



# **2024 Legislative Update and A Survivor's Perspective**

# 2024 Legislative Update and A Survivor's Perspective

- **Legislator Remarks on 2024 Legislative Session**

- » Sen. Edward J. Price - Chair, Senate Retirement Committee
- » Rep. Tony Bacala - Chair, House Retirement Committee

- **Legislation of Interest**

- » Katherine Whitney – Director, Teachers' Retirement System of Louisiana (TRSL)
- » Bernard "Trey" Boudreaux – Executive Director, Louisiana State Employees' Retirement System (LASERS)

- **The Importance of Trustee Work: A Survivor's Perspective**

- » Heather Baker – President and Founder, L36 A Warrior's Way

# Legislation of Interest

## Transfer of Service Credit

- **Act 46 - formerly Senate Bill 1 (Sen. Price):** Adds clarifying language in the law related to employer contributions eligible for transfer to another Louisiana public retirement system when a member requests to transfer their service credit to another system, fund, or plan in which they become eligible for membership. Effective June 30, 2024.

## Government Pension Offset (GPO) and Windfall Elimination Provision (WEP)

- **House Concurrent Resolution 20 ( Rep. M. Johnson):** Memorializes congress to review the Government Pension Offset (GPO) and Windfall Elimination Provision (WEP) Social Security benefit reductions and to eliminate or reduce them by supporting H.R. 82 and S. 597 of the 118th Congress and all similar purposed legislation.

# Legislation of Interest

## Environmental, Social, and Governance (ESG)

- **Senate Bill 5 (Sen. Miguez):** Proposed to put in place additional requirements for all fiduciaries of Louisiana's public retirement systems when making investment decisions or exercising voting rights on behalf of system members. Granted enforcement authority to the state attorney general.
  - **March 18:** Voluntarily deferred
  - **April 2:** Substitute bill introduced, did not advance out of committee
- **Substitute Bill (Sen. Miguez):** Proposed to still establish additional legal requirements governing certain investment and proxy voting decisions made on behalf of the retirement systems, but limited investment decision requirements to managers of **publicly managed assets** and excluded commingled funds from proxy voting requirements. Granted enforcement authority to the state attorney general.



# Legislation of Interest

## Applicability

Original SB 5	<ul style="list-style-type: none"><li>▪ <b>Any</b> investment manager or advisor of any Louisiana public retirement systems that is responsible for making investment decisions or investment policies</li></ul>
Substitute Bill	<ul style="list-style-type: none"><li>▪ Managers of <b>publicly</b> managed assets or a proxy advisor of all state and statewide retirements (only applicable to third-party service providers)</li></ul>

## Investment Decision Requirements

Original SB 5	<ul style="list-style-type: none"><li>▪ Based solely on financial factors, and not factors that might further any social, political, or ideological interests</li><li>▪ Actions (fiduciary commitments) related to certain factors defined as reasonable evidence of furthering social, political, or ideological interests, regardless of whether actions are related to Louisiana retirement systems</li></ul>
Substitute Bill	<ul style="list-style-type: none"><li>▪ Factors from Original SB 5 redefined as nonpecuniary factors, consideration of which would be prohibited</li></ul>

# Legislation of Interest

## Non-financial Factors Identified in Bill

### Original SB 5

- Eliminating, reducing, offsetting, or disclosing greenhouse gas emissions
- Board and employment composition, compensation or disclosure that incorporates characteristics protected in Louisiana
- Divesting from or limiting investments in a company for failing or not committing to meet environmental standards or disclosures
- Access to abortion, sex or gender change or transgender surgery
- Divesting from or limiting investments in a company that undertakes multiple activities related to firearms or ammunition

### Substitute Bill

- Same as original bill

# Legislation of Interest

## Actions Considered to be Advancing Prohibited Interests

<b>Original SB 5</b>	<ul style="list-style-type: none"><li>▪ Advertising; statements; explanations; reports; letters to client;</li><li>▪ Communications with portfolio companies;</li><li>▪ Statements of principles or commitments; and</li><li>▪ Participation in, affiliation with, or status as a signatory to any coalition, initiative, joint statement of principles or agreement</li></ul>
<b>Substitute Bill</b>	<ul style="list-style-type: none"><li>▪ None identified in bill</li></ul>

