

2024 Regular Session

HOUSE BILL NO. 902

BY REPRESENTATIVES MELERINE, BILLINGS, CARLSON, CHENEVERT, CREWS,  
EDMONSTON, FIRMENT, GLORIOSO, MCMAHEN, WILDER, AND WYBLE

RETIREMENT SYSTEMS: Requires fiduciaries for public retirement systems to make investment decisions based solely on financial factors

1 AN ACT

2 To enact Subpart P of Part II of Chapter 4 of Subtitle I of Title 11 of the Louisiana Revised  
3 Statutes of 1950, to be comprised of R.S. 11:331 through 334, relative to investments  
4 of public retirement systems; to provide relative to proxy voting advice from proxy  
5 advisory firms and the allowable bases of such advice; to provide relative to  
6 disclosures of the bases of such advice; to provide relative to enforcement by the  
7 attorney general; and to provide for related matters.

8 Notice of intention to introduce this Act has been published  
9 as provided by Article X, Section 29(C) of the Constitution  
10 of Louisiana.

11 Be it enacted by the Legislature of Louisiana:

12 Section 1. Subpart P of Part II of Chapter 4 of Subtitle I of Title 11 of the Louisiana  
13 Revised Statutes of 1950, comprised of R.S. 11:331 through 334, is hereby enacted to read  
14 as follows:

15 SUBPART P. PROXY VOTING OF PUBLIC PENSION INVESTMENTS

16 §331. Definitions

17 For the purposes of this Subpart, the following terms have the following  
18 meanings unless the context clearly indicates otherwise:

1           (1) "Best economic interest" means maximizing investment returns of the  
2           participants and beneficiaries of the plan over a time horizon consistent with the  
3           investment objectives and risk management profile of the plan.

4           (2) "Consumer" means a Louisiana resident who either has an interest in an  
5           investment company that is registered with the Securities and Exchange Commission  
6           and that owns shares of an enterprise regulated by Louisiana or who is a participant  
7           in a plan or the beneficiary of such a participant.

8           (3) "Economic analysis" means a written analysis demonstrating the factors  
9           considered in evaluating the economic impact of a shareholder proposal. The  
10          following factors, at a minimum, shall be addressed in the analysis:

11          (a) The subject matter of the shareholder-sponsored proposal.

12          (b) An evaluation of the company's stated reasons for opposition to the  
13          shareholder-sponsored proposal.

14          (c) An evaluation of whether the shareholder-sponsored proposal is  
15          consistent with the investment objectives and risk management profile of the plan  
16          in which the participants and beneficiaries are invested.

17          (d) An evaluation of the economic benefits and costs of implementing the  
18          proposal, as written, over a time horizon that is consistent with the investment  
19          objectives and risk management profile of the plan.

20          (e) The quantifiable impact of the shareholder-sponsored proposal, as  
21          written, on the investment returns of the participants and beneficiaries of the plan.

22          (f) An explanation of the modeling, procedures, or processes used to  
23          complete the economic analysis.

24          (4) "Proxy advisory firm" means any person who is engaged in the business  
25          of providing proxy voting advice, research, analysis, ratings, or recommendations to  
26          a fiduciary or proxy voting advice, research, analysis, ratings, or recommendations  
27          and has entered into an agreement for such services with a public retirement system.

28          (5) "Public retirement system", "system", or "plan", means any public  
29          retirement or pension system, fund, or plan maintained, provided, or offered

1 primarily for officers and employees of the state of Louisiana or any political  
2 subdivision thereof, or of any district, board, commission, or other agency of either,  
3 or of any other such public entity.

4 (6) "Shareholder-sponsored proposal" means a proposal submitted by a  
5 shareholder to an issuer of securities pursuant to Rule 14a-8 under the Securities  
6 Exchange Act.

7 §332. Requirements of proxy advisory firms

8 A. A proxy advisory firm may not provide proxy voting recommendations  
9 or advice to a plan with respect to shareholder-sponsored proposals for an enterprise  
10 in which the plan has an interest unless the proxy advisory firm commits to basing  
11 its voting recommendations solely on the best economic interest of the enterprise's  
12 shareholders and the plan.

13 B. For the purposes of this Section, with respect to a shareholder-sponsored  
14 proposal, there is a presumption that a proxy advisory firm's voting recommendation  
15 is solely in the best economic interest of the enterprise's shareholders and the plan  
16 if the recommendation is consistent with the recommendation of the board of  
17 directors of the enterprise and if the board is composed of a majority of independent  
18 directors.

