

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

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FISCAL IMPACT STATEMENT

LS 6994

NOTE PREPARED: Feb 21, 2023

BILL NUMBER: HB 1008

BILL AMENDED: Feb 21, 2023

SUBJECT: Pension Investments.

FIRST AUTHOR: Rep. Manning
FIRST SPONSOR:

BILL STATUS: CR Adopted - 1st House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State

Summary of Legislation: (Amended) The bill provides that a fiduciary, in making and supervising investments of a reserve fund of the public pension system, shall discharge the fiduciary's duties solely in the financial interest of the participants and beneficiaries of the public pension system for certain purposes. It specifies requirements for fiduciaries, proxy advisors, service providers, and proxy voting. It provides that compliance with certain provisions does not impose any additional fiduciary obligations on a person, other than to the extent required by law or the applicable contract or agreement.

The bill requires the board of trustees of the Indiana Public Retirement System (INPRS) to, at least annually, tabulate and report all proxy votes made by any fiduciary in relation to the administration of a fund of the public pension system.

The bill provides that the Treasurer of State shall enforce these provisions. It specifies, for the board and the Treasurer of State, particular enforcement requirements and procedures if the Treasurer of State determines that a person has engaged in, is engaging in, or is going to engage in a violation regarding fiduciary duties.

This bill provides that certain persons and entities are immune from civil liability and entitled to indemnification.

It requires the board to amend the board's investment policies to comply with the requirements on or before December 31, 2023.

The bill specifies fiduciary duties, similar to the those applicable to the public pension system, that apply to the trustee of the State Police Pension Trust.

It defines terms and makes conforming amendments.

Effective Date: July 1, 2023.

Explanation of State Expenditures: (Revised) *Impact on Pension Investments:* If the INPRS board divests from and terminates business relationships with a person or a specific fund offered by a person under the requirements of the bill, INPRS may have costs related to divestment. Costs of divestment include the costs associated with the sale, redemption, divestment, or withdrawal of an investment and the costs associated with the acquisition and maintenance of a replacement investment. Potentially, the funds may earn a lower rate of return as a result of divestment, or if enforcement of the bill limits the pool of investment managers as a result of the requirements of the bill.

The expected rate of return on investment for the pension funds is 6.25%. If the funds do not achieve the expected rate of return over time and administrative costs increase, the actuarially defined contribution rate, the employer contribution rate, and General Fund appropriations to the actuarially-funded retirement funds may increase.

The bill applies to the following funds administered by INPRS:

- Public Employees Retirement Fund (PERF);
- Indiana State Teachers' Retirement Fund (TRF);
- Indiana Judges' Retirement Fund;
- Prosecuting Attorneys Retirement Fund (PARF);
- State Excise Police, Gaming Agent, Gaming Control Officer, and Conservation Enforcement Officers' Retirement Fund (EG&C);
- 1977 Police Officers' and Firefighters' Pension and Disability Fund ('77 Fund);
- Legislators' Retirement System;
- Pension Relief Fund;
- Special Death Benefit Fund.

The bill also applies to the State Police Pension Trust administered by the Treasurer of State. It does not apply to a sheriff's pension trust or Hoosier START.

INPRS Administrative Costs for Proxy Voting: INPRS estimates that the changes in the bill regarding proxy voting would increase administrative costs by \$550,000 per year—\$200,000 for custom proxy voting policy and infrastructure and \$350,000 to hire additional investment staff to manage proxy voting. INPRS has over 200,000 proxy votes per year. The administrative costs of administering public pension funds are paid from the respective funds.

(Revised) *State Agencies:* The bill would increase workload and expenditures for state agencies involved in establishing or maintaining a public retirement or pension plan. This would include the Indiana Public Retirement System, the State Police, and the Treasurer of State. The bill would significantly increase reporting and tracking requirements for public pensions and proxy votes. It also requires investment decisions to be made based on financial factors and not to further certain political, social, or ideological interests. If a person or fund is found to violate provisions of the bill, the bill outlines a process to divest from and terminate any business relationship with that person or fund unless the INPRS board or the Treasurer of State (in the case of the State Police Pension Trust) determines that divestment is not in the best economic interest of the trustee assets. The bill also requires the INPRS board and the Treasurer of State to amend their investment policies. The administrative costs of administering public pension funds are paid from the

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respective funds.

The Treasurer of State's office is required to enforce the requirements of the bill. Existing staffing and resource levels, if currently being used to capacity, may be insufficient for full implementation. The additional funds and resources required could be supplied through existing staff and resources currently being used in another program or with new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative actions.

The bill allows the Treasurer of State to request assistance with an investigation from the Attorney General's office. The Attorney General should be able to provide the requested assistance with no additional appropriations, assuming near customary agency staffing and resource levels.

(Revised) *Fiduciary Requirements*: Under the bill, fiduciaries of the state's public pensions would be required to make investments and carry out their duties in the financial interest of the participants and beneficiaries of the funds and not to further the following political, social, or ideological interests:

1. Eliminating, reducing, or offsetting greenhouse gas emissions for nonfinancial purposes;
2. Instituting corporate board, employment, composition, or compensation criteria based on protected classes under Indiana civil rights statutes.

Divesting from, limiting investment in, or limiting the activities or investments of a company that does any of the following for nonfinancial purposes, provides evidence under the bill that a fiduciary is pursuing political, social, or ideological interests.

1. Fails to meet or does not commit to environmental standards;
2. Engages in, facilitates, or supports the firearm industry;
3. Contracts with the United State Immigration and Customs Enforcement for the provision of federal immigration detention centers or supports services related to the implementation of federal immigration and border security laws, regulations, and policies;
4. Works in the following industries: fossil fuels, timber, mining, agriculture, and food animal production.

Explanation of State Revenues:

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Treasurer of State, Indiana Public Retirement System, State Police, Attorney General.

Local Agencies Affected:

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