OHIO LEGISLATIVE SERVICE COMMISSION

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Office of Research and Drafting

Legislative Budget Office

S.B. 6
135th General Assembly

Fiscal Note & Local Impact Statement

Click here for S.B. 6's Bill Analysis

Version: As Introduced

Primary Sponsor: Sen. Schuring

Local Impact Statement Procedure Required: No

Ruhaiza Ridzwan, Senior Economist and other LBO staff

Highlights

- The bill has no direct fiscal effect on the state or political subdivisions. It does not, for example, change employer contribution rates under any of the five state retirement systems.
- Prohibiting boards of trustees of public universities and community colleges from using asset managers to manage their endowment portfolios if the asset managers engage in or promote policies regarding environmental, social, or corporate governance (ESG) policies would likely increase investment management costs for such an institution to select, replace, and ensure all of its asset managers meet the bill's provisions.
- Prohibiting the board of trustees of a public university or community college from accepting certain bequests may reduce endowments that some institutions may accept.
- The bill may increase administrative costs of the state retirement systems and the Bureau of Workers' Compensation, with the magnitude of any such increases depending on their boards' interpretations of bill provisions.

Detailed Analysis

The bill specifies requirements and prohibitions related to investment decisions made by (1) boards of trustees of the five state retirement systems – the Ohio Public Employee Retirement System (OPERS), the School Employee Retirement System (SERS), the State Teachers Retirement System (STRS), the Ohio Police and Fire Pension Fund (OP&F), and the State Highway Patrol Retirement System (HPRS); (2) the Administrator of the Bureau of Workers' Compensation (BWC); and (3) the board of trustees of a state institution of higher education.

Public universities and community colleges

The bill requires the board of trustees of each state institution of higher education to manage its endowment portfolio with the goal of maximizing the return on its investments. The bill also prohibits such board of trustees from (1) making investment decisions or adopting investment policies regarding its endowment portfolio with the primary purpose of influencing any social or environmental policy, or influencing the governance of any corporation; (2) accepting a bequest made by a decedent to an endowment in that portfolio if the bequest specifically requests the donation to be used primarily for those purposes; and (3) permitting any person or entity to which it delegates the management of part or all of its endowment portfolio to engage in or promote such decisions or policies.

State retirement systems and BWC

The bill requires the board of each of the five state retirement systems, and the BWC Administrator, in accordance with their fiduciary duties, to make investment decisions with the sole purpose of maximizing the return on their investments. The bill also prohibits them from making an investment decision with the primary purpose of influencing any social or environmental policy or attempting to influence the governance of any corporation.

Fiscal effect

The bill does not have any direct fiscal effect on the state or local governments. It does not, for example, affect employer contribution rates under the retirement systems.

The bill prohibits investment decisions by the affected entities “with the primary purpose of influencing any social or environmental policy or attempting to influence the governance of any corporation,” but the wording apparently allows such investments if those making the investment decision believe that it would provide the highest investment return. The bill also does not specifically require the retirement systems’ boards or the BWC Administrator to divest any existing investments that are not consistent with the bill’s requirements.

But on the bill’s effective date, a board of trustees of a public university or community college that has any contracts related to its endowments with any person or entity (i.e., asset managers) that are engaging in or promoting the prohibited decisions or policies apparently would be required to terminate such contracts; thus increasing investment management costs for such trustees to select, replace, and ensure all asset managers associated with its endowments meet the bill’s provisions. As of June 30, 2022, the total value of endowment assets of all public universities and community colleges was about $11.91 billion. Approximately 67% of those endowments are managed by a person or entity not directly employed by the institution (e.g., external asset manager or firm). The bill may also reduce endowments that public universities and community colleges may accept on or after the bill’s effective date.

The bill’s costs to the other affected boards depend in part on how the boards interpret the bill language. Some boards may interpret the requirements as requiring divestment of some current investments. Any potential increase in administrative costs of the five state retirement systems and BWC would depend on such interpretations. The bill may not affect their ability to maximize returns,[1] but if the applicable public investors are required to divest their current investments, there may be an undetermined loss of investment income.[2]

Related information

Generally, environmental, social, and governance (ESG) investing criteria may be used by certain investors when picking potential investments. There have been academic studies of whether ESG criteria are consistent with seeking the highest investment return, but LBO staff are not aware that a consensus on the question has emerged.[3]

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[1] According to results in one study, Do Investors Value Sustainability? A Natural Experiment Examining Ranking and Fund Flows, and additional supporting information, published in the *Journal of Finance*, ESG investing does not provide better performance. The authors concluded that ". . . sustainability is viewed as positively predicting future performance, but we do not find evidence that high-sustainability funds outperform low-sustainability funds."

[2] According to the latest Annual Comprehensive Financial Report for each system, each invested billions of dollars in assets in 2022; for example STRS had about $89 billion in total investments as of June 30, 2022. The report also includes each system's investment policies. Based on the latest FY 2022 BWC Annual Report, its investment portfolio totaled about $20 billion as of June 30, 2022. The latest BWC Investment Policy Statement is available on its website.

[3] The Securities and Exchange Commission, is currently proposing a rule related to ESG, Proposed Rule on Enhancing Disclosures by Certain Investment Advisers and Investment Companies about Environmental, Social, and Governance Investment Practices. Also, voluntary and general ESG investing criteria that allow investors to assess investment products is published by the CFA Institute, Global ESG Disclosure Standards for Investment Products 2021 and Global ESG Standards for Investment Products Errata - June 2022.