

## **House Bill 1253**

### Actuarial Cost Study prepared for Joint Committee on Public Retirement and Social Security Programs of the Arkansas 94<sup>th</sup> General Assembly

#### **Provisions of the Bill**

House Bill 1253 affects all the statewide public employee retirement systems. Based on the definitions found on page 2, lines 25-35, this bill also affects the plans established by the colleges and universities in the state as well as municipalities and other public entities that have a retirement type plan. The bill would add sections §24-2-801 through §24-2-806 to current code. After adding several definitions, section §24-2-803 lays out a standard of care of investments that is primarily a restatement of the Prudent Investor Rule found in §24-2-610 through §24-2-619.

Section §24-2-804 states that the selection of investments should be made using only pecuniary factors. The general meaning of pecuniary is monetary or financial. The bill adds to this definition in §24-2-802 by saying it is not for “any purpose to further environmental, social, political, or ideological goals.” The phrase “Environmental, Social, and corporate Governance” is where the acronym ESG is derived.

Section §24-2-805 does add new requirements concerning the voting of ownership interests of the investments that are held. The responsible board should continue to hold the voting rights of the investment. The voting rights should only be exercised in a way that is consistent with the fiduciary’s obligation to gain the best earnings for the plan and not for other political purposes. A record of voting is to be maintained.

Section §24-2-806 has certain enforcement guidelines, giving the Attorney General’s office the ability to enforce this subchapter.

#### **Fiscal Impact**

House Bill 1253 does not appear to significantly change the current investment practices of the statewide retirement plans. Based on my knowledge about the practices of certain municipal plans and the college and university plans, this would not significantly change their current investment practice. It would require additional collection and reporting of proxy voting. This would increase administrative or investment expense to complete. Again, it is my understanding from the statewide systems that this will not change their practice as it concerns proxy voting, it will just add the collection and reporting. It is our opinion that the additional expense will not be significant to the overall administration of the plans or the contribution rates.

**Other Considerations**

There is one enforcement item in House Bill 1253 that concerns us. In Section §24-2-806(b) begins that if there is reasonable cause “that a person has engage in, is engaging in, or is about to engage in, a violation” the Attorney General may begin investigation. It doesn’t seem to be consistent with our understanding that a board or person could be investigated if they are believed to be “about to engage in” a violation. That doesn’t appear to meet the standard of “actual harm.”

Sincerely,



Jody Carreiro, ASA, MAAA, EA, FCA  
Actuary