Legislation Negatively Impacting Retirement Fund Policy Best Practices

Over the years, states have proposed legislation that creates barriers for state and local retirement funds to access the broadest range of tools available for investment. Oftentimes, these bills are rooted in political beliefs rather than operating as an apolitical fiduciary. Public retirement plans are uniquely positioned to provide additional context when those discussions arise. As fiduciaries, plan staff, trustees, and their independent consultants are tasked with ensuring the best results for the health of the system and acting solely in the best interests of the plan participants and beneficiaries. As retirement fund professionals and stewards, they bring a level of subject matter expertise to the table to realize the best possible outcomes for their members and participants.

How Systems Can Provide Educational Materials for Lawmakers

Measuring impact to fund performance: Many states have a requirement for a fiscal impact report on introduced legislation. Lawmakers and legislative staff do not have access to a retirement fund's investment portfolio, nor do they have expertise to accurately calculate the true costs of proposed legislation. This can lead to inaccurate fiscal impact statements, meaning lawmakers are not getting correct or complete information. By calculating how a proposed bill would impact plan performance and affect plan investment diversification, retirement funds would ensure decisionmakers receive the most accurate information.

Measuring impact to implementation and contribution rates: Sometimes conversations about legislation occur in a silo, meaning the ripple effects of forced changes to a fund's investment portfolio may not be considered. When forecasting changes to investments, it is important to raise broader costs and other considerations. One example might be how legislation prohibiting investments will likely require hiring additional fund staff to help manage the new mandates. Or reducing the universe of investments will likely lower fund performance, which could trigger additional administrative costs and/or increases to employee and employer contributions.

Measuring indirect impact: There are additional considerations besides the direct impact to fund performance that those who do not work daily on retirement plans more than likely did not consider. These include impacts to proxy voting, additional indemnity provisions to protect the system from lawsuits, ensuring reasonable plan expenses, meeting long-term funding requirements, and other downstream potential impacts. As experts, retirement funds are encouraged to share this ancillary information with policymakers.

Networking with stakeholders: Additionally, many bills that legislate investment policy impact other agencies and private-sector businesses. Some retirement funds have found additional resources at other state agencies, banks and insurance companies, and local business interests such as the state Chamber of Commerce. Collaborating with such entities, professional associations, and each other should provide further context for how a piece of legislation could impact not only the retirement plan, but the state's businesses, economy, and ultimately the taxpayers.

Impact of Recent Legislative Proposals on Retirement Systems

Below are some examples outlining the impact of recent legislative proposals on retirement systems:

Estimated losses due to investment restrictions:

- **Indiana** - HB 1008 (before amendments) - **$6.7 billion** over 10 years to INPRS *(Indiana Public Retirement System)*
- **Texas** - SB 1446 - **$6 billion** over 10 years to TCDRS *(Texas County District Retirement System)*
- **Kansas** - SB 224, HB 2402, SB 291 (identical bills) - **$3.6 billion** over 10 years to KPERS *(Kansas Public Employees Retirement System)*
- **Kansas** - HB 2436 - **$3.6 billion** over 10 years to KPERS *(Kansas Public Employees Retirement System)*
- **Arkansas** - HB 1307:

- **$30 million to $40 million** per year to APERS *(Arkansas Public Employees Retirement System)*
- **$20.1 million to $140.6 million** over 15 years to ASHERS *(Arkansas State Highway Employees Retirement System)*
- **$7 million** per year to ATRS *(Arkansas Teachers Retirement System)*
- **$1 million** per year to LOPFI *(Arkansas Local Police & Fire Retirement System)*

Overhead costs of investment restrictions:

- **North Dakota** - HB 1469 - **$10.2 million** biennially
- **Indiana** - HB 1008 (after amendments) - **$550,000** per year
- **Texas** - SB 1446 - **$228,396** per year for two new employees, plus an additional $90,000 the first year.

Impact from decreased competition in municipal bond market:

- **Texas** - SB 13 and SB 19 (2021) - **$300-$500 million** in additional interest costs on municipal bonds in first eight months
    - Normangee Independent School District, TX - dropped UBS as their bond underwriter, hired a new underwriter and faced **higher interest rates**
    - Anna, TX - dropped Citibank as bond underwriter at a cost of **$277,334** over 25 years.
    - According to Bloomberg analysis, Texas "is paying 19 basis points more in yield than AA rated California on routine borrowings."
- **Florida** - According to Bloomberg analysis, Florida "now pays 43 basis points more in yield than California with an inferior credit rating, or 0.35% more than it did prior to 2022."
    - **$97 million to $361 million** if Florida implemented similar legislation that generated the same bond market restrictions as Texas.
- **Louisiana** - **$51 million to $131 million** if Louisiana implemented similar legislation that generated the same bond market restrictions as Texas
- **Oklahoma** - **$49 million** if Oklahoma implemented similar legislation that generated the same bond market restrictions as Texas
- **Missouri** - **$32 million to $68 million** if Missouri implemented similar legislation that generated the same bond market restrictions as Texas
- **Kentucky** - **$26 million to $70 million** if Kentucky implemented similar legislation that generated the same bond market restrictions as Texas
- **West Virginia** - **$9 million to $29 million** if West Virginia implemented similar legislation that generated the same bond market restrictions as Texas

Please reach out to NCPERS at bridget@ncpers.org if you have any questions or would like to discuss further.