SUBJECT: Attorney general approval of TRS contracts with outside legal counsel

COMMITTEE: Pensions, Investments and Financial Services — favorable, without
              amendment

VOTE: 7 ayes — Truitt, Anderson, Flynn, Hernandez, Parker, Veasey, Woolley

              0 nays

              2 absent — Anchia, Hopson

WITNESSES: For — Tim Lee, Texas Retired Teachers Association; (*Registered, but did
              not testify:* Zora Mae Hise; Ted Melina Raab, Texas AFT; Sheila Sargent)

              Against — None

              On — (*Registered, but did not testify:* Brian Guthrie, Ronnie Jung,
              Teacher Retirement System)

BACKGROUND: Government Code, sec. 402.0212 states that, except as authorized by other
              law, a contract for legal services between an attorney, other than a full-
              time employee of the agency, and a state agency in the executive
              department, other than an agency established by the Texas Constitution,
              must be approved by the attorney general to be valid.

              In 2008, the Teacher Retirement System board of trustees chose not to
              renew the contract of its fiduciary counsel, and the attorney general did not
              approve the contract of the new attorney hired by the board. One issue has
              been whether the attorney being paid from the fund balance rather than
              from general revenue appropriated to TRS makes a difference in whether
              attorney general approval is required.

DIGEST: HB 1259 would prohibit the Teacher Retirement System board of trustees
              from employing outside legal counsel to provide legal services unless the
              contract were approved by the attorney general as provided under
              Government Code, sec. 402.0212, regardless of the source of funds used
              to pay the outside counsel. Legal services would include services provided
              by an attorney on ethics and fiduciary responsibilities.

The bill states that it is intended to clarify rather than change existing law.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2009.