LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS

200 W. Washington St., Suite 301
Indianapolis, IN 46204
(317) 233-0696
iga.in.gov

FISCAL IMPACT STATEMENT

LS 6153
BILL NUMBER: SB 268

NOTE PREPARED: Apr 13, 2023
BILL AMENDED: Feb 27, 2023

SUBJECT: Prohibited Pension System Investments.

FIRST AUTHOR: Sen. Garten
FIRST SPONSOR: Rep. Judy

BILL STATUS: 2nd Reading - 2nd House

FUNDS AFFECTED: X **GENERAL**
X **DEDICATED**
FEDERAL

IMPACT: State

Summary of Legislation: The bill prohibits the Indiana Public Retirement System (INPRS) from investing in certain restricted entities or restricted investment products, including particular investments publicly confirmed to be controlled by the People's Republic of China or the Chinese Communist Party. It specifies exceptions, a divestment schedule, and reporting requirements. The bill also adds a provision urging the Legislative Council to assign to the Interim Study Committee on Pension Management Oversight (PMOC) the topic of studying whether to cease or defer divestment or resume investment in an entity or product in accordance with the provisions regarding divestment from Chinese companies.

Effective Date: Upon passage.

Explanation of State Expenditures: *INPRS:* The bill's requirements represent an additional workload and expenditure on INPRS outside of the agency's routine administrative functions. INPRS estimates that the cost to divest would total $5.3 M in the first year and $0.7 M annually thereafter. The administrative costs of the affected funds are paid from the respective funds. Administrative costs for the defined contribution accounts are paid by members of the funds through monthly administrative fees. [In 2022, the monthly administrative fees for defined contribution funds was $3.75.]

The bill requires INPRS to determine which businesses would be restricted under the proposal, divest from restricted investments, and track and report on the divestment activities. The bill also allows INPRS to cease divestment if certain conditions are met. 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. The proposal will reduce the geographic diversity of INPRS investments. Potentially, the funds may earn a lower rate of return by divesting from restricted holdings under the proposal. The bill allows INPRS to contract with a research firm to determine which businesses would be restricted investments under the proposal.

Interim Study Committee on Pension Management Oversight (PMOC): The bill requires the INPRS board to consult with PMOC to determine whether to cease or defer divestment if certain conditions are met as directed by the Legislative Council. The bill also urges Legislative Council to assign PMOC with the task of studying whether to cease or defer divestment or resume investment during the 2023 legislative interim. If the committee were to hold additional meetings to address this topic, there would be additional expenditures for legislator per diem and travel reimbursement for the committee members. Any additional expenditures must be within the committee's budget, which is established by the Legislative Council.

<u>*Additional Information*</u> - This proposal applies to all of INPRS's public pension and retirement funds. As of June 30, 2022, INPRS had $1.1 B in exposure to Chinese investments. The bill would require divestment from an estimated $750 M of those investments—$400 M in stocks and bonds and $350 M in a commingled fund.

INPRS already complies with federal sanctions on Chinese investments required in Executive Orders 13959 and 14023 which restrict investments that finance Communist Chinese military companies and Chinese surveillance technology companies. INPRS had direct exposure of $15.7 M, but had fully divested from these investments by May 2022. INPRS is also working to comply with the Holding Foreign Companies Accountable Act of 2020 (HFCAA) which bans companies from being traded on U.S. exchanges if the Public Company Accounting Oversight Board (PCAOB) cannot inspect or investigate a company's registered public accounting firm for three consecutive years. INPRS has identified $15.9 M of exposure to investments potentially subject to trading prohibitions based on the HFCAA as of June 30, 2022.

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 and the employer contribution rate for the actuarially-funded retirement funds may increase.

In FY 2022, INPRS paid a third party provider $74,917 to provide analysis and lists for the Sudan, terror states, and Anti-BDS divestment requirements in current law.

<u>Explanation of State Revenues:</u>

<u>Explanation of Local Expenditures:</u>

<u>Explanation of Local Revenues:</u>

<u>State Agencies Affected:</u> Indiana Public Retirement System.

<u>Local Agencies Affected:</u>

<u>Information Sources:</u> INPRS, Tony Green, Agreen@inprs.in.gov. INPRS. (2022, October 17.) Testimony to PMOC on the Geographic Diversification of INPRS's Investment Portfolio. https://iga.in.gov/documents/7b08a87e
https://iga.in.gov/legislative/2022/committees/i_pension_management_oversight_interim_study_committee_on

Fiscal Analyst: Camille Tesch, 317-232-5293.