



## MEMORANDUM

To: State and Statewide Retirement System Clients

From: Gregory M. Curran, FCA, MAAA, ASA, EA  
Senior Consulting Actuary

Re: Original version of Senate Bill 7 of the 2025 Regular Session

Date: March 12, 2025

Senate Bill 7 by Senator Hodges would create a new subpart within the general statutes called ESG Public Retirement Protection. It appears that the basic premise of this new subpart is to add additional instruction to R.S. 11:263 which is titled Prudent-man rule; investments; reporting. This section enumerates certain required fiduciary duties regarding the investing of the assets of systems, funds, and plans listed in R.S. 11:262. The additional instruction of R.S. 11:263.1 surrounds third-party service providers who assist in making investment decisions for system, fund, or plan assets. Specifically, R.S. 11:263.1(A) states that only financial factors may be made in making investments. R.S. 11:263.1(B) states that a shareholder proxy vote on investments of these system shall be cast in keeping with fiduciary standards and shall be based solely on financial factors as provided in R.S. 11:263(D)(3) and R.S. 11:263.1(D)(3)(a).

The bill extends to proxy firms, investment managers, or advisory services retained by applicable systems, funds, and plans. It states that in exercising shareholder proxy rights or voting shares the service provider must act solely upon financial factors and must follow applicable guidelines adopted and provided by the system, fund, or plan. The bill would preclude systems, funds, or plans from selling their shareholder proxy right, including but not limited to the shareholder proxy vote. Additional publically available annual reporting on all proxy votes related to publicly managed assets would be required of each system, fund, or plan.

The bill gives the Louisiana Attorney General exclusive authority to investigate or bring action related to compliance with this section of the law. If the attorney general has reasonable cause to believe that a service provider has engaged in, is engaging in, or is about to engage in an ESG commitment that violates this section of law, the attorney general may require the service provider to file a written statement or report, under oath, as to all of the facts and circumstances concerning the violation or request data and information as deemed necessary. The attorney general may also bring a cause of action against the service provider in the 19<sup>th</sup> Judicial District Court with maximum damages equal to three times the monies paid to the service provider by the system, fund, or plan for the services. Such damages collected by the State of Louisiana will be appropriated by the legislature to pay down the unfunded accrued liability of the system, fund or plan for which the service provider was hired.

The bill provides additional description related to what constitutes ESG commitments and describes a list of items that may be considered as evidence of an ESG commitment.

Even if the bill does not have a direct cost impact on the covered systems, funds, or plans, they may incur additional administrative costs to guarantee compliance. It is more likely to have a significant indirect cost impact if the systems find it difficult to hire the best professional firms for money management and proxy voting. The system's investment consultants and investment managers are better positioned to determine the potential of such impacts.

Where such bills could have an actuarial impact on a system, plan, or fund is in the investment return assumption. If the systems are limited in their ability to invest assets with the most skilled professionals, the expected returns of the system could be affected. If this were to happen, lower expected returns could affect plan assumptions in such a way that overall employer contribution rates must increase to replace expected investment earnings. We have no data with which to determine whether this bill is likely to affect investment options such that the opportunity for returns is affected, but it is our opinion that this represents a significant risk that should be considered.

The section of the bill that directs any funds collected by the attorney general to pay down the appropriate system's unfunded accrued liability (UAL) should likely be amended to state that it will be appropriated to pay down the UAL or to offset the system's normal cost. Some systems are funded using a funding method that does not produce a UAL.