SLS 10RS-192 **ENGROSSED**

Regular Session, 2010

SENATE BILL NO. 594

BY SENATORS B. GAUTREAUX AND APPEL

RETIREMENT SYSTEMS. Relative to public retirement systems, provides relative to investments. (7/1/10)

AN ACT

To amend and reenact R.S. 11:263(C) and (D), and to repeal R.S. 11:263(E), 267, and 268, relative to public retirement systems; to provide relative to the prudent-man rule, investment authority and restrictions, and asset allocation; to provide for an effective date; and to provide for related matters.

Notice of intention to introduce this Act has been published.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 11:263(C) and (D) are hereby amended and reenacted to read as follows:

§263. Prudent-man rule; investments

* * *

C. 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. **The asset allocation study and implementation plan shall include the examination of market value risk, credit**

Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

risk, interest rate risk, inflation risk, counterparty risk, and concentration risk. The investment policy of each system, plan, or fund shall preserve and enhance principal over the long term and provide adequate liquidity and cash flow for the payment of benefits. The investments shall be diversified to minimize the risk of significant losses unless it is clearly prudent not to do so.

D.(1) Notwithstanding the prudent-man rule, no governing authority of any system or fund governed by this Subpart shall invest more than fifty-five percent of the total portfolio in equities, except as provided in Paragraph (2) of this Subsection**.** ~~or in R.S. 11:267.~~

(2) The governing authority of any system ~~to which R.S. 11:267(A) is inapplicable~~ may invest more than fifty-five percent of the total portfolio in equities, so long as not more than sixty-five percent of the total portfolio is invested in equities and at least ten percent 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.

(3) When contemplating any investment, action, or asset allocation the following factors shall be given weight:

(a) The availability of public pricing to value each investment.

(b) The ability to liquidate each investment at a fair market price within a reasonable time frame for the size of investment that is being considered.

(c) The degree of transparency that accompanies each investment.

(d) The risk of fluctuations in currency that may accompany each investment.

(e) The experience of the professionals who will manage each investment and the financial soundness of the business entity employing such professionals.

(f) The degree of diversification which exists within each investment and that such investment itself may provide relative to the other existing investments in the system's portfolio.

(g) Whether leverage is involved.

(h) The potential for unrelated business taxable income as defined in Section 512 of the Internal Revenue Code.

(i) The jurisdiction of the laws that govern each investment.

(j) The net return that is expected relative to the risk that is associated with each investment.

* * *

Section 2. R.S. 11:263(E), 267, and 268 are hereby repealed.

Section 3. This Act shall become effective on July 1, 2010; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on July 1, 2010, or on the day following such approval by the legislature, whichever is later.

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

DIGEST

B. Gautreaux (SB 594)

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.

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

Proposed law provides for a single standard. Authorizes each of the 14 listed 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 (R.S. 11:263(B)) 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)) retains present law and adds to the prudent-man rule that the asset allocation study and implementation plan shall include an examination of market value risk, credit risk, interest rate risk, inflation risk, counterparty risk, and concentration risk. Further adds that the investment policy of each system shall 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. Includes a list of considerations to be taken into account before any investment decision is made. These considerations include: pricing, liquidity, transparency, legal jurisdiction, currency fluctuations, experience of professional managers, financial soundness of money management companies, diversification, leverage, and expected returns.

Proposed law repeals obsolete provisions of present law.

Effective July 1, 2010.

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

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Retirement to the original bill.

1. Technical amendments for conformity of citations.

2. Adds language relative to the prudent-man rule which incorporates an examination of market value risk, credit risk, interest rate risk, inflation risk, counterparty risk, and concentration risk. Includes a list of considerations to be taken into account before all investment decisions are made. These considerations include: pricing, liquidity, transparency, currency fluctuations, experience of professional managers, diversification, leverage and expected returns.

3. Removes the illustrative list of "alternative investments" and the limitation and restrictions placed on all investment categories.

4. Retains present law 65% cap on equities and mandate that 10% of the equity portfolio be placed in index funds if a system invests more than 55% of its portfolio in equities.