
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1671 Session of
2021

INTRODUCED BY B. MILLER, RYAN, SCHMITT, FEE, STAMBAUGH, HAMM,
JONES, PICKETT, METCALFE, GLEIM, GROVE, MILLARD, ZIMMERMAN,
ROTHMAN, JAMES, KAUFFMAN, DRISCOLL, HERSHEY, MOUL, JOZWIAK,
WHEELAND, ECKER, RADER, GREINER, O'NEAL, FREEMAN,
R. MACKENZIE, HICKERNELL, STAATS, KNOWLES, DIAMOND, GAYDOS,
DAY, KEEFER, FRITZ, LEWIS, COX, SCHEMEL, OWLETT, ROWE, KLUNK,
SOLOMON, GILLEN, MENTZER, ROAE, COOK, E. NELSON, RAPP,
EMRICK, WARNER, KAUFER, DOWLING, SCHLEGEL CULVER, IRVIN,
SMITH, THOMAS AND BONNER, JUNE 22, 2021

REFERRED TO COMMITTEE ON STATE GOVERNMENT, JUNE 22, 2021

AN ACT

1 Amending Titles 24 (Education) and 71 (State Government) of the
2 Pennsylvania Consolidated Statutes, in administration and
3 miscellaneous provisions, further providing for
4 administrative duties of the Public School Employees'
5 Retirement Board; and, in administration, funds, accounts and
6 general provisions, further providing for administrative
7 duties of the State Employees' Retirement Board.

8 The General Assembly of the Commonwealth of Pennsylvania
9 hereby enacts as follows:

10 Section 1. Section 8502(e)(1), (2), (3), (4) and (5) of
11 Title 24 of the Pennsylvania Consolidated Statutes are amended
12 and the section is amended by adding a subsection to read:

13 § 8502. Administrative duties of board.

14 * * *

15 (e) Records.--

16 (1) The following shall apply:

17 (i) The board shall [keep a] livestream its public

1 board meetings and post an unedited video and written
2 record of all [its] such public proceedings which shall
3 be accessible [to the public] on its publicly accessible
4 Internet website, including nonconfidential materials
5 presented to the board, except as otherwise provided in
6 this part or by other law. Video and records shall remain
7 online for a period of at least three years and shall be
8 maintained for a period of at least seven years and
9 thereafter shall be maintained in accordance with
10 applicable records retention schedules.

11 (ii) The Office of Administration shall promptly
12 revise its management directives relating to record
13 management policies to conform with the requirements of
14 this paragraph and shall provide public notice of the
15 requirements of this subsection by publishing the
16 requirements on its publicly accessible Internet website
17 and shall transmit the requirements to the Legislative
18 Reference Bureau for publication in the Pennsylvania
19 Bulletin.

20 (2) Any record[, material or data] received, prepared,
21 used or retained by the board or its employees, investment
22 professionals or agents relating to an investment, to the
23 extent not otherwise excluded from access, shall [not]
24 constitute a [public] record subject to public access under
25 the act of February 14, 2008 (P.L.6, No.3), known as the
26 Right-to-Know Law, [if] unless, in the reasonable judgment of
27 the board, [the] it is found that access would:

28 (i) in the case of an alternative investment or
29 alternative investment vehicle involve the release of
30 sensitive investment or financial information relating to

1 the alternative investment or alternative investment
2 vehicle which the fund or trust was able to obtain only
3 upon agreeing to maintain its confidentiality;

4 (ii) cause substantial competitive harm to the
5 person from whom sensitive investment or financial
6 information relating to the investment was received; or

7 (iii) have a substantial detrimental impact on the
8 value of an investment to be acquired, held or disposed
9 of by the fund or trust, or would cause a breach of the
10 standard of care or fiduciary duty set forth in this
11 part.

12 (3) The following apply:

13 (i) The sensitive investment or financial
14 information excluded from access under paragraph (2) (i),
15 to the extent not otherwise excluded from access, shall
16 constitute a [public] record subject to public access
17 under the Right-to-Know Law once the board is no longer
18 required by its agreement to maintain confidentiality.

19 (ii) The sensitive investment or financial
20 information excluded from access under paragraph (2) (ii),
21 to the extent not otherwise excluded from access, shall
22 constitute a [public] record subject to public access
23 under the Right-to-Know Law once:

24 (A) the access no longer causes substantial
25 competitive harm to the person from whom the
26 information was received; or

27 (B) the entity in which the investment was made
28 is liquidated;

29 whichever is later.

