2018 Regular Session

ACT No. 115

HOUSE BILL NO. 41

BY REPRESENTATIVE IVEY

1	AN ACT
2	To enact R.S. 11:2261.1 and Code of Criminal Procedure Articles 573.3 and 575.1, relative
3	to the Firefighters' Retirement System; to provide for the fiduciary relationship
4	between the system and its investment advisors; to provide for contractual terms; to
5	provide relative to criminal and civil prescriptive periods; to require disclosure of
6	judicial and regulatory proceedings; and to provide for related matters.
7	Notice of intention to introduce this Act has been published
8	as provided by Article X, Section 29(C) of the Constitution
9	of Louisiana.
10	Be it enacted by the Legislature of Louisiana:
11	Section 1. R.S. 11:2261.1 is hereby enacted to read as follows:
12	§2261.1. Investment consultants and money managers; fiduciary relationship;
13	contractual terms; prescription
14	A.(1) Each of the following shall be a fiduciary of the system and shall be
15	subject to R.S. 11:263:
16	(a) Any person who agrees by written contract to exercise any discretionary
17	authority or discretionary control with respect to the management of system funds
18	or assets, including money managers.
19	(b) Any person who agrees by written contract to render investment advice
20	or services for compensation, direct or indirect, with respect to system funds or
21	assets, including investment consultants.

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1	(2) The written contract governing the relationship between any person
2	described in Paragraph (1) of this Subsection and this system shall contain a
3	provision whereby the person described in Paragraph (1) of this Subsection expressly
4	agrees to and acknowledges the following:
5	(a) The provisions of this Section are applicable to the person.
6	(b) The person shall act with the care, skill, prudence, and diligence under
7	the circumstances prevailing that a prudent institutional investor acting in a like
8	capacity and familiar with such matters would use in the conduct of an enterprise of
9	a like character and with like aims.
10	(c) The exclusive, original jurisdiction for any proceeding involving this
11	Section shall be the Nineteenth Judicial District Court of Louisiana and the person
12	consents to such personal and subject matter jurisdiction and that such proceeding
13	is not removable to any federal court without the express written consent of the board
14	of trustees of this system.
15	B. Notwithstanding any other provision of law to the contrary, any judicial
16	or regulatory proceeding or action initiated by this system pursuant to this Section
17	shall be a personal action subject to the liberative prescription of ten years.
18	C. Notwithstanding any other provision of law to the contrary, a civil lawsuit
19	filed by this system shall suspend the running of prescription for the institution of
20	criminal prosecution for the following criminal charges arising from the same facts
21	and circumstances upon which the civil lawsuit is based until the date that a final,
22	non-appealable judgment has been rendered in the civil lawsuit:
23	(1) A charge based on the misappropriation of any money or thing of value,
24	or any theft or fraud committed relative thereto, by any person described in
25	Paragraph (A)(1) of this Section who by virtue of his office, employment, or
26	fiduciary relationship with this system had been entrusted with or had control of such
27	money or thing of value.
28	(2) A charge of false accounting committed by a person or agent of a person
29	described in Paragraph (A)(1) of this Section.

HB NO. 41 **ENROLLED** D. Any person described in Paragraph (A)(1) of this Section shall disclose

2 in any written or verbal communication with any trustee or employee of this system

3 any judicial or regulatory proceeding relative to the management of funds or assets

4 or investment advice or services in which such person was or is a deponent, witness,

named party, or employee of a named party. Failure to make such disclosure shall

result in nullification of any contract or agreement existing between this system and

7 such person or employer of such person.

Section 2. Code of Criminal Procedure Articles 573.3 and 575.1 are hereby enacted

9 to read as follows:

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Art. 573.3. Running of time limitations; exception; crimes against the Firefighters'

Retirement System

The time limitations established by this Chapter shall not commence to run as to a crime described in R.S. 11:2261.1(C) and committed against the Firefighters' Retirement System until the crime is discovered by the Firefighters' Retirement System.

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17 Art. 575.1. Suspension of time limitations; crimes against the Firefighters'

18 Retirement System

19 The periods of limitation established by this Chapter shall be suspended when 20

a civil suit is filed as provided in R.S. 11:2261.1(C).

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____