "Governmental entity" has the meaning assigned by
 1-42 Section 802.1012.
 1-43 (3) "Statewide retirement system" means:
 1-44 (A) the Employees Retirement System of Texas,
 1-45 including a retirement system administered by that system;
 1-46 (B) the Teacher Retirement System of Texas;
 1-47 (C) the Texas County and District Retirement
 1-48 System;
 1-49 (D) the Texas Emergency Services Retirement
 1-50 System; and
 1-51 (E) the Texas Municipal Retirement System.
 1-52 (b) The governing body of a public retirement system and, if
 1-53 the system is not a statewide retirement system, its associated
 1-54 governmental entity shall:
 1-55 (1) jointly, if applicable:
 1-56 (A) develop and adopt a written funding policy
 1-57 that details a [the governing body's] plan for achieving a funded
 1-58 ratio of the system that is equal to or greater than 100 percent;
 1-59 and
 1-60 (B) timely revise the policy to reflect any

2-1 significant changes to the policy, including changes required as a
 2-2 result of formulating and implementing a funding soundness
 2-3 restoration plan, including a revised funding soundness
 2-4 restoration plan, under Section 802.2015 or 802.2016;

2-5 (2) maintain for public review at its main office a
 2-6 copy of the policy;

2-7 (3) file a copy of the policy and each change to the
 2-8 policy with the board not later than the 31st day after the date the
 2-9 policy or change, as applicable, is adopted; and

2-10 (4) post ~~submit~~ a copy of the most recent edition of
 2-11 the policy on a publicly available Internet website in accordance
 2-12 with Section 802.107(c)(2) ~~[and each change to the policy to the~~
 2-13 ~~system's associated governmental entity not later than the 31st day~~
 2-14 ~~after the date the policy or change is adopted].~~

2-15 (c) For purposes of Subsection (b)(1)(B), the written
 2-16 funding policy must outline any automatic contribution or benefit
 2-17 changes designed to prevent having to formulate a revised funding
 2-18 soundness restoration plan under Section 802.2015(d), including
 2-19 any automatic risk-sharing mechanisms that have been implemented,
 2-20 the adoption of an actuarially determined contribution structure,
 2-21 and other adjustable benefit or contribution mechanisms.

2-22 (d) The board may adopt rules necessary to implement this
 2-23 section.

2-24 SECTION 3. Section 802.2015, Government Code, is amended by
 2-25 amending Subsections (a), (c), (d), (e), (f), and (g) and adding
 2-26 Subsections (d-1), (e-1), (e-2), (e-3), (e-4), and (h) to read as
 2-27 follows:

2-28 (a) In this section:

2-29 (1) "Funded ratio" has the meaning assigned by Section
 2-30 802.2011.

2-31 (2) "Governmental ~~[-, "governmental]~~ entity" has the
 2-32 meaning assigned by Section 802.1012.

2-33 (c) A public retirement system shall notify the associated
 2-34 governmental entity in writing if the ~~[retirement]~~ system receives
 2-35 an actuarial valuation indicating that the system's actual
 2-36 contributions are not sufficient to amortize the unfunded actuarial
 2-37 accrued liability within 30 ~~[40]~~ years. The ~~[If a public retirement~~
 2-38 ~~system's actuarial valuation shows that the system's amortization~~
 2-39 ~~period has exceeded 40 years for three consecutive annual actuarial~~
 2-40 ~~valuations, or two consecutive actuarial valuations in the case of~~
 2-41 ~~a system that conducts the valuations every two or three years, the]~~
 2-42 governing body of the public retirement system and the governing
 2-43 body of the associated governmental entity shall jointly formulate
 2-44 a funding soundness restoration plan under Subsection (e) if the
 2-45 system's actuarial valuation shows that the system's expected
 2-46 funding period:

2-47 (1) has exceeded 30 years for three consecutive annual
 2-48 actuarial valuations, or two consecutive annual actuarial
 2-49 valuations in the case of a system that conducts the valuations
 2-50 every two or three years; or

2-51 (2) effective September 1, 2025:

2-52 (A) exceeds 40 years; or

2-53 (B) exceeds 30 years and the funded ratio of the
 2-54 system is less than 65 percent ~~[in accordance with the system's~~
 2-55 ~~governing statute].~~

