

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: S2/26/13

A Bill

SENATE BILL 111

5 By: Senator R. Thompson
6

For An Act To Be Entitled

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

15 TO ENSURE THAT THE STATE RETIREMENT
16 SYSTEMS COMPLY WITH THE PRUDENT INVESTOR
17 RULE IN THE RENEWAL AND REVIEW PROCESS
18 FOR THE INVESTMENT AND MANAGEMENT OF
19 ASSETS OF THE SYSTEM AND TO DECLARE AN
20 EMERGENCY.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 24-2-618, concerning the delegation of
27 investment and management functions, is amended to add an additional
28 subsection to read as follows:

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



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

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

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

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

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

13 (A) Market competition;

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

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

17 (D) Compliance with the prudent investor rule set forth in
18 § 24-2-610 et seq.

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

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

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

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

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

1 investment funds.

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

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

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

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

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

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

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

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

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

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10 */s/R. Thompson*

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