## Manager and Advisor Commitment Requirements

<b>Original SB 5</b>	<ul style="list-style-type: none"><li>▪ Require managers/advisors to have a practice of, and commit in writing to following provisions in bill with regard to investment decisions and proxy voting</li></ul>
<b>Substitute Bill</b>	<ul style="list-style-type: none"><li>▪ Require managers/advisors to commit to following proxy guidelines of the system that are consistent with provisions in bill with regard to proxy voting</li></ul>



# Legislation of Interest

## Proxy Voting

### Original SB 5

- Prohibit a fiduciary or board from adopting a practice of following the recommendations of a proxy advisor or other service provider unless such advisor or service provider has a practice of and in writing commits to following proxy voting guidelines that match the obligation of the governmental entity/board to act solely upon financial factors.

### Substitute Bill

- Require that any shareholder proxy votes related to publicly managed assets of each system be solely based on pecuniary factors.
- Provisions of bill not applicable to commingled funds
- Prohibit systems from selling shareholder proxy rights or votes

## Proxy Voting Report

### Original SB 5

- Require systems to compile an annual proxy voting report and make the report available online

### Substitute Bill

- Require systems to annually report to their boards all proxy votes related to publicly managed assets with a proxy voting summary.
- Proxy voting summary must be posted on the system's website if its assets are valued at more than \$10 billion in the most recent valuation adopted by PRSAC

# Legislation of Interest

## Enforcement

### Original SB 5

- Give the state attorney general the authority to investigate and enforce the provisions of the bill upon reasonable belief that a violation may occur
- Impose damages payable to the retirement system by fiduciaries found in violation equal to three times all monies paid to the person or company by the system for that fiduciary's services.

### Substitute Bill

- Give the system and the state attorney general the authority to investigate and enforce the provisions of this legislation using authority or procedures for investigation, supervision, and conduct of actions as provided in law and state constitution.

# Legislation of Interest

## Management of Publicly Traded Companies and Voting Shares

- Publicly traded companies report their activities to shareholders at their annual meetings.
- A variety of corporate issues and topics may be put before shareholders for a vote at these meetings.
- Before each annual meeting, shareholders receive information on topics to be voted on at the meeting.
- Investors who own applicable voting shares in the company as of the company's record date may be eligible to vote on these issues.
- Most items to be voted on are put forth by the company's Board of Directors. However, there are shareholder proposals (externally generated proposals) which may include ESG items.
- Shareholder proposals are a small percentage of all matters considered at an annual meeting.

### Shareholders vote on a variety of corporate issues including:

- Board of director makeup
- Issuing new securities
- Initiating corporate actions like mergers or acquisition
- Approving a stock compensation plan
- Approving dividends
- Approving the external auditor
- Substantial changes

# Legislation of Interest

## What is a proxy vote and how is it cast?

- Voting on public company corporate proposals (management and/or shareholder) is a mechanism whereby shareholders have input into the management of the company.
- A significant amount of research and analysis is required for each vote.
- As fiduciaries, public pension plans generally engage in voting on proposals, using proxy voting, with votes cast by either a proxy advisory service or an investment manager (who may utilize a proxy advisory service).
- A proxy vote is a ballot cast by a single person or firm on behalf of a corporation's shareholder who may not be able to attend a shareholder meeting (like an absentee ballot).
- Proxy votes are cast on behalf of public pension plans that are eligible to vote on proposals, based on the shares they own in publicly traded companies.
- A shareholder can vote "For," "Against," "Abstain," or "Not Vote."



# Legislation of Interest

## Proxy voting

- **House Bill 902 (Rep. Melerine):** Proposed to require a commitment from any proxy advisory firm retained by a Louisiana public retirement system to base their voting recommendations for shareholder-sponsored proposals solely on the “best economic interests” of the retirement system.