2-56 (d) Except as provided by Subsection (d-1), the ~~[The]~~
 2-57 governing body of a public retirement system and the governing body
 2-58 of the associated governmental entity that have an existing
 2-59 ~~[formulated a]~~ funding soundness restoration plan under Subsection
 2-60 (e) shall formulate a revised funding soundness restoration plan
 2-61 under Subsection (e-1) ~~[that subsection, in accordance with the~~
 2-62 ~~system's governing statute,]~~ if the system becomes subject to
 2-63 Subsection (c) before the 10th anniversary of the date prescribed
 2-64 by Subsection (e)(2)(A) or (B), as applicable ~~[conducts an~~
 2-65 ~~actuarial valuation showing that:~~

2-66 ~~[(1) the system's amortization period exceeds 40 years,~~
 2-67 ~~and~~

2-68 ~~[(2) the previously formulated funding soundness~~
 2-69 ~~restoration plan has not been adhered to].~~

3-1 (d-1) The governing body of a public retirement system and
3-2 the governing body of the associated governmental entity are not
3-3 subject to Subsection (d) if:

3-4 (1) the system's actuarial valuation shows that the
3-5 system's expected funding period exceeds 30 years but is less than
3-6 or equal to 40 years; and

3-7 (2) the system is:
3-8 (A) adhering to an existing funding soundness
3-9 restoration plan that was formulated before September 1, 2025; or

3-10 (B) implementing a contribution rate structure
3-11 that uses or will ultimately use an actuarially determined
3-12 contribution structure and the system's actuarial valuation shows
3-13 that the system is expected to achieve full funding.

3-14 (e) A funding soundness restoration plan formulated under
3-15 this section must:

3-16 (1) be developed by the public retirement system and
3-17 the associated governmental entity in accordance with the system's
3-18 governing statute; ~~and~~

3-19 (2) be designed to achieve a contribution rate that
3-20 will be sufficient to amortize the unfunded actuarial accrued
3-21 liability within 30 [40] years not later than the later of:

3-22 (A) the second [10th] anniversary of the
3-23 valuation date stated in the actuarial valuation that required
3-24 formulation of the plan under this subsection; or

3-25 (B) September 1, 2025;
3-26 (3) be based on actions agreed to be taken by the

3-27 system and entity that were approved by the respective governing
3-28 bodies of both the system and the entity before the plan was
3-29 adopted; and

3-30 (4) be adopted at open meetings of the respective
3-31 governing bodies of the system and the entity not later than the
3-32 second anniversary of the date the actuarial valuation that
3-33 required application of this subsection was adopted by the
3-34 governing body of the system [on which the final version of a
3-35 funding soundness restoration plan is agreed to].

3-36 (e-1) A revised funding soundness restoration plan
3-37 formulated under this section must:

3-38 (1) be developed by the public retirement system and
3-39 the associated governmental entity in accordance with the system's
3-40 governing statute;

3-41 (2) be designed to achieve a contribution rate that
3-42 will be sufficient to amortize the unfunded actuarial accrued
3-43 liability within 25 years not later than the second anniversary of
3-44 the valuation date stated in the actuarial valuation that required
3-45 formulation of a revised plan under this subsection;

3-46 (3) be based on actions, including automatic
3-47 risk-sharing mechanisms, an actuarially determined contribution
3-48 structure, and other adjustable benefit or contribution
3-49 mechanisms, agreed to be taken by the system and entity that were
3-50 approved by the respective governing bodies of both the system and
3-51 the entity before the plan was adopted; and

3-52 (4) be adopted at open meetings by the respective
3-53 governing bodies of the system and the entity not later than the
3-54 second anniversary of the date the actuarial valuation that
3-55 required application of this subsection was adopted by the
3-56 governing body of the system.

