Senate Fiscal Agency
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BILL ANALYSIS

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House Bill 4854 (Substitute S-2 as reported)
House Bill 4903 (Substitute S-2 as reported)
Sponsor: Representative Alma Wheeler Smith (H.B. 4854)
Representative Marty Knollenberg (H.B. 4903)
House Committee: Government Operations
Senate Committee: Homeland Security and Emerging Technologies

CONTENT

The bills would amend the Public Employee Retirement System Investment Act to do the following:

-- Require a fiduciary (i.e., the State Treasurer with respect to various retirement systems, and the Michigan Legislative Retirement System board of trustees) to make its best efforts to identify all companies in which it had holdings that did business with or were located in Sudan or Iran ("scrutinized companies") and create a list of those companies.
-- Within 15 months after a company appeared on the list, require a fiduciary to sell, redeem, divest, or withdraw all of the securities of the company if it continued to have scrutinized active "business operations" (engaging in commerce with Sudan or Iran).
-- Except for indirect holdings in actively managed investment funds, prohibit a fiduciary from acquiring securities of companies on its list that had active business operations.
-- If the manager of a publicly traded, actively managed fund in a fiduciary's portfolio created a similar fund not associated with scrutinized active business operations, require the fiduciary to replace its existing investments with investments in the new fund.
-- Require a fiduciary to file with the Legislature and the U.S. Presidential Special Envoys to Sudan and Iran a report regarding investments under the bills, as well as the replacement of existing investments.
-- Exempt a fiduciary from any statutory or common law obligation that conflicted with the bills.
-- Provide immunity from liability for action taken to comply with the bills.

House Bill 4854 (S-2) would apply to divestment from Sudan. House Bill 4903 (S-2) would apply to divestment from Iran. The bills are tie-barred to Senate Bill 846. Senate Bill 846 (S-2) would create the Divestment from Terror Act to implement similar divestment requirements for scrutinized companies doing business with or located in all "state sponsors of terror" (i.e., any country determined by the U.S. Secretary of State to have repeatedly provided support for acts of international terrorism).

Proposed MCL 38.1133c (H.B. 4854)
Proposed MCL 38.1133d (H.B. 4905)

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on State and local government. The Department of Treasury has explored the impact of these and other proposals with respect to its investments. For the Department's investments alone, Treasury has estimated that it would cost approximately $30,000 per year per country to ensure compliance with the proposed restrictions. That amount would cover the cost of hiring a private company to monitor compliance, and would be ongoing. Additionally, the Department could incur significant costs to determine those companies that qualified as scrutinized under the bills. There also could be additional up-front transaction costs to comply with these restrictions.

Although it is difficult to quantify the precise fiscal impact of these bills on the State, it could be substantial. The Department of Treasury has indicated that not only would there be immediate transaction costs involved in the divestiture, there also would be compliance costs going forward. According to the Department, transaction costs could be considerable, particularly because the affected funds often invest in indices and mutual funds that contain many companies, which would make singling out individual companies more difficult. In addition to these more measurable costs, the Department predicts that the lost opportunity costs of prohibited investments could be high as well, thereby affecting the overall value of State investments; however, these potential costs or gains could only be determined retrospectively.

As of September 30, 2007, the State Employees' Retirement System, Public School Employees' Retirement System, State Police Retirement System, and Judges Retirement System had combined total assets of approximately $76.5 billion.

Date Completed: 5-8-08 Fiscal Analyst: Stephanie Yu

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