

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the evaluation and reporting of investment practices
3 and performance of certain public retirement systems.

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

5 SECTION 1. Section 802.109, Government Code, is amended by
6 amending Subsections (a), (d), (e), (f), and (h) and adding
7 Subsection (e-1) to read as follows:

8 (a) Except as provided by Subsection (e) and subject to
9 Subsections (c) and (k), a public retirement system shall select an
10 independent firm with substantial experience in evaluating
11 institutional investment practices and performance to evaluate the
12 appropriateness, adequacy, and effectiveness of the retirement
13 system's investment practices and performance and to make
14 recommendations for improving the retirement system's investment
15 policies, procedures, and practices. Each evaluation must include:

16 (1) a summary of the independent firm's experience in
17 evaluating institutional investment practices and performance and
18 a statement that the firm's experience meets the experience
19 required by this subsection;

20 (2) a statement indicating the nature of any existing
21 relationship between the independent firm and the public retirement
22 system and confirming that the firm and any related entity are not
23 involved in directly or indirectly managing the investments of the
24 system;

1 (3) a list of the types of remuneration received by the
2 independent firm from sources other than the public retirement
3 system for services provided to the system;

4 (4) a statement identifying any potential conflict of
5 interest or any appearance of a conflict of interest that could
6 impact the analysis included in the evaluation due to an existing
7 relationship between the independent firm and:

8 (A) the public retirement system; or

9 (B) any current or former member of the governing
10 body of the system; and

11 (5) an explanation of the firm's determination
12 regarding whether to include a recommendation for each of the
13 following evaluated matters:

14 (A) an analysis of any investment policy or
15 strategic investment plan adopted by the retirement system and the
16 retirement system's compliance with that policy or plan;

17 (B) [~~2~~] a detailed review of the retirement
18 system's investment asset allocation, including:

19 (i) [~~A~~] the process for determining
20 target allocations;

21 (ii) [~~B~~] the expected risk and expected
22 rate of return, categorized by asset class;

23 (iii) [~~C~~] the appropriateness of
24 selection and valuation methodologies of alternative and illiquid
25 assets; and

26 (iv) [~~D~~] future cash flow and liquidity
27 needs;

1 (C) [~~(3)~~] a review of the appropriateness of
2 investment fees and commissions paid by the retirement system;

3 (D) [~~(4)~~] a review of the retirement system's
4 governance processes related to investment activities, including
5 investment decision-making processes, delegation of investment
6 authority, and board investment expertise and education; and

7 (E) [~~(5)~~] a review of the retirement system's
8 investment manager selection and monitoring process.

9 (d) A public retirement system shall conduct the evaluation
10 described by Subsection (a):

11 (1) once every three years, if the total assets of the
12 retirement system [~~has total assets the book value of which,~~] as of
13 the last day of the preceding [~~last~~] fiscal year were [~~considered in~~
14 ~~an evaluation under this section, was~~] at least \$100 million; or

15 (2) once every six years, if the total assets of the
16 retirement system [~~has total assets the book value of which,~~] as of
17 the last day of the preceding [~~last~~] fiscal year were [~~considered in~~
18 ~~an evaluation under this section, was~~] at least \$30 million and less
19 than \$100 million.

20 (e) A public retirement system is not required to conduct
21 the evaluation described by Subsection (a) if the total assets of
22 the retirement system [~~has total assets the book value of which,~~] as
23 of the last day of the preceding fiscal year were [~~was~~] less than
24 \$30 million.

25 (e-1) Not later than the 30th day after the date an
26 independent firm completes an evaluation described by Subsection
27 (a), the independent firm shall:

1 (1) submit to the public retirement system for
2 purposes of discussion and clarification a substantially completed
3 preliminary draft of the evaluation report; and

4 (2) request in writing that the system, on or before
5 the 30th day after the date the system receives the preliminary
6 draft, submit to the firm:

7 (A) a description of any action taken or expected
8 to be taken in response to a recommendation made in the evaluation;
9 and

10 (B) any written response of the system that the
11 system wants to accompany the final evaluation report.

12 (f) The independent firm shall file the final evaluation
13 report, including the evaluation results and any response received
14 from the public retirement system, [~~A report of an evaluation under~~
15 ~~this section must be filed~~] with the governing body of the [~~public~~
16 ~~retirement~~] system:

17 (1) not earlier than the 31st day after the date on
18 which the preliminary draft is submitted to the system; and

19 (2) not later than the later of:

20 (A) the 60th day after the date on which the
21 preliminary draft is submitted to the system; or

22 (B) May 1 in the [~~of each~~] year following the year
23 in which the system is evaluated under Subsection (a) [~~(a)~~].

24 (h) A governmental entity that is the employer of active
25 members of a public retirement system evaluated under Subsection
26 (a) may pay all or part of the costs of the evaluation. The [~~A~~]
27 public retirement system shall pay any remaining unpaid [~~the~~] costs

1 of the [~~each~~] evaluation [~~of the system under this section~~].

2 SECTION 2. Section [802.109](#), Government Code, as amended by
3 this Act, applies only to an evaluation commenced on or after the
4 effective date of this Act. An evaluation commenced before the
5 effective date of this Act is governed by the law in effect on the
6 date the evaluation was commenced, and the former law is continued
7 in effect for that purpose.

8 SECTION 3. This Act takes effect September 1, 2021.