### **Additional provisions related to proxy advisory firm recommendations:**

- Must mirror recommendations of a company’s majority-independent board of directors (otherwise must perform economic analysis when recommendations are inconsistent with the board)
- Allows certain members of the public to request the economic analysis performed by the proxy advisory firm, and requires retirement systems to respond to these requests within a set time period.

## Enforcement

- Authorizes the state attorney general to investigate and take action if there is reasonable belief a violation has or will occur.
- Enforcement may include requiring sworn statements, depositions, review of documents, or action to impound affected accounts.

# Legislation of Interest

## Proxy voting

- **House Bill 981 – Substitute for HB 902 - (Rep. Melerine):** Generally, prohibits the governing authority of a La. public retirement system from voting on a shareholder-sponsored proposal recommendation from a proxy advisory firm unless the voting recommendation is consistent with the position of the board of directors of the business entity.
- Allows a proxy vote inconsistent with the recommendation of the board of directors if the proxy advisory firm agrees that its recommendation, advice, and analysis regarding the shareholder-sponsored proposal is in compliance with applicable law and is in the best financial interest of the system.
- Defines a proxy advisory firm as an entity engaged in the business of providing proxy voting advice, research, analysis, ratings, or recommendations and has a direct contractual relationship with the system.
- Provides that the retirement system is not required to proxy vote.

**Amended to clarify that a proxy advisory firm does not include an investment manager or investment advisor hired by any system, plan, or fund.**

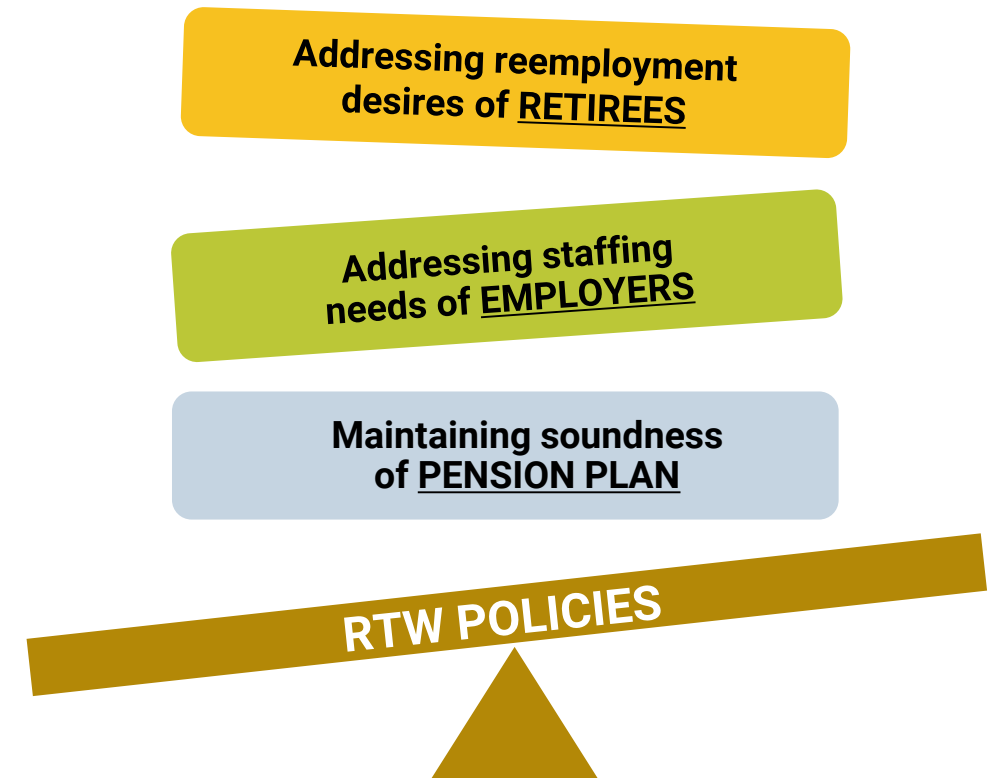
# Legislation of Interest

## Returning to work: A balancing Act

Protecting the financial soundness of the pension plan and addressing the needs of employers and retirees is a balancing act that hinges on policies put in place to govern post-retirement employment.

