
The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Lauren B. Bailey.

DIGEST

Present law (R.S. 11:263(D)) authorizes certain La. public retirement or pension systems, plans, or funds to invest up to 55% of the individual system's total portfolio in equities. Specifies that these plans may invest more than 55% of the total portfolio in equities, so long as not more than 65% of the total portfolio is invested in equities and at least 10% of the total equity portfolio is invested in one or more index funds which seek to replicate the performance of the chosen index or indices. Present law applies to:

- (1) Clerks' of Court Retirement and Relief Fund
- (2) District Attorneys' Retirement System
- (3) Firefighters' Retirement System
- (4) Municipal Employees' Retirement System of Louisiana
- (5) Municipal Police Employees' Retirement System
- (6) Parochial Employees' Retirement System of Louisiana
- (7) Registrars of Voters Employees' Retirement System
- (8) Sheriffs' Pension and Relief Fund
- (9) State Police Pension and Retirement System
- (10) Harbor Police Retirement System

Present law (R.S. 11:267) requires certain La. public retirement or pension systems, plans, or funds to invest 10% of the equity portfolio, regardless of the amount of the system's allocation to such equities, in one or more index funds which seek to replicate the performance of the chosen index or indices. Allows the systems to invest up to 65% of the total portfolio in equities. Present law provides that, for purposes of present law, the term "equity" shall mean ownership of a corporation represented by shares that are publicly traded on a recognized exchange, including the National Association of Securities Dealers Automated Quotation (NASDAQ). Present law applies to:

- (1) Louisiana State Employees' Retirement System

- (2) Teachers' Retirement System of Louisiana
- (3) Louisiana School Employees' Retirement System
- (4) Assessors' Retirement Fund

Proposed law repeals present law divisions and definition. Proposed law provides for a single standard. Provides that each of the systems, plans, or funds may invest up to 65% of its portfolio in equities. Requires 10% of the total equity portfolio of each system, plan, or fund to be invested in one or more index funds which seek to replicate the performance of the chosen index or indices.

Present law provides that the prudent-man rule shall require each fiduciary of a retirement or pension system, plan or fund and each board of trustees acting collectively on behalf of each system, plan, or fund to act with the care, skill, prudence, and diligence under the circumstances prevailing that a prudent institutional investor acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. Present law further provides that this standard requires the exercise of reasonable care, skill, and caution, and is to be applied to investments not in isolation, but in the context of the trust portfolio, and as part of an overall investment strategy, which shall include an asset allocation study and plan for implementation thereof, incorporating risk and return objectives reasonably suitable to that trust.

Proposed law (R.S. 11:263(D)) adds to the prudent-man rule that the investment policies of the systems shall be structured to preserve and enhance principal over the long term and provide adequate liquidity and cash flow for the payment of benefits. Proposed law also provides that the investments shall be diversified to minimize the risk of significant losses unless it is clearly prudent not to do so.

Proposed law (R.S. 11: 267.1) provides specific investment authority and restrictions relative to the asset allocation of the state and statewide retirement systems, plans, and funds and the Harbor Police Retirement System.

Proposed law provides that the term "equities" shall not include alternative investments. Specifies that "alternative investments" include: (i) privately placed investment pools, including without limitation private investment funds; (ii) leveraged buyout funds; (iii) mezzanine funds; (iv) workout funds; (v) debt funds; (vi) venture capital funds; (vii) merchant banking funds; (viii) funds of funds and secondary funds; (ix) distressed debt and equity investments, including without limitation cases in which the investor may take control of the issuer; and (x) debt derivative and equity derivative instruments of all types.

Proposed law provides that no more than 20% of the portfolio shall be invested in "alternative investments," inclusive of committed capital.

Proposed law mandates at least 15% of the portfolio shall be invested in core fixed-income securities with an average quality rating of "A" or better as rated by a nationally recognized rating agency.

Proposed law provides that all investments shall have a mechanism for exit and the respective boards of trustees shall be given notice of such mechanism prior to committing assets to any investment.

Proposed law prohibits the use of financial leverage in the purchase of direct real estate. Proposed law further prohibits any new direct ownership of real estate unless acquired for use as a system's, plan's, or fund's office for the convenient transaction of its own business; provided that portions of such buildings not used for its own business may be rented by the system, plan, or fund to others; provided, further, that the amount invested by a system, plan, or fund in office property shall not exceed 10% of the assets.

Proposed law provides that any system, plan, or fund which is not in compliance with the limitations imposed shall make a good faith effort to come into compliance within a transition period of two years and in any event as soon as practicable. Proposed law provides that during the transition period the system, plan, or fund shall not increase the percentage of assets committed to be invested in alternative investments but shall be permitted to continue to make investments as required by the existing commitments of the system, fund, or plan to alternative investments made before the enactment of proposed law.

Proposed law requires the respective boards of trustees of the systems, funds or plans shall adopt a code of ethics for the consideration of, investment in, and disposition of alternative investments.

Proposed law repeals obsolete provisions of present law.

Effective July 1, 2010.

(Amends R.S. 11:263(D); adds R.S. 11:267.1; repeals R.S. 11:263(E), 267, and 268)