

- SUBJECT:** Eligibility for membership on ERS investment advisory committee
- COMMITTEE:** Pensions, Investments, and Financial Services — committee substitute recommended
- VOTE:** 7 ayes — Truitt, Anchia, Creighton, Hernandez Luna, Nash, Orr, Veasey
0 nays
2 absent — C. Anderson, Legler
- WITNESSES:** For — None
Against — None
On — Ann Fuelberg, Employees Retirement System
- BACKGROUND:** Government Code, sec. 815.509 authorizes the Employees Retirement System (ERS) board of trustees to establish advisory committees as needed. With this authority, the ERS board created an investment advisory committee to consult and advise the board on investments and investment-related issues. By statute, members of any ERS advisory committee serve at the pleasure of the board.

Government Code, sec. 815.0031 specifies the eligibility criteria for serving on the ERS board. Government Code, sec. 815.008 provides the grounds for removing a trustee from the board, which include violations of the eligibility requirements.
- DIGEST:** CSHB 2193 would establish eligibility requirements and review and removal processes for members of an ERS investment advisory committee.

To be eligible, an individual would have to be either a prominent educator in the field of economics or finance or another investment-related area or have expertise in managing a financial institution or other business where investment decisions were made. An individual would be ineligible for membership if that individual or his or her spouse was:

- employed by, participating in the management of, or owning or controlling more than a 10-percent interest in a business or other organization receiving funds from ERS; or
- a paid officer, employee, or consultant of a Texas trade association in the field of insurance or investment.

A person also would be ineligible if he or she was a registered lobbyist for a business or association related to the investment of ERS or state assets.

CSHB 2193 would require the ERS board to review the eligibility of investment advisory committee members at least annually. The board could remove a member if he or she was:

- ineligible for membership under the provisions described above;
- unable to discharge his or her duties because of illness, disability, or other personal reasons; or
- absent from more than half of the scheduled committee meetings that the member was eligible to attend during a calendar year.

The bill would require the executive director or a committee member to notify the presiding officer of the ERS board of any potential ground for removal known to exist.

The bill would not limit the ERS board to the stated grounds for removal and would allow the board to prescribe the process for removing a member from the investment advisory committee.

CSHB 2193 would take effect September 1, 2011.

**SUPPORTERS
SAY:**

CSHB 2193 would ensure that ERS investment decisions were informed by the recommendations of experts with no conflicts of interest. ERS serves over a half a million Texans and manages tens of billions of dollars, so safeguards such as those proposed in this bill are necessary and overdue.

Throughout the investment advisory committee's more than 40-year existence, the ERS board of trustees has grown increasingly reliant on the committee's advice, to the point that the board nearly always adopts the committee's recommendations. However, there is no current statute that regulates the eligibility, conflicts of interest, review, or removal of committee members.

Since the committee members have such a central role in ERS investment management, CSHB 2193 would establish rigorous eligibility standards, conflict of interest provisions, and grounds for removal for committee members. The requirements and grounds for removal would be very similar to those already statutorily required for trustees. Since advisory committee members do not have set term lengths as trustees do, CSHB 2193 also would require annual review of the committee members' continued eligibility.

CSHB 2193 would mirror current ERS board policy regarding requirements for investment advisory committee members. The existing ERS policy contains equivalent professional background requirements, a conflict of interest policy, and an attendance policy.

CSHB 2193 would not limit the diversity of viewpoints providing input on ERS investment decisions. The eligible professional backgrounds of investment advisory committee members would be restricted, but only to the professions for which financial expertise could be demonstrated, which would be appropriate and justified in this context. Furthermore, CSHB 2193 would ensure that highly regarded academics from various investment-related disciplines could become committee members. Regardless of shifts in ERS administrative philosophy, this bill would provide ongoing statutory guidance that the additional perspective of an academic could be valuable to the ERS board.

ERS board decisions always benefit from a variety of viewpoints because three of the six trustees are, by statute, elected representatives from the ERS membership. These three trustees are state employees and not necessarily financial industry professionals. CSHB 2193 would not change the composition of the ERS board of trustees, only set minimum qualifications for the investment advisory committee serving the board.

The statutory requirements for the committee member removal process would be equivalent to the existing statutory requirements for the removal of ERS trustees. If the bill were to dictate that the presiding officer of the board act upon notification of a potential ground for removal of a committee member, it actually would establish more stringent requirements for advisory committee members than exist for trustees.

OPPONENTS
SAY:

CSHB 2193 would limit the eligible professional backgrounds of investment advisory committee members. ERS board investment decisions could suffer from a consequent lack of diverse viewpoints providing input. The bill should require at-large ERS members to serve on the advisory committee to counteract this limiting effect.

OTHER
OPPONENTS
SAY:

CSHB 2193 would take important steps toward ensuring that the ERS board receives high-quality, trustworthy input from the investment advisory committee, but the bill could provide even stronger protections. As the bill currently is written, any knowledge of a potential ground for removal would simply have to be reported to the presiding officer of the ERS board. The bill could further require the presiding officer to act by investigating the potential ground for removal and removing the advisory committee member in question if ineligibility was confirmed.

NOTES:

The committee substitute differs from the original in allowing prominent educators in investment-related fields to be eligible for membership on the ERS investment advisory committee.