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House Bill 5323 (Substitute H-4 as passed by the House)
Sponsor: Representative Richard Hammel
House Committee: Banking and Financial Services
Senate Committee: Appropriations

Date Completed: 11-30-10

CONTENT

House Bill 5323 (H-4) would amend the Public Employee Retirement System Investment Act to allow the use of income earnings for additional services; require disclosure of service provider fees; specify how an investment company could be established; and change the allowable percentages and types of portfolio investments. These changes would affect all retirement systems established for public employees (State, local, school, etc.).

Specifically, the bill would allow an investment fiduciary to use a portion of the income earnings to defray the cost of providing professional training and education related to investing, managing, and protecting the assets of the system. The bill also specifies that the services that may be retained for conducting affairs of the system would include investment advisors, consultants, custodians, auditors, attorneys, actuaries, administrators, and physicians.

The bill would require investment service providers (ISPs) to provide the investment fiduciary with written disclosure of all fees or other compensation associated with their relationship with the system, before services were provided. After services were provided, the ISPs would be required to provide on an annual basis written disclosure of all fees, including commissions, 12b-1 and related fees, compensation paid to third parties, and any other compensation paid by the system. The bill would define "investment service provider" as any individual, third-party agent or consultant, or company that receives direct or indirect compensation for consulting, managing, brokerage, or custody of the system's assets.

Current law allows an investment fiduciary to invest in an investment company registered under the Investment Company Act of 1940. The bill specifies that an investment company could be established as a limited partnership, corporation, limited liability company, trust, or other organizational entity for which the liability of an investor does not exceed the amount of the investment under the laws of the U.S. or the state, district, territory, or country in which the company was established.

The bill would allow an investment fiduciary to invest up to 10% of a system's assets in publicly or privately issued real estate trusts or personal property; the current law cap is 5%. Similarly, for systems having assets of more than \$100.0 million that are allowed to invest in specific types of property, the cap on investing in such property would be raised from 5% to 10%.

The bill would add collective investment funds, common trust funds, and pooled funds established under foreign law to the list of allowable investments. Currently, Section 20c specifies that those investments are available only if established under Federal or state statutes or rules or regulations. The bill also specifies that a pool in which the State Treasurer has administrative or investment authority and the investment pools of the Municipal Employees Retirement System and Retirement Board would not be pooled funds for the purposes of Section 20c.

Finally, the bill would increase the percentages of a system's assets that may be invested in investments not otherwise specified under the Act. For a system worth less than \$250.0 million, the percentage would be increased from 5% to 15%. For a system worth between \$250.0 million and \$1.0 billion, the percentage would be increased from 10% to 20%. For a system worth more than \$1.0 billion, the percentage would be increased from 15% to 25%. Finally, the amount the State Treasurer may invest would be increased from 20% to 30%.

MCL 38.1133 et al.

FISCAL IMPACT

This bill would allow for a broader array of investment choices for pension systems. However, any fiscal impact would depend on the investments chosen and their market returns.

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