

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
89th General Assembly  
Regular Session, 2013

As Engrossed: S2/26/13  
**A Bill**

SENATE BILL 111

By: Senator R. Thompson

### **For An Act To Be Entitled**

AN ACT TO ENSURE THAT THE STATE RETIREMENT SYSTEMS COMPLY WITH THE PRUDENT INVESTOR RULE IN THE RENEWAL AND REVIEW PROCESS FOR THE INVESTMENT AND MANAGEMENT OF ASSETS OF THE SYSTEM; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

### **Subtitle**

TO ENSURE THAT THE STATE RETIREMENT SYSTEMS COMPLY WITH THE PRUDENT INVESTOR RULE IN THE RENEWAL AND REVIEW PROCESS FOR THE INVESTMENT AND MANAGEMENT OF ASSETS OF THE SYSTEM AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 24-2-618, concerning the delegation of investment and management functions, is amended to add an additional subsection to read as follows:

(g)(1) The length of a contract or other investment agreement and any renewal or extension of the contract or other investment agreement may be agreed upon by a state retirement system and the other party to the contract or other investment agreement and is exempt from the mandatory expiration provisions under Arkansas Procurement Law, § 19-11-201 et seq. if the contract or other investment agreement is procured under the Arkansas Procurement Law and the purpose of the contract or other investment agreement is to:



(A) Invest and manage a system's trust assets under § 24-2-610;

(B) Provide actuarial services to determine the liabilities and financial status of a state retirement plan;

(C) Retain custody of a system's trust assets; or

(D) Protect and recover trust assets of a system.

(2) The board of trustees of a state retirement system shall determine the duration of the contract or other investment agreement and any renewal or extension of the contract or other investment agreement by negotiating with the other party to the contract or other investment agreement for the most favorable rates and terms for the state retirement system based on:

(A) Market competition;

(B) Experience of the other party to the contract or other investment agreement;

(C) Knowledge of the state retirement system's need; and

(D) Compliance with the prudent investor rule set forth in § 24-2-610 et seq.

(3) The board of trustees of a state retirement system shall submit information requested by the Legislative Council concerning a contract or other investment agreement procured under § 19-11-201 et seq.

(4) A partial equity ownership agreement between a state retirement system and another party shall be reviewed under § 19-11-1301 et seq.

(5) If a contract with a consultant to provide a state retirement system consulting services, to recommend investment managers and investment funds, or for the investment of trust funds of the state retirement system under this subsection is extended, an amendment, acknowledged by the consultant in writing, shall be added to the contract extension that:

(A) States that the State of Arkansas and the state retirement system have a statutory goal to recruit and hire emerging managers and emerging investment funds consistent with the prudent investor rule;

(B)(i) Requires the consultant to submit a report to the state public retirement system that describes the plan or process the consultant will use to recruit and hire emerging managers and emerging

investment funds.

(ii) The consultant shall provide an emerging manager update on the progress made in the previous fiscal year to the state retirement system no later than sixty (60) days after the end of the fiscal year that details the consultant's processes in locating, analyzing, evaluating, and performing due diligence activity on emerging managers; and

(C)(i) Allows a state retirement system to refer or recommend a specific emerging manager or emerging investment fund to the consultant.

(ii) A state retirement system that makes a referral may request a report concerning the outcome of a referral from the consultant.

(6) At the request of the Joint Committee on Public Retirement and Social Security Programs or the Arkansas Legislative Council, a state retirement system shall appear and make a presentation concerning the recruitment and hiring of emerging managers and emerging investment funds.

SECTION 2. EMERGENCY CLAUSE. It is found and determined by the General Assembly of the State of Arkansas that the boards of trustees of the state retirement systems are bound to invest and manage trust assets under the Prudent Investor Rule, exercising reasonable care, skill, and caution when making investment and management decisions; that each contract to invest and manage system assets is intensely reviewed for favorable terms and executed to provide optimal return on the investment, keeping fees and other expenses to a minimum; that contracts that utilize the highly specialized and competitive skills of investment advisors in the public, private, and real estate markets require expertise that is particular to each state retirement system for which they invest, advise, or manage funds; that contracts are traditionally negotiated for terms that may last for decades for the benefit of the particular state retirement system so that the structure of the investment to receive profit may be fully realized and that this act is immediately necessary to prevent any state retirement system from being unduly burdened and severely financially harmed if it is forced to renegotiate these contracts, exposing the state retirement system to higher fees that total in the millions of dollars. Therefore, an emergency is declared to exist, and this act, being immediately necessary for the

preservation of the public peace, health, and safety, shall become effective on:

(1) The date of its approval by the Governor;

(2) If the bill is neither approved nor vetoed by the Governor, the expiration of the period of time during which the Governor may veto the bill; or

(3) If the bill is vetoed by the Governor and the veto is overridden, the date the last house overrides the veto.

*/s/R. Thompson*