S.B. No. 322

AN ACT

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

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

SECTION 1. Section 801.209(a), Government Code, is amended to read as follows:

(a) For each public retirement system, the board shall post on the board's Internet website, or on a publicly available website that is linked to the board's website, the most recent data from reports received under Sections 802.101, 802.103, 802.104, 802.105, 802.108, 802.109, 802.2015, and 802.2016.

SECTION 2. Section 802.103, Government Code, is amended by amending Subsection (a) and adding Subsection (e) to read as follows:

(a) The [~~Except as provided by Subsection (c), the~~] governing body of a public retirement system shall publish an annual financial report showing the financial condition of the system as of the last day of the fiscal year covered in the report. The report must include:

(1) the financial statements and schedules examined in the most recent audit performed as required by Section 802.102;

(2) [~~and must include~~] a statement of opinion by the certified public accountant as to whether or not the financial statements and schedules are presented fairly and in accordance

with generally accepted accounting principles;

(3) a listing, by asset class, of all direct and indirect commissions and fees paid by the retirement system during the system's previous fiscal year for the sale, purchase, or management of system assets; and

(4) the names of investment managers engaged by the retirement system.

(e) The board may adopt rules necessary to implement this section.

SECTION 3. Subchapter B, Chapter 802, Government Code, is amended by adding Section 802.109 to read as follows:

Sec. 802.109. INVESTMENT PRACTICES AND PERFORMANCE REPORTS. (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 appropriateness, adequacy, and effectiveness of the retirement system's investment practices and performance and to make recommendations for improving the retirement system's investment policies, procedures, and practices. Each evaluation must include:

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

(2) a detailed review of the retirement system's investment asset allocation, including:

(A) the process for determining target allocations;

(B) the expected risk and expected rate of return, categorized by asset class;

(C) the appropriateness of selection and valuation methodologies of alternative and illiquid assets; and

(D) future cash flow and liquidity needs;

(3) a review of the appropriateness of investment fees and commissions paid by the retirement system;

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

(5) a review of the retirement system's investment manager selection and monitoring process.

(b) The governing body of a public retirement system may determine additional specific areas to be evaluated under Subsection (a) and may select particular asset classes on which to focus, but the first evaluation must be a comprehensive analysis of the retirement system's investment program that covers all asset classes.

(c) In selecting an independent firm to conduct the evaluation described by Subsection (a), a public retirement system:

(1) subject to Subdivision (2), may select a firm regardless of whether the firm has an existing relationship with the retirement system; and

(2) may not select a firm that directly or indirectly manages investments of the retirement system.

(d) A public retirement system shall conduct the evaluation

described by Subsection (a):

(1) once every three years, if the retirement system has total assets the book value of which, as of the last day of the last fiscal year considered in an evaluation under this section, was at least $100 million; or

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

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

(f) A report of an evaluation under this section must 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 under Subsection (d).

(g) Not later than the 31st day after the date the governing body of a public retirement system receives a report of an evaluation under this section, the governing body shall submit the report to the board.

(h) A public retirement system shall pay the costs of each evaluation of the system under this section.

(i) The board shall submit an investment performance report to the governor, the lieutenant governor, the speaker of the house of representatives, and the legislative committees having principal jurisdiction over legislation governing public

retirement systems in the biennial report required by Section 801.203. The report must compile and summarize the information received under this section by the board during the preceding two fiscal years.

(j) A report of an evaluation by the Teacher Retirement System of Texas and an investment report that includes the Teacher Retirement System of Texas under this section satisfies the requirements of Section 825.512.

(k) The following reports may be used by the applicable public retirement systems to satisfy the requirement for a report of an evaluation under this section:

(1) an investment report under Section 10A, Article 6243g-4, Revised Statutes;

(2) an investment report under Section 2D, Chapter 88 (H.B. 1573), Acts of the 77th Legislature, Regular Session, 2001 (Article 6243h, Vernon's Texas Civil Statutes); and

(3) a report on a review conducted on the retirement system's investments under Section 2B, Article 6243e.2(1), Revised Statutes.

(l) The board may adopt rules necessary to implement this section.

SECTION 4. Notwithstanding Section 802.109(d), Government Code, as added by this Act, a report of the first evaluation of a public retirement system, as required by Section 802.109, Government Code, as added by this Act, must be filed with the governing body of the system not later than May 1, 2020.

SECTION 5. The State Pension Review Board is required to

implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the State Pension Review Board may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

SECTION 6. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.

President of the Senate

Speaker of the House

I hereby certify that S.B. No. 322 passed the Senate on April 17, 2019, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 24, 2019, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 322 passed the House, with amendment, on May 22, 2019, by the following vote: Yeas 144, Nays 0, two present not voting.

Chief Clerk of the House

Approved:

Date

Governor