30 (iii) The sensitive investment or financial

1 information excluded from access under paragraph (2)
2 (iii), to the extent not otherwise excluded from access,
3 shall constitute a [public] record subject to public
4 access under the Right-to-Know Law once:

5 (A) the access no longer has a substantial
6 detrimental impact on the value of an investment of
7 the fund or trust and would not cause a breach of the
8 standard of care or fiduciary duty set forth in this
9 part; or

10 (B) the entity in which the investment was made
11 is liquidated;

12 whichever is later.

13 (4) [Except for the provisions of paragraph (3), nothing
14 in this subsection shall be construed to designate any
15 record, material or data received, prepared, used or retained
16 by the board or its employees, investment professionals or
17 agents relating to an investment as a public record subject
18 to public access under the Right-to-Know Law.] (Reserved).

19 (5) Notwithstanding the provisions of this subsection,
20 the following information regarding an alternative investment
21 vehicle shall be subject to public access under the Right-to-
22 Know Law:

23 (i) The name, address and vintage year of the
24 alternative investment vehicle.

25 (ii) The identity of the manager of the alternative
26 investment vehicle.

27 (iii) The dollar amount of the commitment made by
28 the system or plan to the alternative investment vehicle.

29 (iv) The dollar amount of cash contributions made by
30 the system or plan to the alternative investment vehicle

1 since inception.

2 (v) The dollar amount of cash distributions received
3 by the system or plan from the alternative investment
4 vehicle since inception.

5 (vi) The gross and net internal rate of return of
6 the alternative investment vehicle since inception,
7 provided that the system or plan shall not be required to
8 disclose the gross or net internal rate of return under
9 circumstances in which, because of the limited number of
10 portfolio assets remaining in the alternative investment
11 vehicle, the disclosure could reveal the values of
12 specifically identifiable remaining portfolio assets to
13 the detriment of the alternative investment.

14 (vii) The aggregate value of the remaining portfolio
15 assets attributable to the system's or plan's investment
16 in the alternative investment vehicle, provided that the
17 system or plan shall not be required to disclose the
18 value under circumstances in which, because of the
19 limited number of portfolio assets remaining in the
20 alternative investment vehicle, the disclosure could
21 reveal the values of specifically identifiable remaining
22 portfolio assets to the detriment of the alternative
23 investment.

24 (viii) The dollar [amount] amounts of total
25 management fees [and], costs and expenses paid to [the]
26 or retained by an alternative investment vehicle [by the
27 system or plan] on an annual fiscal year-end basis[.],
28 itemized by gross management, carried interest and other
29 expenses.

30 * * *

1 (s) Additional reporting requirements.--The following shall
2 apply:

3 (1) In addition to the requirements under this section,
4 the board shall prepare and have published on its publicly
5 accessible Internet website and electronically submit copies
6 to all members of the General Assembly of the following
7 information within six months after the end of the system's
8 fiscal year:

9 (i) The net of fees performance of all investments
10 over the most recent 1-, 3-, 5-, 10-, 15- and 20-year
11 periods.

12 (ii) The performance of all investments by asset
13 class and manager over each time horizon, both gross and
14 net of fees compared to benchmarks being reported for all
15 investments made commencing prospectively from the
16 effective date of this subsection and with the gross
17 returns for all investments made retroactively for the
18 five-year period from the effective date of this
19 subsection using best efforts, unless the records are no
20 longer available.

21 (iii) An itemized listing of the fees and expenses
22 paid to or retained by all investment managers for the
23 applicable reporting years, separated by base management
24 fee, profit share, performance fees, carried interest and
25 incentive fees, and informed by the best practices as
26 recommended by recognized industry standards, including,
27 but not limited to, the Institutional Limited Partners
28 Association Fee Transparency Initiative. The board shall
29 disclose in the report which industry standards were used
30 and whether any changes to industry standards have been

1 made.

2 (iv) All travel or other expenses incurred by staff
3 of the system or plan and paid for by an external
4 investment manager, fund or consultant.

5 (2) As used in this subsection, the following words and
6 phrases shall have the meanings given to them in this
7 paragraph unless the context clearly indicates otherwise:

8 "Carried interest." Any share of profits from an
9 alternative investment vehicle that is distributed to a fund
10 manager, general partner or related party, including
11 allocations of alternative investment vehicle profits
12 received by a fund manager in consideration of having waived
13 fees that the fund manager might otherwise have been entitled
14 to receive.