3-57 (e-2) Not later than the 90th day after the date on which the
3-58 plan is adopted by both the governing body of the system and the
3-59 governing body of the associated governmental entity, a system may
3-60 submit to the board an actuarial valuation required under Section
3-61 802.101(a) or other law that shows the combined impact of all
3-62 changes to a funding soundness restoration plan adopted under this
3-63 section, including a revised funding soundness restoration plan
3-64 adopted under Subsection (e-1). If a system does not provide an
3-65 actuarial valuation to the board in accordance with this
3-66 subsection, the board may request that the system provide a
3-67 separate analysis of the combined impact of all changes to a funding
3-68 soundness restoration plan adopted under this section not later
3-69 than the 90th day after the date the board makes the request. An

4-1 actuarial valuation or separate analysis conducted under this
 4-2 subsection must include:

4-3 (1) an actuarial projection of the public retirement
 4-4 system's expected future assets and liabilities between the
 4-5 valuation date described by Subsection (e)(2)(A) or (e-1)(2), as
 4-6 applicable, and the date at which the plan is expected to achieve
 4-7 full funding; and

4-8 (2) a description of all assumptions and methods used
 4-9 to perform the analysis which must comply with actuarial standards
 4-10 of practice.

4-11 (e-3) The associated governmental entity may pay all or part
 4-12 of the costs of the separate analysis required under Subsection
 4-13 (e-2). The public retirement system shall pay any costs for the
 4-14 analysis not paid by the associated governmental entity.

4-15 (e-4) A funding soundness restoration plan adopted under
 4-16 this section, including a revised funding soundness restoration
 4-17 plan adopted under Subsection (e-1), may not include actions that
 4-18 are subject to future approval by the governing bodies of either the
 4-19 public retirement system or the associated governmental entity.

4-20 (f) A public retirement system and the associated
 4-21 governmental entity required to ~~[that]~~ formulate a funding
 4-22 soundness restoration plan under this section, including a revised
 4-23 funding soundness restoration plan, shall provide a report to the
 4-24 board on ~~[any updates of]~~ progress made by the system and entity in
 4-25 formulating the plan, including a draft of any plan and a
 4-26 description of any changes under consideration for inclusion in a
 4-27 plan, not later than the first anniversary of the date of the
 4-28 actuarial valuation that required formulation of the plan under
 4-29 Subsection (e) or (e-1) and each subsequent six-month period until
 4-30 the plan is submitted to the board under this section ~~[entities~~
 4-31 ~~toward improved actuarial soundness to the board every two years].~~

4-32 (g) Each public retirement system that formulates a funding
 4-33 soundness restoration plan as provided by this section shall submit
 4-34 a copy of that plan to the board and any change to the plan not later
 4-35 than the 31st day after the date on which the plan is adopted by both
 4-36 the governing body of the system and the governing body of the
 4-37 associated governmental entity or the date the change is agreed to.

4-38 (h) The board may adopt rules necessary to implement this
 4-39 section.

4-40 SECTION 4. Section 802.2016, Government Code, is amended to
 4-41 read as follows:

4-42 Sec. 802.2016. FUNDING SOUNDNESS RESTORATION PLAN FOR
 4-43 CERTAIN PUBLIC RETIREMENT SYSTEMS. (a) In this section:

4-44 (1) "Funded ratio" has the meaning assigned by Section
 4-45 802.2011.

4-46 (2) "Governmental ~~["governmental]~~ entity" has the
 4-47 meaning assigned by Section 802.1012.

4-48 (b) This section applies only to a public retirement system
 4-49 that is governed by Article 6243i, Revised Statutes, and its
 4-50 associated governmental entity.

4-51 (c) A public retirement system shall notify the associated
 4-52 governmental entity in writing if the ~~[retirement]~~ system receives
 4-53 an actuarial valuation indicating that the system's actual
 4-54 contributions are not sufficient to amortize the unfunded actuarial
 4-55 accrued liability within 30 ~~[40]~~ years. The governing body of ~~[If a~~
 4-56 ~~public retirement system's actuarial valuation shows that the~~
 4-57 ~~system's amortization period has exceeded 40 years for three~~
 4-58 ~~consecutive annual actuarial valuations, or two consecutive~~
 4-59 ~~actuarial valuations in the case of a system that conducts the~~
 4-60 ~~valuations every two or three years,] the associated governmental~~
 4-61 entity shall formulate a funding soundness restoration plan under
 4-62 Subsection (e) if the system's actuarial valuation shows that the
 4-63 system's expected funding period:

4-64 (1) has exceeded 30 years for three consecutive annual
 4-65 actuarial valuations, or two consecutive annual actuarial
 4-66 valuations in the case of a system that conducts the valuations
 4-67 every two or three years; or

4-68 (2) effective September 1, 2025:

4-69 (A) exceeds 40 years; or

5-1 (B) exceeds 30 years and the funded ratio of the
 5-2 system is less than 65 percent [in accordance with the public
 5-3 retirement system's governing statute].