19 C. With respect to a shareholder-sponsored proposal, a proxy advisory firm  
20 may recommend a vote that is inconsistent with the recommendation of the board of  
21 directors of the enterprise if the proxy advisory firm conducts and documents an  
22 economic analysis demonstrating that such a vote is in the best economic interest of  
23 the enterprise's shareholders and the plan.

24 §333. Consumer right to disclosure

25 A. With respect to a shareholder-sponsored proposal, if a consumer has  
26 reason to believe that shares underlying his investment have been voted in a manner  
27 inconsistent with his best economic interest, a consumer may submit a request to the  
28 plan in which he is an investor, beneficiary, or participant to determine whether a

1 proxy advisory firm provided a vote recommendation on such proposal and to obtain  
2 a copy of the economic analysis performed pursuant to R.S. 11:332.

3 B. The plan shall respond in writing to the consumer within ninety days of  
4 receipt of a request described in Subsection A of this Section with any one of the  
5 following:

6 (1) Providing the consumer with the economic analysis referenced in  
7 Subsection A of this Section.

8 (2) Informing the consumer that no economic analysis was performed by the  
9 proxy advisory firm.

10 (3) Informing the consumer that the vote at issue was cast consistent with the  
11 recommendation of the board of directors of the issuer of the shares and that such  
12 board is composed of a majority of independent directors.

13 §334. Enforcement

14 A. This Subpart or any contract subject to this Subpart may be enforced by  
15 the attorney general.

16 B. If the attorney general has reasonable cause to believe that a person has  
17 engaged in, is engaging in, or is about to engage in a violation of this Subpart, he  
18 may do any or all of the following:

19 (1) Require the person to file, on forms he prescribes, a statement or report  
20 in writing, under oath, as to all the facts and circumstances concerning the violation  
21 and other data and information as he deems necessary.

22 (2) Examine, under oath, any person in connection with the violation.

23 (3) Examine any record, book, document, account, or paper as he deems  
24 necessary.

25 (4) Pursuant to a court order, impound any record, book, document, account,  
26 paper, or sample or material relating to such practice and retain them in his  
27 possession until the completion of all proceedings undertaken under this Subpart.

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**DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 902 Original

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Melerine

**Abstract:** Provides relative to the voting of shares held by retirement systems based on advice of a proxy advisory firm.

Proposed law provides that a proxy advisory firm is a person who is engaged in the business of providing proxy voting advice, research, analysis, ratings, or recommendations to a fiduciary or to a public retirement system pursuant to an agreement with the system.

Proposed law prohibits a proxy advisory firm from providing proxy voting recommendations or advice to a retirement system regarding shareholder-sponsored proposals for an enterprise in which the plan has an interest unless the proxy advisory firm commits to basing its voting recommendations solely on the best economic interest of the enterprise's shareholders and the retirement system. Provides that there is a presumption that a proxy advisory firm's recommendation meets this standard if the recommendation is consistent with the recommendation of the enterprise's board of directors and if that board is composed of a majority of independent directors. Authorizes a vote recommendation contrary to the recommendation of the board of directors if the proxy advisory firm conducts and documents an economic analysis demonstrating that such a vote is in the best economic interest of the enterprise's shareholders and the plan.

Proposed law authorizes a consumer who has reason to believe that shares underlying his investment have been voted in a manner inconsistent with his best economic interest to request that the retirement system in which he is an investor, beneficiary, or participant determine whether a proxy advisory firm provided a vote recommendation on a proposal and obtain a copy of the economic analysis performed pursuant to proposed law. Requires the retirement system to respond within 90 days with one of the following:

- (1) The economic analysis required by proposed law.
- (2) An indication that no economic analysis was performed by the proxy advisory firm.
- (3) An indication that the vote was consistent with the recommendation of the board of directors of the issuer of the shares.

Proposed law provides for enforcement of proposed law and any contract pursuant to proposed law by the attorney general. Provides that if the attorney general has reasonable cause to believe that a person has engaged in, is engaging in, or is about to engage in, a violation of proposed law, he may:

- (1) Require the person to file a statement or report, under oath, as to all the facts and circumstances concerning the violation.
- (2) Examine under oath any person in connection with the violation.
- (3) Examine any record, book, document, account, or paper as he deems necessary.
- (4) Pursuant to a court order, impound any record, book, document, account, paper, or sample or material relating to such practice.

(Adds R.S. 11:331-334)