15 "Institutional Limited Partners Association Fee
16 Transparency Initiative." An initiative created by the
17 Institutional Limited Partners Association to establish
18 guidelines for reporting fees, expenses and compliance
19 disclosures regarding investments.

20 Section 2. Section 5902(e)(1), (2), (3) and (4) of Title 71
21 are amended, subsection (e) is amended by adding a paragraph and
22 the section is amended by adding a subsection to read:

23 § 5902. Administrative duties of the board.

24 * * *

25 (e) Records.--

26 (1) [The board shall keep a record of all its
27 proceedings which shall be open to access by the public,
28 except as otherwise provided in this part or by other law.]

29 The following shall apply:

30 (i) The board shall livestream its public board meetings

1 and post an unedited video and written record of all such
2 public proceedings, which shall be accessible on its publicly
3 accessible Internet website, including nonconfidential
4 materials presented to the board, except as otherwise
5 provided in this part or by other law. Video and records
6 shall remain online for a period of at least three years and
7 shall be maintained for a period of at least seven years and
8 thereafter shall be maintained in accordance with applicable
9 records retention schedules.

10 (ii) The Office of Administration shall promptly revise
11 its management directives relating to record management
12 policies to conform with the requirements of this paragraph
13 and shall provide public notice of the requirements of this
14 subsection by publishing the requirements on its publicly
15 accessible Internet website and shall transmit the
16 requirements to the Legislative Reference Bureau for
17 publication in the Pennsylvania Bulletin.

18 (2) Any record[, material or data] received, prepared,
19 used or retained by the board or its employees, investment
20 professionals or agents relating to an investment, to the
21 extent not otherwise excluded from access, shall [not]
22 constitute a [public] record subject to public access under
23 the act of February 14, 2008 (P.L.6, No.3), known as the
24 Right-to-Know Law, [if] unless, in the reasonable judgment of
25 the board, [the] it is found that access would:

26 (i) in the case of an alternative investment or
27 alternative investment vehicle, involve the release of
28 sensitive investment or financial information relating to
29 the alternative investment or alternative investment
30 vehicle which the fund or trust was able to obtain only

1 upon agreeing to maintain its confidentiality;

2 (ii) cause substantial competitive harm to the
3 person from whom sensitive investment or financial
4 information relating to the investment was received; or

5 (iii) have a substantial detrimental impact on the
6 value of an investment to be acquired, held or disposed
7 of by the fund or trust or would cause a breach of the
8 standard of care or fiduciary duty set forth in this
9 part.

10 (3) The following apply:

11 (i) The sensitive investment or financial
12 information excluded from access under paragraph (2)(i),
13 to the extent not otherwise excluded from access, shall
14 constitute a [public] record subject to public access
15 under the Right-to-Know Law once the board is no longer
16 required by its agreement to maintain confidentiality.

17 (ii) The sensitive investment or financial
18 information excluded from access under paragraph (2)(ii),
19 to the extent not otherwise excluded from access, shall
20 constitute a [public] record subject to public access
21 under the Right-to-Know Law once:

22 (A) the access no longer causes substantial
23 competitive harm to the person from whom the
24 information was received; or

25 (B) the entity in which the investment was made
26 is liquidated;
27 whichever is later.

28 (iii) The sensitive investment or financial
29 information excluded from access under paragraph (2)

30 (iii), to the extent not otherwise excluded from access,

1 shall constitute a [public] record subject to public
2 access under the Right-to-Know Law once:

3 (A) the access no longer has a substantial
4 detrimental impact on the value of an investment of
5 the fund or trust and would not cause a breach of the
6 standard of care or fiduciary duty set forth in this
7 part; or

8 (B) the entity in which the investment was made
9 is liquidated;

10 whichever is later.

11 (4) [Except for the provisions of paragraph (3), nothing
12 in this subsection shall be construed to designate any
13 record, material or data received, prepared, used or retained
14 by the board or its employees, investment professionals or
15 agents relating to an investment as a public record subject
16 to public access under the Right-to-Know Law.] (Reserved).

17 (4.1) Notwithstanding the provisions of this subsection,
18 the following information regarding an alternative investment
19 vehicle shall be subject to public access under the Right-to-
20 Know Law:

21 (i) The name, address and vintage year of the
22 alternative investment vehicle.

23 (ii) The identity of the manager of the alternative
24 investment vehicle.

