

1-1 By: Huffman, Schwertner S.B. No. 1372  
 1-2 (In the Senate - Filed March 10, 2021; March 18, 2021, read  
 1-3 first time and referred to Committee on Finance; April 9, 2021,  
 1-4 reported adversely, with favorable Committee Substitute by the  
 1-5 following vote: Yeas 15, Nays 0; April 9, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Nelson	X			
1-8 Lucio	X			
1-9 Bettencourt	X			
1-10 Buckingham	X			
1-11 Campbell	X			
1-12 Creighton	X			
1-13 Hancock	X			
1-14 Huffman	X			
1-15 Kolthorst	X			
1-16 Nichols	X			
1-17 Perry	X			
1-18 Schwertner	X			
1-19 Taylor	X			
1-20 West	X			
1-21 Whitmire	X			

1-23 COMMITTEE SUBSTITUTE FOR S.B. No. 1372 By: Huffman

1-24 A BILL TO BE ENTITLED  
 1-25 AN ACT

1-26 relating to the evaluation and reporting of investment practices  
 1-27 and performance of certain public retirement systems.

1-28 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-29 SECTION 1. Section 802.109, Government Code, is amended by  
 1-30 amending Subsections (a), (d), (e), (f), and (h) and adding  
 1-31 Subsection (e-1) to read as follows:

1-32 (a) Except as provided by Subsection (e) and subject to  
 1-33 Subsections (c) and (k), a public retirement system shall select an  
 1-34 independent firm with substantial experience in evaluating  
 1-35 institutional investment practices and performance to evaluate the  
 1-36 appropriateness, adequacy, and effectiveness of the retirement  
 1-37 system's investment practices and performance and to make  
 1-38 recommendations for improving the retirement system's investment  
 1-39 policies, procedures, and practices. Each evaluation must include:

1-40 (1) a summary of the independent firm's experience in  
 1-41 evaluating institutional investment practices and performance and  
 1-42 a statement that the firm's experience meets the experience  
 1-43 required by this subsection;

1-44 (2) a statement indicating the nature of any existing  
 1-45 relationship between the independent firm and the public retirement  
 1-46 system and confirming that the firm and any related entity are not  
 1-47 involved in directly or indirectly managing the investments of the  
 1-48 system;

1-49 (3) a list of the types of remuneration received by the  
 1-50 independent firm from sources other than the public retirement  
 1-51 system for services provided to the system;

1-52 (4) a statement identifying any potential conflict of  
 1-53 interest or any appearance of a conflict of interest that could  
 1-54 impact the analysis included in the evaluation due to an existing  
 1-55 relationship between the independent firm and:

1-56 (A) the public retirement system; or

1-57 (B) any current or former member of the governing  
 1-58 body of the system; and

1-59 (5) an explanation of the firm's determination  
 1-60 regarding whether to include a recommendation for each of the

2-1 following evaluated matters:

2-2 (A) an analysis of any investment policy or  
 2-3 strategic investment plan adopted by the retirement system and the  
 2-4 retirement system's compliance with that policy or plan;

2-5 (B) [~~2~~] a detailed review of the retirement  
 2-6 system's investment asset allocation, including:

2-7 (i) [~~A~~] the process for determining  
 2-8 target allocations;

2-9 (ii) [~~B~~] the expected risk and expected  
 2-10 rate of return, categorized by asset class;

2-11 (iii) [~~C~~] the appropriateness of  
 2-12 selection and valuation methodologies of alternative and illiquid  
 2-13 assets; and

2-14 (iv) [~~D~~] future cash flow and liquidity  
 2-15 needs;

2-16 (C) [~~3~~] a review of the appropriateness of  
 2-17 investment fees and commissions paid by the retirement system;

2-18 (D) [~~4~~] a review of the retirement system's  
 2-19 governance processes related to investment activities, including  
 2-20 investment decision-making processes, delegation of investment  
 2-21 authority, and board investment expertise and education; and

2-22 (E) [~~5~~] a review of the retirement system's  
 2-23 investment manager selection and monitoring process.

2-24 (d) A public retirement system shall conduct the evaluation  
 2-25 described by Subsection (a):

2-26 (1) once every three years, if the total assets of the  
 2-27 retirement system [~~has total assets the book value of which,~~] as of  
 2-28 the last day of the preceding [~~last~~] fiscal year were [~~considered in~~  
 2-29 ~~an evaluation under this section, was~~] at least \$100 million; or

2-30 (2) once every six years, if the total assets of the  
 2-31 retirement system [~~has total assets the book value of which,~~] as of  
 2-32 the last day of the preceding [~~last~~] fiscal year were [~~considered in~~  
 2-33 ~~an evaluation under this section, was~~] at least \$30 million and less  
 2-34 than \$100 million.

2-35 (e) A public retirement system is not required to conduct  
 2-36 the evaluation described by Subsection (a) if the total assets of  
 2-37 the retirement system [~~has total assets the book value of which,~~] as  
 2-38 of the last day of the preceding fiscal year were [~~was~~] less than  
 2-39 \$30 million.

2-40 (e-1) Not later than the 30th day after the date an  
 2-41 independent firm completes an evaluation described by Subsection  
 2-42 (a), the independent firm shall:

2-43 (1) submit to the public retirement system for  
 2-44 purposes of discussion and clarification a substantially completed  
 2-45 preliminary draft of the evaluation report; and

2-46 (2) request in writing that the system, on or before  
 2-47 the 30th day after the date the system receives the preliminary  
 2-48 draft, submit to the firm:

2-49 (A) a description of any action taken or expected  
 2-50 to be taken in response to a recommendation made in the evaluation;  
 2-51 and

2-52 (B) any written response of the system that the  
 2-53 system wants to accompany the final evaluation report.

2-54 (f) The independent firm shall file the final evaluation  
 2-55 report, including the evaluation results and any response received  
 2-56 from the public retirement system, [~~A report of an evaluation under~~  
 2-57 ~~this section must be filed~~] with the governing body of the [~~public~~  
 2-58 ~~retirement~~] system:

2-59 (1) not earlier than the 31st day after the date on  
 2-60 which the preliminary draft is submitted to the system; and

2-61 (2) not later than the later of:

2-62 (A) the 60th day after the date on which the  
 2-63 preliminary draft is submitted to the system; or

2-64 (B) May 1 in the [~~of each~~] year following the year  
 2-65 in which the system is evaluated under Subsection (a) [~~d~~].

2-66 (h) A governmental entity that is the employer of active  
 2-67 members of a public retirement system evaluated under Subsection  
 2-68 (a) may pay all or part of the costs of the evaluation. The [~~A~~  
 2-69 public retirement system shall pay any remaining unpaid [~~the~~] costs

3-1 of the ~~[each]~~ evaluation ~~[of the system under this section]~~.  
3-2 SECTION 2. Section 802.109, Government Code, as amended by  
3-3 this Act, applies only to an evaluation commenced on or after the  
3-4 effective date of this Act. An evaluation commenced before the  
3-5 effective date of this Act is governed by the law in effect on the  
3-6 date the evaluation was commenced, and the former law is continued  
3-7 in effect for that purpose.

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

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