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MEMORANDUM

To: Chairman Johnson and members of the House Committee on Pensions and Benefits

From: David Wiese, Assistant Revisor

Date: 3/11/2015

Subject: HB 2287; Investment standards and divestment procedures for KPERS related to Iran

House Bill No. 2287 requires the KPERS board of trustees to develop certain procedures to divest in certain companies that are doing business in Iran's petroleum sector. The board is required to identify, within 45 days of the effective date of the bill, all "scrutinized companies" in which the KPERS fund has direct or indirect holdings. "Scrutinized company" means any company that has, with actual knowledge, on or after August 5, 1996, made an investment of $20 million or more in Iran's petroleum sector which directly or significantly contributes to the enhancement of Iran's ability to develop the petroleum resources of Iran. The board shall assemble all such scrutinized companies into the scrutinized companies with activities in the Iran petroleum energy sector list. The list shall be updated and made public annually.

Once the list of companies has been developed, the board shall send written notice to such companies informing them of their scrutinized company status and that such companies may become subject to divestment by the board. The notice must inform the company of the opportunity to clarify its activities and encourage the company, within 90 days, to cease its scrutinized business activities or convert them to inactive activities to avoid divestment by the board. If, after 90 days following the board's notice, the company has failed to take public action specific to Iran, the board within 12 months after the expiration of the 90-day period shall divest from all publicly traded securities of the company from the KPERS fund's direct holdings. The board is also prohibited from acquiring securities of companies on the list.

The bill's divestment requirement does not apply to the KPERS fund's indirect holdings. However, the board shall submit letters to the managers of any managed investment funds containing companies on the list that such managers consider removing such companies from the fund or create a similar actively managed fund having indirect holdings devoid of such companies. If similar fund is created, the board shall determine within six months whether to replace all applicable investments with investments in the similar fund in a timeframe consistent with prudent investing standards.

The bill also requires the board to file a report with the joint committee on pensions, investments and benefits that includes the scrutinized companies list within 30 days after such list is created. The board is also required to annually file a report with the joint committee which must include the five items of information listed in subsection (d) on page four of the bill.

The divestment statute expires upon the occurrence of certain foreign policy actions by the congress or the president of the United States. The three potential actions are listed on page four in subsection (e) of the bill.

With respect to actions taken in compliance with section one, KPERS is exempt from any conflicting statutory or common law obligations, including any obligations with respect to choice of asset managers, investments funds or investments for the KPERS fund's securities portfolios.

A severability clause is included in subsection (g) of the bill.

Section two of the bill requires that present, future and former board members, state officers and employees, research firms and investment managers under contract with KPERS be indemnified from the state general fund and held harmless by the state from all claims and suits and against all liability and damages such persons and entities may sustain by reason of any decision to restrict, reduce or eliminate investments pursuant to section one of the bill.