SESSION OF 2007

SUPPLEMENTAL NOTE ON SENATE BILL NO. 335

As Amended by Senate Committee of the Whole

Brief*

SB 335, as amended, would prohibit the investment of funds by the Kansas Public Employees Retirement System (KPERS) in certain companies with business operations in Sudan. The bill would provide for divestment from direct and indirect holdings in companies with such operations, except in the case of passively managed commingled funds when the estimated costs of divestment exceeds a threshold test.

The bill would direct the KPERS Executive Director to compile a divestment report for the 2008 Legislature to address the financial impact on KPERS of divesting from entities that invest, provide financial support, or transact business with a state sponsor of terror as designed by the U.S. Department of State.

Background

Proponents of the bill included Senator Betts, Senator Haley, a representative of the Sudan Divestment Task Force, and a representative of the Wichita East High School Darfur Action Group. The Senate Committee on Ways and Means amended the bill to address at least one instance in which the costs of divestment would be detrimental to KPERS and provided that exceptions should be allowed in such cases where justified. Periodic reports to the Joint Committee on Pensions, Investments and Benefits would be required if exceptions to divestment are approved by the Board of Trustees.

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*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at http://www.kslegislature.org

The fiscal note indicates that KPERS does not have any direct holdings in Sudan or any investments in Sudanese companies. However, the KPERS portfolio has approximately $38.0 million in securities of companies that may have some type of targeted business connection to Sudan. As of December 31, 2006, this represents 0.29 percent of the total portfolio.

KPERS reports that the bill as introduced would increase the agency's costs for investment-related transaction fees for selling securities. Also, the agency would experience ongoing administrative costs to retain a third-party research service to assist in identifying companies from which to divest. Transaction fees would apply to holdings in accounts that only KPERS invests (separate accounts), as well as accounts that KPERS pools assets with other investors (commingled accounts). Also, the agency would incur annual management fees for establishing separate accounts for the commingled accounts. In total, KPERS estimates that it would experience between $40,000 and $185,000 in one-time transaction costs, as well as between $455,000 and $460,000 in annual management fees with the enactment of SB 335. In addition to transaction fees, the agency would require additional investment staff time to monitor the list of prohibited investments. The agency does not have a cost estimate for the staff time.

The Senate Committee of the Whole amendment defines state sponsor of terror as any government of a country designated by the U.S. State Department as a state sponsor of terror. As of March 15, 2007, the countries on the official State Department list include Cuba, Iran, North Korea, Sudan, and Syria. No fiscal note was available for the cost of a report.