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BILL ANALYSIS

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Senate Joint Resolution J (as reported without amendment)
Sponsor: Senator Cameron S. Brown
Committee: Homeland Security and Emerging Technologies

CONTENT

The joint resolution would amend the State Constitution to prohibit public bodies from investing in entities engaged in business with known state sponsors of terror; and require public bodies to dispose of assets invested in such entities.

Article IX, Section 19 prohibits the State from investing in stock, subject to exceptions. The joint resolution would amend Article IX, Section 19 to prohibit a public body from investing or depositing any public funds in any business, legal, or governmental entity or institution that was engaged in business with known state sponsors of terror or that had facilities or conducted business in any state sponsor of terror. For the purposes of this provision, an independent franchise of a business entity would not be considered part of that business entity. This prohibition would not apply to the activities of any business, legal, or governmental entity or institution providing humanitarian aid to the people of any state sponsors of terror through a governmental agency or department or through a nongovernmental organization.

"Public body" would mean the State or a city, village, township, county, school district, public college or university, public community or junior college, or other governmental department, governmental agency, or political subdivision of this State. "State sponsor of terror" would mean any country that the U.S. Secretary of State determined to have repeatedly provided support for acts of international terrorism.

Within nine months after the joint resolution became part of the Constitution, a public body would have to dispose of or withdraw at least 50% of its assets or money invested or deposited in a business, legal, or governmental entity engaged in business in or with a state sponsor of terror. Within 15 months after the joint resolution became part of the Constitution, a public body would have to dispose of or withdraw all of those assets or money.

The governing body of each public body annually would have to give the Department of Treasury any information concerning its compliance with Article IX, Section that was required by law.

The joint resolution also would amend Article VIII, which provides for the University of Michigan board of regents, the Michigan State University board of trustees, and the Wayne State University board of governors, and requires that other institutions of higher education established by law having authority to grant baccalaureate degrees also be governed by a board of control.

Each board has general supervision of the institution and the control and direction of all expenditures from the institution's funds. Under the joint resolution, this provision would apply except as provided in Article IX, Section 19.

The joint resolution would have to be submitted to voters at the next general election, if two-thirds of the members elected to and serving in each house of the Legislature approved it.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

Senate Joint Resolution J and Senate Bills 846 (S-1) through 856 would have an indeterminate fiscal impact on State and local units of government. The Department of Treasury has explored the impact of these proposals with respect to its investments, which would not include all of the entities in the resolution and bills. 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. There also could be additional up-front transaction costs to comply with these restrictions. The amount of those costs could be slightly lower for countries where the State has comparatively smaller investments. The Department has identified several countries that qualify as state sponsors of terror, including Sudan, Iran, North Korea, Syria, and Cuba, though that list is subject to change.

The fiscal impact on universities, community colleges, local units of government, and other public bodies is difficult to determine, as it would depend on the amount each entity has invested in relevant companies.

The joint resolution would require that each public body report to the Department annually. While the resolution does not specify the Department's responsibility, if the Department of Treasury were charged with establishing a list of companies for each country and assisting public bodies with compliance, the Department would incur significant additional costs.

While it is difficult to quantify the precise fiscal impact of these bills on State and local government and other public bodies, 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 as well. 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, 2006, the State Employees' Retirement System, Public School Employees' Retirement System, State Police Retirement System, and Judges Retirement System had combined total assets of approximately $64 billion.

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