

MEMORANDUM

To: Senate Committee on Financial Institutions and Insurance

From:  Alan D. Conroy, Executive Director

Date: March 7, 2018

Subject: HB 2444; Repealing Sudan divestiture requirements

Since 2007, K.S.A. 74-4921c has required that KPERS cannot invest Trust Fund assets in certain business operations in Sudan. The language that was passed in 2007 included language that would automatically end the divestiture requirements if the United States Government lifted the economic sanctions on Sudan. In 2017, the U.S. government revoked the economic sanctions on Sudan, which triggered the end of the statutory divestiture requirements.

The Joint Committee on Pensions, Investments, and Benefits recommended introduction of technical legislation to repeal the remaining statutory language dealing with divestiture from Sudan to avoid any confusion going forward.

HB 2444 was recommended favorable for passage by House Financial Institutions and Pension Committee and ultimately passed the House 111-9.

Background

In 2007, legislation was passed and signed into law (K.S.A. 74-4921c) which served to restrict the Retirement System's investments in companies which engage in certain business operations in Sudan. The statute also imposed a series of reporting requirements on the Retirement System, which included providing an annual report to the Joint Committee on Pensions, Investments and Benefits on the Retirement System's investments in Sudan and divestment activities.

Repeal Provision

The statute also contained a repeal provision which would be triggered when "the United States revokes its current sanctions against Sudan." The Retirement System's General Counsel has determined that for KPERS purposes, the Executive Order issued by President Trump on October 12, 2017 revokes the sanctions as set forth in Kansas statute. The KPERS outside legal counsel (Ice Miller) agreed that such an interpretation of revocation was also appropriate. However, the firm did indicate that the Legislature may wish to consider repeal of the KPERS Sudan related statutes for reasons of clarity.



Effect of Divestment Requirement on KPERS

Any divestment restrictions which are placed on the Retirement System by statute only serve to reduce the size of the available investment universe, and can cost the System literally millions of dollars in foregone investment return and additional trading costs. In addition, it is not clear that divestment requirements at the state level have any meaningful impact on the issue that is the underlying concern.

Because the divestiture requirements of K.S.A. 74-4921c have been revoked due to actions of the U.S. government and to provide clarity for current and future KPERS' investments, KPERS' requests that the Committee approves the technical and clarifying changes by recommending HB 2444 favorable for passage.

If you have any questions, I would be pleased to respond.