- Policies can be **restrictive** or **permissive** in nature.
- **Restrictive** policies often determine who can return to work, how long they can work, and how much they can earn.
- **Permissive** policies may be responsive to difficulties employers face in filling positions with non-retired candidates.

Whatever the intent, RTW policies can serve as guardrails that help protect the actuarial soundness of the plan, enable employers to fill positions, and accommodate retired public employees who desire to return to work.



# Legislation Affecting Retirement Systems

## Purpose of RTW provisions:

- Provide parameters by which retirees can return to work
- Balance employer workforce needs while minimizing actuarial cost impact

## Returning to work: Why is there a cost?

- **Pension plans are designed to pay benefits at the true end of an individual's working career**, so allowing retirees to return to work after retirement represents a departure from the typically straight path from employment to retirement.
- Essentially, **overly permissive RTW arrangements may create an incentive for employees to retire as soon as they are eligible** because those employees know that they can return to work and receive both a paycheck and a pension check at the same time.
- To the extent retirees end their regular careers earlier than anticipated because of RTW options, these arrangements have the potential to increase pension costs as **plans would then be paying out benefits earlier and longer than they otherwise would**.

### Additional considerations

It is important to note that a retiree who retires earlier than they intend will forever have a base benefit lower than had they continued working.



# Legislation Affecting Retirement Systems

## Summary of RTW Bills (Enacted)

- **Teachers' Retirement System of Louisiana (TRSL):**

**Act 394 (Rep. Riser):** Expands critical shortage provisions to allow full-time and part-time reemployment in PreK-12 classroom teacher and certain assessment positions without benefit suspension (after 12-month waiting period) to retirees regardless of retirement date.

- **Louisiana School Employees' Retirement System (LSERS):**

**Act 594 (Rep. McCormick):** Reduces the period of benefit suspension to six months for bus operators who retired on/before June 30, 2024; makes present law applicable to part-time reemployment as bus operator; repeals critical shortage requirements for reemployment of full-time bus operators.

# Legislation Affecting Retirement Systems

## Summary of RTW Bills (Enacted)

- **Municipal Police Employees Retirement System (MPERS):**

**Act 536 (Rep. Fontenot):** Allows certain retirees to avoid benefit suspension if they are first reemployed as a fulltime employee at least 90 days after their retirement and file an irrevocable election to not receive additional service credit/accrue additional benefit with 30 days of reemployment.

**Act 462 (Rep. DeWitt):** Reduces the period during which benefits are suspended from 12 months to 90 days of the retiree's retirement; applies even if such service is part-time, is based on employment by contract, or is in a non-qualifying position (i.e., not police-related).

- **Municipal Employees Retirement System (MERS):**

**Act 634 (Rep. Glorioso):** Retirees with more than 30 years of service credit and at least age 60 are not subject to benefit reduction for part-time reemployment.

# Legislation Affecting Retirement Systems

## Summary of RTW Bills (Enacted)

- **Sheriffs' Pension and Relief Fund:**

**Act 346 (Sen. Kleinpeter)** allows a retiree who returns to full-time service to rescind his retirement benefit by paying a single lump sum of all benefits received since retirement (including DROP and back-DROP) with interest calculated at the actuarially assumed rate of return compounded annually from the date of receipt until paid. Upon repayment, all service credit the person had at time of retirement will be restored. **Sunsets December 31, 2027.**

**Act 349 (Sen. Price)** increases earnings limit in a fiscal year for part-time reemployment of retirees who retired before January 1, 2024 to 60% of FAC during first 24 months of reemployment and 65% of FAC thereafter. **Sunsets June 30, 2028.** NOTE: *Earning limit for part-time reemployment was 50% of FAC during first 24 months of reemployment and 55% of FAC thereafter.*

# Legislation Affecting Retirement Systems

## **House Study Request 4 (Rep. Riser)**

**Requests the House retirement committee study benefits available to beneficiaries of a member of a state retirement system killed in the line of duty by an intentional act of violence and to report its findings to the House prior to the 2025 Regular Session.**