5-4 (d) Except as provided by Subsection (d-1), the governing
 5-5 body of an [An] associated governmental entity that has an existing
 5-6 [formulated a] funding soundness restoration plan under Subsection
 5-7 (e) shall formulate a revised funding soundness restoration plan
 5-8 under Subsection (e-1) [that subsection, in accordance with the
 5-9 public retirement system's governing statute,] if the system
 5-10 becomes subject to Subsection (c) before the 10th anniversary of
 5-11 the date prescribed by Subsection (e)(2)(A) or (B), as applicable
 5-12 [conducts an actuarial valuation showing that:

5-13 [~~(1) the system's amortization period exceeds 40 years,~~
 5-14 and

5-15 [~~(2) the previously formulated funding soundness~~
 5-16 restoration plan has not been adhered to].

5-17 (d-1) The associated governmental entity is not subject to
 5-18 Subsection (d) if:

5-19 (1) the system's actuarial valuation shows that the
 5-20 system's expected funding period exceeds 30 years but is less than
 5-21 or equal to 40 years; and

5-22 (2) the system is:

5-23 (A) adhering to an existing funding soundness
 5-24 restoration plan that was formulated before September 1, 2025; or

5-25 (B) implementing a contribution rate structure
 5-26 that uses or will ultimately use an actuarially determined
 5-27 contribution structure and the system's actuarial valuation shows
 5-28 that the system is expected to achieve full funding.

5-29 (e) A funding soundness restoration plan formulated under
 5-30 this section must:

5-31 (1) be developed in accordance with the public
 5-32 retirement system's governing statute by the associated
 5-33 governmental entity; [and]

5-34 (2) be designed to achieve a contribution rate that
 5-35 will be sufficient to amortize the unfunded actuarial accrued
 5-36 liability within 30 [40] years not later than the later of:

5-37 (A) the second [10th] anniversary of the
 5-38 valuation date stated in the actuarial valuation that required
 5-39 formulation of the plan under this subsection; or

5-40 (B) September 1, 2025;

5-41 (3) be based on actions, including automatic
 5-42 risk-sharing mechanisms, an actuarially determined contribution
 5-43 structure, and other adjustable benefit or contribution
 5-44 mechanisms, agreed to be taken by the system and entity that were
 5-45 approved by the governing body of the associated governmental
 5-46 entity before the plan was adopted; and

5-47 (4) be adopted at an open meeting of the governing body
 5-48 of the associated governmental entity not later than the second
 5-49 anniversary of the date the actuarial valuation that required
 5-50 application of this subsection was adopted by the governing body of
 5-51 the system [on which the final version of a funding soundness
 5-52 restoration plan is formulated].

5-53 (e-1) A revised funding soundness restoration plan
 5-54 formulated under this section must:

5-55 (1) be developed by the associated governmental
 5-56 entity in accordance with the system's governing statute;

5-57 (2) be designed to achieve a contribution rate that
 5-58 will be sufficient to amortize the unfunded actuarial accrued
 5-59 liability within 25 years not later than the second anniversary of
 5-60 the valuation date stated in the actuarial valuation that required
 5-61 formulation of a revised plan under this subsection;

5-62 (3) be based on actions agreed to be taken by the
 5-63 system and entity that were approved by the governing body of the
 5-64 associated governmental entity before the plan was adopted; and

5-65 (4) be adopted at an open meeting of the governing body
 5-66 of the associated governmental entity not later than the second
 5-67 anniversary of the date the actuarial valuation that required
 5-68 application of this subsection was adopted by the governing body of
 5-69 the system.

