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**SENATE COMMITTEE AMENDMENTS**

2024 Regular Session

Substitute for Original Senate Bill No. 5 by Senator Miguez as proposed by Senate Committee on Retirement.

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**This document reflects the content of a substitute bill but is not in a bill form; page numbers in this document DO NOT correspond to page numbers in the substitute bill itself.**

To enact R.S. 11:263.1, relative to requiring a fiduciary to use only pecuniary factors when discharging its duties with respect to retirement plan investments; to provide that pecuniary factors do not include factors related to furthering any social, political, or ideological goals, objectives, or outcomes; to provide for enforcement; to provide for naming of the Act; 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. 11:263.1 is hereby enacted to read as follows:

**§263.1. ESG Public Retirement Protection Law**

**A. The provisions of this Section shall be known as and may be cited as the "ESG Public Retirement Protection Law".**

**B. The provisions of this Section shall be applicable to third-party service providers. For purposes of this Section, "service provider" means a manager of publicly managed assets or a proxy advisor of any public retirement or pension system, fund, or plan listed in R.S. 11:262.**

**C. Each asset manager to which this Section applies shall use solely pecuniary factors when making any investment of system, fund, or plan assets. "Pecuniary factor" means a factor that a prudent person in a like capacity would reasonably believe has a material effect or impact on the financial risk or return on an investment based on an appropriate investment horizon consistent with the investment objectives and funding policy. Pecuniary factors include but are not limited to the factors in R.S. 11:263(D)(3). "Nonpecuniary factor" means any factor that is collateral to or not reasonably likely to affect or impact the financial risk and return of the investment and includes the**

furtherance of social, political, or ideological goals, objectives, or outcomes.

Nonpecuniary factors include but are not limited to all of the following:

(1) The elimination, reduction, offsetting, or disclosing of greenhouse gas emissions.

(2) The institution or assessment of composition, compensation, or disclosure criteria of membership or staffing of any corporate board that incorporates characteristics protected in this state.

(3) Divestment from, limitation of investment in, or limitation of the activities or investments of any company for failing, or not committing, to meet environmental standards or disclosures.

(4) Access to abortion or to sex or gender change or transgender surgery.

(5) Divestment from, limitation on investment in, or limitation on the activities or investments of any company that engages in, facilitates, or supports the manufacture, import, distribution, marketing or advertising, sale, or lawful use of firearms, ammunition, or components parts and accessories of firearms or ammunition.

D.(1) When exercised, the shareholder proxy vote of each system, fund, or plan to which this Section applies shall be cast in keeping with its fiduciary duties and based solely on pecuniary factors as provided in R.S. 11:263 and Subsection C of this Section.

(2) Each system, fund, or plan to which this Section applies may retain a proxy firm, investment manager, or advisory service to assist the system, fund, or plan in exercising shareholder proxy rights if the proxy advisor commits to following the proxy guidelines provided by the system, fund, or plan that are consistent with Paragraph (1) of this Subsection.

(3) The provisions of Paragraphs (1) and (2) of this Subsection shall not apply to commingled funds.

(4) Each system, fund, or plan to which this Section applies shall not sell its shareholder proxy right, including but not limited to the shareholder proxy vote.

**(5) On an annual basis, each system, fund, or plan to which this Subsection applies shall report to the board all proxy votes related to publicly managed assets. This report shall include a proxy voting summary and shall be posted on a publicly available webpage on the website of the system, fund, or plan with a market value of assets in excess of ten billion dollars according to the most recent actuarial valuation adopted by the Public Retirement Systems' Actuarial Committee.**

**E. Exclusive authority to investigate or bring an action related to compliance with this Section is vested in each system, fund, or plan and the attorney general of this state. In the exercise of this right, the system, fund, or plan and the attorney general may use any authority or procedures for investigation, supervision, and conduct of actions provided in the Constitution of Louisiana or in the Civil Code, Code of Civil Procedure, or Louisiana Revised Statutes of 1950.**

Section 2. This Act shall become effective on June 30, 2024; if vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on June 30, 2024, or on the day following such approval by the legislature, whichever is later.

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The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alana M. Perrin

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DIGEST  
2024 Regular Session

SB 5

Present law requires a retirement system to act as a fiduciary in making and supervising investments for the system and to discharge its duties solely in the financial interest of the participants and beneficiaries for the exclusive purposes of providing financial benefits to participants and their beneficiaries and defraying reasonable expenses for administrating the system. A fiduciary must take into account only pecuniary factors when discharging its duties with respect to a retirement plan. Proposed law retains present law.

Proposed law provides for the definition of pecuniary and nonpecuniary factors.

Proposed law prohibits the use of nonpecuniary factors that include any action taken, or factor considered, with any purpose to further social, political, or ideological goals, objectives, or outcomes. Nonpecuniary factors include but are not limited to the following:

- (1) The elimination, reduction, offsetting or disclosing of greenhouse gas emissions.
- (2) The institution or assessment of membership or staffing of any corporate

- board.
- (3) Divesting from, limiting the activities of, or investment in any company for failing, or not committing, to meet environment standards or disclosures.
  - (4) Access to abortion or to sex or gender change or transgender surgery.
  - (5) Divesting from, limiting the activities of, or in vestment in any company engaging in, facilitating, or supporting the lawful use of firearms, ammunition, or components parts and accessories.

Proposed law requires that the shareholder proxy vote be cast using solely pecuniary factors and in keeping with a fiduciary's duty. A proxy firm, investment manager, or advisory service must commit to following proposed law. Each system, fund, or plan shall report all proxy votes to the board and post a proxy vote summary on the system's webpage.

The provisions of proposed law may be enforced by the retirement systems or attorney general.

Effective June 30, 2024.

(Adds R.S. 11:263.1)