

BILL ANALYSIS

Senate Research Center
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S.B. 1447
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As Filed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Teacher Retirement System of Texas (TRS) provides retirement, disability retirement, and death benefits for public school and certain higher education employees in Texas. While TRS investments have rebounded significantly since 2002, the existing portfolio is largely a reflection of the U.S. and international stock markets. The trust fund and benefits provided by TRS investments may face significant risk if those markets experience downturns.

As proposed, S.B. 1447 redefines "securities" to include the types of private investments typically used by public pension funds to manage investment risk, thus authorizing TRS to use those types of investments. This bill additionally authorizes the delegation of investment responsibility to outside investment managers.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 825.301, Government Code, by amending Subsections (a) and (b) and adding Subsections (a-1), (a-2), (a-3), and (b-1), as follows:

(a) Authorizes the board of trustees of the Teacher Retirement System of Texas (board of trustees) to invest and reinvest retirement system assets in any investment instrument commonly known as a security, as described by Section 4 of the Securities Act (Article 581-4, V.T.C.S.), 15 U.S.C. Section 77b(a)(1), or 15 U.S.C. Section 78c(a)(10). Deletes existing text defining "securities." Provides that an investment is authorized for investment under this section even if the Teacher Retirement System of Texas (TRS) is the only investor or has rights or privileges pertaining to the investment that are not granted to other investors. Deletes existing text providing that an interest in a limited partnership or investment contract is considered a security, regardless of other certain factors. Sets forth certain investments which the board of trustees is authorized to buy and sell. Makes conforming changes.

(a-1) Provides that investment decisions under this section are subject to the standard provided in Texas Trust Code by Section 117.004(b), Property Code.

(a-2) Authorizes the board of trustees to delegate investment authority and contract with private, professional investment managers for investment and management of retirement system assets. Requires the board of trustees, in a contract made under this subsection, to specify certain policies, requirements, or restrictions, including investment quality criteria or the use of standard rating services that the board of trustees adopts for investments of the system.

(a-3) Authorizes the board of trustees to delegate investment authority with respect to TRS assets to the executive director or the staff of TRS (staff).

(b) Authorizes the board of trustees, in addition to the board's authority under Subsection (a-2), to contract with private, professional investment managers, advisors, and consultants to assist and advise the board of trustees and staff in investing TRS assets.

(b-1) Provides that a professional investment manager, advisor, or consultant submits to the jurisdiction of the courts of this state in all proceedings arising from or related to performance of the delegated authority or engagement, by accepting a delegation of investment authority under Subsection (a-2) or an engagement to assist or advise the board or the staff of the retirement system under Subsection (b). Requires an action relating to services rendered under this section to be brought only in a state district sitting in Travis County, Texas. Provides that Chapter 2260 (Resolution of Certain Contract Claims Against the State), Government Code, does not apply to a contract under Subsection (a-2) or (b). Provides that this subsection does not waive any immunity of the retirement system.

SECTION 2. Amends Subchapter D, Chapter 825, Government Code, by adding Section 825.3011, as follows:

Sec. 825.3011. CERTAIN CONSULTATIONS CONCERNING INVESTMENTS. (a) Defines "private investment fund," "reinvestment," and "restricted securities."

(b) Provides that the board of trustees are not required under Chapter 551 (Open Meetings), Government Code, to confer with certain persons or entities in an open meeting if the only purpose of the conference is to receive information from or question certain persons regarding an investment or a potential investment by the board of trustees in a private investment fund, or the purchase, holding, or disposal of certain investments if, under Section 552.143 (Confidentiality of Certain Investment Information), Government Code, the information discussed would be confidential, and excepted from the requirements of Section 552.021 (Availability of Public Information), Government Code, if said information was included in the records of a governmental body.

(c) Provides that this section applies, notwithstanding Section 825.115 (Applicability of Certain Laws), Government Code.

SECTION 3. Effective date: upon passage or September 1, 2007.