6-1 (e-2) Not later than the 90th day after the date on which the
 6-2 plan is adopted by the governing body of the associated
 6-3 governmental entity, a system may submit to the board an actuarial
 6-4 valuation required under Section 802.101(a) or other law that shows
 6-5 the combined impact of all changes to a funding soundness
 6-6 restoration plan adopted under this section, including a revised
 6-7 funding soundness restoration plan adopted under Subsection (e-1).
 6-8 If a system does not provide an actuarial valuation to the board in
 6-9 accordance with this subsection, the board may request that the
 6-10 system provide a separate analysis of the combined impact of all
 6-11 changes to a funding soundness restoration plan adopted under this
 6-12 section not later than the 90th day after the date the board makes
 6-13 the request. An actuarial valuation or the separate analysis
 6-14 conducted under this subsection must include:

6-15 (1) an actuarial projection of the public retirement
 6-16 system's expected future assets and liabilities between the
 6-17 valuation date described by Subsection (e)(2)(A) or (e-1)(2), as
 6-18 applicable, and the date at which the plan is expected to achieve
 6-19 full funding; and

6-20 (2) a description of all assumptions and methods used
 6-21 to perform the analysis which must comply with actuarial standards
 6-22 of practice.

6-23 (e-3) The associated governmental entity may pay all or part
 6-24 of the costs of the separate analysis required under Subsection
 6-25 (e-2). The public retirement system shall pay any costs for the
 6-26 analysis not paid by the associated governmental entity.

6-27 (e-4) A funding soundness restoration plan adopted under
 6-28 this section, including a revised funding soundness restoration
 6-29 plan adopted under Subsection (e-1), may not include actions that
 6-30 are subject to future approval by the governing body of the
 6-31 associated governmental entity.

6-32 (f) An associated governmental entity required to formulate
 6-33 ~~[that formulates]~~ a funding soundness restoration plan under this
 6-34 section, including a revised funding soundness restoration plan,
 6-35 shall provide a report to the board on ~~[any updates of]~~ progress
 6-36 made by the ~~[public retirement system and]~~ associated governmental
 6-37 entity in formulating the plan, including a draft of any plan and a
 6-38 description of any changes under consideration for inclusion in a
 6-39 plan, not later than the first anniversary of the date of the
 6-40 actuarial valuation that required formulation of the plan under
 6-41 Subsection (e) or (e-1) and each subsequent six-month period until
 6-42 the plan is submitted to the board under this section ~~[toward~~
 6-43 ~~improved actuarial soundness to the board every two years]~~.

6-44 (g) An associated governmental entity that formulates a
 6-45 funding soundness restoration plan as provided by this section
 6-46 shall submit a copy of that plan to the board and any change to the
 6-47 plan not later than the 31st day after the date on which the plan is
 6-48 adopted by the governing body of the associated governmental entity
 6-49 or the date the change is formulated.

6-50 (h) The board may adopt rules necessary to implement this
 6-51 section.

6-52 SECTION 5. The changes in law made by this Act apply to a
 6-53 funding soundness restoration plan that is formulated or revised
 6-54 under Section 802.2015 or 802.2016, Government Code, as applicable,
 6-55 on or after the effective date of this Act. A funding soundness
 6-56 restoration plan formulated or revised before the effective date of
 6-57 this Act other than a plan that is subject to Section 802.2015(d-1)
 6-58 or Section 802.2016(d-1), Government Code, as added by this Act, is
 6-59 governed by the law as it existed immediately before that date, and
 6-60 the former law is continued in effect for that purpose, except if:

6-61 (1) the public retirement system and its associated
 6-62 governmental entity are required to formulate a revised funding
 6-63 soundness restoration plan under Section 802.2015(d), Government
 6-64 Code, as that section existed immediately before the effective date
 6-65 of this Act, the system and its associated governmental entity
 6-66 shall formulate the plan under Section 802.2015(e), Government
 6-67 Code, as amended by this Act, rather than as that section existed
 6-68 immediately before the effective date of this Act; or

6-69 (2) a public retirement system's associated

7-1 governmental entity is required to formulate a revised funding
7-2 soundness restoration plan under Section 802.2016(d), Government
7-3 Code, as that section existed immediately before the effective date
7-4 of this Act, the associated governmental entity shall formulate the
7-5 plan under Section 802.2016(e), Government Code, as amended by this
7-6 Act, rather than as that section existed immediately before the
7-7 effective date of this Act.

7-8 SECTION 6. This Act takes effect September 1, 2021.

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