25 (iii) The dollar amount of the commitment made by
26 the system or plan to the alternative investment vehicle.

27 (iv) The dollar amount of cash contributions made by
28 the system or plan to the alternative investment vehicle
29 since inception.

30 (v) The dollar amount of cash distributions received

1 by the system or plan from the alternative investment
2 vehicle since inception.

3 (vi) The gross and net internal rate of return of
4 the alternative investment vehicle since inception,
5 provided that the system or plan shall not be required to
6 disclose the gross or net internal rate of return under
7 circumstances in which, because of the limited number of
8 portfolio assets remaining in the alternative investment
9 vehicle, the disclosure could reveal the values of
10 specifically identifiable remaining portfolio assets to
11 the detriment of the alternative investment.

12 (vii) The aggregate value of the remaining portfolio
13 assets attributable to the system's or plan's investment
14 in the alternative investment vehicle, provided that the
15 system or plan shall not be required to disclose the
16 value under circumstances in which, because of the
17 limited number of portfolio assets remaining in the
18 alternative investment vehicle, the disclosure could
19 reveal the values of specifically identifiable remaining
20 portfolio assets to the detriment of the alternative
21 investment.

22 (viii) The dollar amounts of total management fees,
23 costs and expenses paid to or retained by an alternative
24 investment vehicle on an annual fiscal year-end basis,
25 itemized by gross management, carried interest and other
26 expenses.

27 * * *

28 (s) Additional reporting requirements.--The following shall
29 apply:

30 (1) In addition to the requirements under this section,

1 the board shall prepare and have published on its publicly
2 accessible Internet website and electronically submit copies
3 to all members of the General Assembly of the following
4 information within six months after the end of the system's
5 calendar year:

6 (i) The net of fees performance of all investments
7 over the most recent 1-, 3-, 5-, 10-, 15- and 20-year
8 periods.

9 (ii) The performance of all investments by asset
10 class and manager over each time horizon, both gross and
11 net of fees compared to benchmarks being reported for all
12 investments made commencing prospectively from the
13 effective date of this subsection and with the gross
14 returns for all investments made retroactively for the
15 five-year period from the effective date of this
16 subsection using best efforts, unless the records are no
17 longer available.

18 (iii) An itemized listing of the fees, costs and
19 expenses paid to or retained by all investment managers
20 for the applicable reporting years, separated by base
21 management fee, profit share, performance fees, carried
22 interest and incentive fees, and informed by the best
23 practices as recommended by recognized industry
24 standards, including, but not limited to, the
25 Institutional Limited Partners Association Fee
26 Transparency Initiative. The board shall disclose in the
27 report which industry standards were used and whether any
28 changes to industry standards have been made.

29 (iv) All travel or other expenses incurred by staff
30 of the system or plan and paid for by an external

1 investment manager, fund or consultant.

2 (2) As used in this subsection, the following words and
3 phrases shall have the meanings given to them in this
4 paragraph unless the context clearly indicates otherwise:

5 "Carried interest." Any share of profits from an
6 alternative investment vehicle that is distributed to a fund
7 manager, general partner or related party, including
8 allocations of alternative investment vehicle profits
9 received by a fund manager in consideration of having waived
10 fees that the fund manager might otherwise have been entitled
11 to receive.

12 "Institutional Limited Partners Association Fee
13 Transparency Initiative." An initiative created by the
14 Institutional Limited Partners Association to establish
15 guidelines for reporting fees, expenses and compliance
16 disclosures regarding investments.

17 Section 3. This act shall apply as follows:

18 (1) The amendment of 24 Pa.C.S. § 8502(e)(1) shall apply
19 to board meetings that occur and video, written records and
20 materials created more than 30 days after the effective date
21 of this section.

22 (2) The amendment or addition of 24 Pa.C.S. § 8502(e)(5)
23 (vi), (vii) and (viii) and (s)(1)(iii) shall apply to
24 contracts and agreements entered into after the effective
25 date of this section.

26 (3) The amendment of 71 Pa.C.S. § 5902(e)(1) shall apply
27 to board meetings that occur and video, written records and
28 materials created more than 30 days after the effective date
29 of this section.

30 (4) The amendment or addition of 71 Pa.C.S. § 5902(e)

1 (4.1) (vi), (vii), (viii) and (r) (1) (iii) shall apply to
2 contracts and agreements entered into after the effective
3 date of this section.

4 Section 4. This act shall take effect in 60 days.