

By: Huffman, et al.
(Murphy)

S.B. No. 1372

Substitute the following for S.B. No. 1372:

By: Parker

C.S.S.B. No. 1372

A BILL TO BE ENTITLED

AN ACT

relating to the evaluation and reporting of the performance of certain public retirement systems.

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

SECTION 1. Sections 802.002(c) and (d), Government Code, are amended to read as follows:

(c) Notwithstanding any other law, a defined contribution plan is exempt from Sections 802.101, 802.1012, 802.1014, 802.103, 802.104, 802.110, and 802.202(d). This subsection may not be construed to exempt any plan from Section 802.105 or 802.106(h).

(d) Notwithstanding any other law, a retirement system that is organized under the Texas Local Fire Fighters Retirement Act (Article 6243e, Vernon's Texas Civil Statutes) for a fire department consisting exclusively of volunteers as defined by that Act is exempt from Sections 802.101, 802.1012, 802.1014, 802.102, 802.103, 802.104, 802.110, and 802.202(d). This subsection may not be construed to exempt any plan from Section 802.105 or 802.106(h).

SECTION 2. Section 802.109, Government Code, is amended by amending Subsections (a), (d), (e), (f), and (h) and adding Subsection (e-1) to read as follows:

(a) Except as provided by Subsection (e) and subject to Subsections (c) and (k), a public retirement system shall select an independent firm with substantial experience in evaluating institutional investment practices and performance to evaluate the

1 appropriateness, adequacy, and effectiveness of the retirement
2 system's investment practices and performance and to make
3 recommendations for improving the retirement system's investment
4 policies, procedures, and practices. Each evaluation must include:

5 (1) a summary of the independent firm's experience in
6 evaluating institutional investment practices and performance and
7 a statement that the firm's experience meets the experience
8 required by this subsection;

9 (2) a statement indicating the nature of any existing
10 relationship between the independent firm and the public retirement
11 system and confirming that the firm and any related entity are not
12 involved in directly or indirectly managing the investments of the
13 system;

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

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

21 (A) the public retirement system; or

22 (B) any current or former member of the governing
23 body of the system; and

24 (5) an explanation of the firm's determination
25 regarding whether to include a recommendation for each of the
26 following evaluated matters:

27 (A) an analysis of any investment policy or

1 strategic investment plan adopted by the retirement system and the
2 retirement system's compliance with that policy or plan;

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

5 (i) [~~(A)~~] the process for determining
6 target allocations;

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

9 (iii) [~~(C)~~] the appropriateness of
10 selection and valuation methodologies of alternative and illiquid
11 assets; and

12 (iv) [~~(D)~~] future cash flow and liquidity
13 needs;

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

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

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

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

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

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

6 (e) A public retirement system is not required to conduct
7 the evaluation described by Subsection (a) if the total assets of
8 the retirement system [~~has total assets the book value of which,~~] as
9 of the last day of the preceding fiscal year were [~~, was~~] less than
10 \$30 million.

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

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

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

20 (A) a description of any action taken or expected
21 to be taken in response to a recommendation made in the evaluation;
22 and

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

25 (f) The independent firm shall file the final evaluation
26 report, including the evaluation results and any response received
27 from the public retirement system, [A report of an evaluation under

1 ~~this section must be filed~~] with the governing body of the [~~public~~
2 ~~retirement~~] system:

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

5 (2) not later than the later of:

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

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

10 (h) A governmental entity that is the employer of active
11 members of a public retirement system evaluated under Subsection
12 (a) may pay all or part of the costs of the evaluation. The [~~A~~]
13 public retirement system shall pay any remaining unpaid [~~the~~] costs
14 of the [~~each~~] evaluation [~~of the system under this section~~].

15 SECTION 3. Subchapter B, Chapter 802, Government Code, is
16 amended by adding Section 802.110 to read as follows:

17 Sec. 802.110. GRADING PROGRAM. (a) The board by rule shall
18 establish a program under which the board evaluates each public
19 retirement system and assigns a numerical grade to the system based
20 on the system's performance in carrying out the system's duties
21 under the laws of this state, including the system's procedures and
22 capacity for satisfying accrued obligations.

23 (b) The program established under this section must include
24 the adoption of a rating schedule for use in the evaluation and
25 grading of each public retirement system. The rating schedule must
26 be based on a point system that measures, in accordance with the
27 board's funding guidelines and nationally accepted standards for

1 the operation of a public retirement system, a system's:

2 (1) funding using metrics such as the system's funding
3 policy under Section 802.2011, amortization period for unfunded
4 actuarial accrued liability, funding ratio, as that term is defined
5 by Section 802.2011, cash flow, and contribution sufficiency;

6 (2) investment program using metrics such as a
7 comparison of actual returns to assumed returns, risk-adjusted
8 returns, and investment fee benchmarking; and

9 (3) governance using metrics such as the system's
10 compliance with training requirements under Section 801.211 for
11 trustees and system administrators, board member expertise, and
12 engagement of the associated governmental entity, as that term is
13 defined by Section 802.1012.

14 (c) The rating schedule adopted under Subsection (b) must
15 account for a public retirement system's efforts to measure and
16 reduce financial and other risks to the system by implementing
17 practices such as stress testing, scenario analysis, and
18 asset-liability studies.

19 SECTION 4. Section 802.109, Government Code, as amended by
20 this Act, applies only to an evaluation commenced on or after the
21 effective date of this Act. An evaluation commenced before the
22 effective date of this Act is governed by the law in effect on the
23 date the evaluation was commenced, and the former law is continued
24 in effect for that purpose.

25 SECTION 5. This Act takes effect September 1, 2021.