

By: Huffman, Schwertner

S.B. No. 1372

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;

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

11 (C) any member or annuitant of the system;

12 (5) a statement confirming that the firm and any
13 related entity were not involved in developing the public
14 retirement system's investment policies or strategic investment
15 plans; and

16 (6) an explanation of the firm's determination
17 regarding whether to include a recommendation for each of the
18 following evaluated matters:

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

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

24 (i) [~~(A)~~] the process for determining
25 target allocations;

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

1 (iii) [~~(C)~~] the appropriateness of
2 selection and valuation methodologies of alternative and illiquid
3 assets; and

4 (iv) [~~(D)~~] future cash flow and liquidity
5 needs;

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

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

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

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

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

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

25 (e) A public retirement system is not required to conduct
26 the evaluation described by Subsection (a) if the total assets of
27 the retirement system [~~has total assets the book value of which,~~] as

1 of the last day of the preceding fiscal year were [~~was~~] less than
2 \$30 million.

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

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

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

12 (A) a description of any action taken or expected
13 to be taken in response to a recommendation made in the evaluation;
14 and

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

17 (f) The independent firm shall file the final evaluation
18 report, including the evaluation results and any response received
19 from the public retirement system, [A report of an evaluation under
20 this section must be filed] with the governing body of the [public
21 retirement] system:

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

24 (2) not later than the later of:

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

27 (B) May 1 in the [of each] year following the year

1 in which the system is evaluated under Subsection (a) [~~(d)~~].

2 (h) A governmental entity that is the employer of active
3 members of a public retirement system evaluated under Subsection
4 (a) may pay all or part of the costs of the evaluation. The [A]
5 public retirement system shall pay any remaining unpaid [~~the~~] costs
6 of the [~~each~~] evaluation [~~of the system under this section~~].

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

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