SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 928

PRINTER'S NO. 1923

AMOUNT

1. $100,000 – FY 2010-11
2. $100,000 – FY 2010-11
3. $50,000 – FY 2010-11
4. $16,000 – FY 2010-11

FUND

1. PSERS
2. SERS
3. PMRS
4. State Funds/TAP GSP

DATE INTRODUCED

July 17, 2009

PRIME SPONSOR

Senator Stack

HISTORY OF BILL

Referred to FINANCE, July 17, 2009
Reported as amended, May 3, 2010
First consideration, May 3, 2010
Second consideration, May 4, 2010
Re-referred to APPROPRIATIONS, May 4, 2010
Re-reported as committed, May 4, 2010

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 928 is the Protecting Pennsylvania's Investments Act.

The legislation would require public funds, which are defined as the Public School Employees Retirement System (PSERS), the State Employees Retirement System (SERS), the Pennsylvania Municipal Retirement System (PMRS) and the State Treasurer, to divest investments in companies doing business in Iran and Sudan.

Within 90 days of the effective date of the act, each of the enumerated public funds would be required to identify all scrutinized companies in which they have direct holdings. The public funds would be required to contact each company on their respective scrutinized companies lists for which they have direct holdings and notify each company that:

- it may be subject to divestment;
- it may clarify the nature of its scrutinized business activities; and
- it is encouraged to cease its scrutinized business activities in order to avoid divestment.

Such notice must be provided by the public funds within 120 days of the effective date of the act

If within 180 days of the above-mentioned notice, a company fails to announce a formal plan to cease scrutinized activities, the public fund must, within 26 months divest its direct holdings of company securities.

The bill permits investments in social development companies which are companies whose primary purpose is to provide humanitarian goods or services. Public funds would be prohibited from acquiring securities of a scrutinized company with activities in Iran or Sudan. The provisions of the Act would not apply to a public fund's holdings in alternative investments or indirect holdings.

Board members, designees, employees, officers, legal counsel and investment managers of public funds would be indemnified by the Commonwealth for all good faith actions taken by the indemnitee and for all good faith failures to take action in connection with activities to comply with the act. In addition, the legislation requires the Commonwealth to reimburse each public fund for its net losses, costs and expenses incurred as a result of compliance with the provisions of the act.

Fiscal Impact

The Public Employee Retirement Commission (PERC) advises that the potential actuarial impact of the enactment of divestment legislation cannot be determined because of the nature of the investment markets, the timing of the divestment transactions and the actual investment performance of the divested and replacement investments. The actuarial impact of divestment to the various funds would be dependent on the gain/loss incurred in the divestment of the investments and the market performance of the replacement investments.

Similarly, the potential cost to the Commonwealth for the reimbursement of the public funds for net losses, costs and expenses cannot be estimated at this time. The legislation prescribes a timeline for activities under the act which would not require divestment of investments until approximately May 2013. Losses or gains would be dependent on the market conditions existing at that time and cannot be quantified. It is assumed that the public funds will incur minor costs in FY 2010-11 for the monitoring of scrutinized companies. Such costs are expected to range from $100,000 to $16,000 annually. Costs related to divestment transactions are expected to range from approximately $2,050,000 for PSERS to $15,000 for the Treasury Department. These costs would be incurred at the time of divestment.

The public funds have provided information regarding their respective investments that may be subject to this act. The information is summarized as follows:

- PSERS advises that its current holdings in companies that may be targeted for divestment under the Act have an estimated market value of $292,413,573. Transaction costs associated with divesting these investments and re-investing the proceeds are estimated at $2,050,000. PSERS advises that it will incur administrative costs of approximately $100,000 per year for monitoring costs for compliance with the Act.

- SERS advises that its current holdings in companies that may be targeted for divestment under the act have an estimated market value of $76,136,270. Transaction costs associated with divesting these investments and re-investing the proceeds are estimated at $530,000. SERS is also expected to incur monitoring costs of approximately $100,000 per year.

- PMRS indicates that its current holdings in companies that may be targeted for divestment under the act have an estimated market value of $24,596,000. Divestiture-related transaction costs are estimated at $98,400. PMRS would incur monitoring costs ranging from $50,000 to $100,000 per year.

- Treasury advises that its current holdings in companies that may be targeted for divestment under the act have estimated market values of $24,668,453 (Investment Pool 98) and $18,678,076 (TAP Guaranteed Savings Plan). Divestiture-related transaction costs and monitoring costs are estimated at $15,000 and $16,000 respectively. Costs incurred as a result of divestment of investments held in Treasury Pool 98 would be proportionally spread across all state funds deposited in the pool including the General Fund and the Motor License Fund.