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Bill Analysis

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Primary Sponsors: Reps. Kelly and Ghanbari

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SUMMARY

- Requires each state retirement system board to require each entity through which it makes an investment in a private equity fund, venture fund, hedge fund, real estate fund, or absolute return fund to disclose to the board certain financial information concerning the entity and the underlying investment at least annually.
- Requires each board to create an annual written report that includes the information described above, as well as information regarding all of the entities through which the board makes an alternative investment, and present that information at a meeting open to the public.

DETAILED ANALYSIS

State retirement systems and alternative investment vehicles

Each state retirement system board manages the funds created for the payment of retirement allowances and other benefits and has full authority to invest that system's funds.¹ In addition to traditional investments such as stocks and bonds, the boards have the ability to invest in certain nontraditional financial assets, or "alternative investments." Under the bill, an alternative investment is an investment in a private equity fund, venture fund, hedge fund, real estate fund, or absolute return fund. An "alternative investment vehicle" (AIV) is the entity through which a board invests in an alternative investment, including a limited partnership, limited liability company, or other legal structure.² The bill imposes certain requirements on

¹ R.C. 145.11, 742.11, 3307.15, 3309.15, and 5505.06, not in the bill. The state retirement systems are the Ohio Police and Fire Pension Fund, Public Employees Retirement System, School Employees Retirement System, State Highway Patrol Retirement System, and State Teachers Retirement System.

² R.C. 145.117(A), 742.117(A), 3307.16(A), 3309.151(A), and 5505.066(A).

each board regarding the disclosure and reporting of information about the fees, expenses, carried interest, and other specified information concerning the AIVs through which the board makes an alternative investment and the underlying investment.

Disclosures

Under the bill, each board must require each AIV through which it invests to disclose to the board, at least annually, all of the following information:

- The fees and expenses that the board's retirement system pays directly to the AIV, fund manager, and any related parties;
- The retirement system's share of fees and expenses not included above that are paid from the AIV to the fund manager and any related parties, except that the AIV is not required to provide that information if the board chooses to independently calculate the information based on the other information the AIV must provide to the board;
- The retirement system's share of carried interest distributed to the fund manager or related parties;
- The retirement system's share of aggregate fees and expenses paid by all of the portfolio companies held within the AIV to the fund manager or related parties;
- The AIV's gross and net rate of return since its inception;
- The investment multiple of each AIV since inception.³

Reports

Not later than one year after the bill's effective date, and at least once every year after that, each board must compile a written report and present the information in the report at a public meeting. The board must include in the report the information described under "**Disclosures**," above, and all of the following information regarding all of the AIVs through which the board invests:

- The name, address, and year in which the initial investment capital was delivered to each AIV;
- The dollar amount of the commitment and cash contributions the board has made to each AIV since inception;
- The dollar amount, on a fiscal year-end basis, of cash distributions the board receives from each AIV;
- The dollar amount, on a fiscal year-end basis, of cash distributions the board receives, plus the remaining value of partnership assets attributable to the board's investment in each AIV;

³ R.C. 145.117(B), 742.117(B), 3307.16(B), 3309.151(B), and 5505.066(B).

- The dollar amount of the total management fees and costs paid on an annual fiscal year-end basis by the board to each AIV;
- The dollar amount of cash profit that the board receives from each AIV on a fiscal year-end basis.⁴

Applicability

The bill applies to all contracts each board enters into on and after the bill's effective date and any existing contract pursuant to which the board makes a new capital commitment on or after that date. Each board must make reasonable efforts to (1) obtain the information described under "**Disclosures**," above, regarding alternative investments made under contracts entered into on or before the bill's effective date to which no new capital commitments are made and (2) comply with the reporting requirements under "**Reports**," above, with respect to those investments.⁵

Definitions

The bill defines the following terms:

- "Carried interest" means any share of profits from an AIV that is distributed to a fund manager or related parties, including allocations of AIV profits received by a fund manager in consideration of having waived fees the fund manager might otherwise have been entitled to receive.
- "Fund manager" includes the general partner, managing manager, adviser, or other person with primary investment decision-making authority over an AIV, and includes related parties of a fund manager.
- "Operational person" means any operational partner, senior advisor, or other consultant or employee whose primary activity for a relevant entity is to provide operational support to any portfolio company of any AIV, account, or fund managed by a related person.
- "Related party" means:
 - Any related person or operational person;
 - Any entity more than 10% of the ownership of which is held directly or indirectly, whether through other entities or trusts, by a related person or operational person regardless of whether the related person or operational person participates in the carried interest received by the general partner or special limited partner;

⁴ R.C. 145.117(C), 742.117(C), 3307.16(C), 3309.151(C), and 5505.066(C).

⁵ R.C. 145.117(D), 742.117(D), 3307.16(D), 3309.151(D), and 5505.066(D).

- Any consulting, legal, or other service provider regularly engaged by portfolio companies of an AIV, account, or fund that is managed by a related person and provides advice or services to any related person or relevant entity.
- “Related person” means any current or former employee, manager, or partner of any entity that is involved in the investment activities or accounting and valuation functions of a relevant entity or any family member of the employee, manager, or partner.
- “Relevant entity” means the general partner, any separate carry vehicle, the investor advisor, any of the investment advisor’s parent or subsidiary entities, or any similar entity related to any other AIV, account, or fund advised or managed by any current or former related person.⁶

HISTORY

Action	Date
Introduced	02-19-20

H0515-I-133/ec

⁶ R.C. 145.117(A), 742.117(A), 3307.16(A), 3309.151(A), and 5505.066(A).