

State of Arkansas

77th General Assembly

Regular Session, 1989

A Bill

SENATE BILL

266

By: Senator Bookout

For An Act To Be Entitled

"AN ACT TO AMEND TITLE 24, CHAPTER 3, SUBCHAPTER 4 OF THE ARKANSAS CODE OF 1987 TO CHANGE THE METHOD OF EVALUATING CERTAIN INVESTMENT PROPOSALS; TO ALLOW RETIREMENT SYSTEMS TO TAKE ADVANTAGE OF MARKET CONDITIONS AND EMPLOY MULTIPLE DISCRETIONARY INVESTMENT COUNSELS WITH AUTHORITY TO MANAGE THE SYSTEM'S ASSETS; AND FOR OTHER PURPOSES."

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

SECTION 1. Arkansas Code §24-3-403 is hereby amended to read as follows:

"24-3-403. No system shall make any investments in securities, pooled funds, private placements, or other investment vehicles without an affirmative recommendation of an investment management or advisory firm with proven expertise in the designated investment category. The evaluation provided by the investment manager shall be provided at no cost to the system."

SECTION 2. Arkansas Code 24-3-407 is hereby amended to read as follows:

"24-3-407. (a) The purchase or sale of investments shall be executed on a competitive award basis on which at least three (3) offerings or bids have been secured.

(b) A "pass" or a declination to bid by a potential bidder shall be considered to be an offering or a bid under this section.

(c) The retirement system shall record and keep on file all competitive offerings and bids.

(d) Notwithstanding (a) above, when circumstances arise where it is prudently advantageous to the retirement system to dispense with a competitive bid due to market conditions or to a particular securities dealer's needs or activities, the system, acting in the capacity of investment manager shall

have the discretion to take action that is in the best interest of the retirement system and document the reasons for such action."

SECTION 3. Arkansas Code 24-3-410 is hereby amended to read as follows:

"24-3-410. (a) The board of trustees of the Arkansas Public Employees Retirement System, Teacher Retirement, Arkansas Highway Employees Retirement and State Police Retirement System may employ professional investment counsel in either an advisory only or as a money manager with authority to execute transactions. If the Board of a system chooses the latter method of asset management, the funds of the system shall be invested and reinvested in accordance with the following procedure:

(1) From time to time the board shall formulate the policy to be followed in future investment activity. Investment policy shall be reviewed and changed or reaffirmed at least once annually;

(2) The investment counsel shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the moneys or investments of the system pursuant to the provisions of this subchapter and in accordance with the current investment policy filed with the board;

(3) The moneys of the system allocated to the investment managers shall be actively managed by the investment managers, which may include selling investments and realizing losses if such action is considered advantageous to longer term return maximization;

(4) Each system shall manage those moneys not specifically allocated to the investment managers;

(5) At least semiannually the investment counsel shall file with the board a written report setting forth, for the period since its last report, all investments purchased and sold, all receipts and disbursements, and any other transactions concerning system moneys;

(6) At each regular meeting the board shall examine each written report received from the investment advisor since the last regular meeting; and

(7) Anything in this section to the contrary notwithstanding, from time to time the board may direct a specific investment activity and shall be fully responsible for any such direction.

(b) (1) Any investment counsel that is retained shall be under contract awarded on a competitive basis.

(2) Any time a change is made in investment counsel, a new contract on a competitive basis shall be awarded. However, it is not the intention of this section to provide that an investment counsel contract be awarded solely on the basis of the low bid.

(3) All investment counsel contracts shall be subject to cancellation by the board of trustees with thirty (30) days' notice."

SECTION 4. All provisions of this act of a general and permanent nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code Revision Commission shall incorporate the same in the Code.

SECTION 5. All laws and parts of laws in conflict with this act are hereby repealed.

SECTION 6. EMERGENCY. It is hereby found and determined by the Seventy-Seventh General Assembly in the State of Arkansas that the amendments herein are essential to the continued operation of the Arkansas retirement systems. Therefore, an emergency is hereby declared to exist and this act being necessary for the preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 1989.