

OPPOSITION TESTIMONY

On

H. B. No. 151

By

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PUBLIC EMPLOYEE RETIREES, INC.

Mr. Chairman and members of the Committee, I have been asked by the Public Employee Retirees, Inc to appear here today to express its strong opposition to H. B. No. 151. The Public Employee Retirees, Inc. (PERI) is an organization of some 50 thousand retirees who are receiving benefits from the Ohio Public Employees Retirement System. One of the main goals of PERI is to work to help maintain the financial and fiscal integrity of OPERS. PERI is particularly concerned with four general areas of legislative activity: 1) bills allowing certain individuals to purchase additional service credit; 2) bills requiring the system to use certain vendors; 3) bills allowing certain individuals to transfer from the regular division of OPERS to the Law Enforcement Division; and the point at hand, bills allowing the system's resources to be used in an attempt to affect social, public, or foreign policy.

Proponents of H. B. No. 151 want to use our retirement systems to "send a message" to Iran. In short, they want to use our retirement systems to influence foreign policy by requiring the divestiture of certain investments. Our systems are not here to be used by outside groups or Washington think tanks "to send a message to Iran."

It is our understanding that this divestiture project is being orchestrated nationwide by the Washington think tank, the Center for Security Policy. Maybe this group's objectives are the proper foreign policy approach; but, maybe they are not. We suspect that there are probably more than one Washington think tank, of equally sincere and connected individuals, that hold diametrically opposed views from the Center for Security Policy. If the Center for Security Policy is allowed to use our funds for their message, PERI suspects that others will attempt to use the retirement systems' assets to get their message across. In any event, PERI firmly believes that OPERS's resources should not be used to influence social, public, or foreign policy.

Three witnesses from out of state testified last week about their concerns for our retirees, peace officers, firefighters, and taxpayers being involved with risky investments. If these individuals and those who paid for their trip are truly concerned for our Ohio citizens, they should provide us with the list of the 200 companies they deem to be inappropriate investments. Or at least allow us to purchase it so the investment managers could use it to assess risk. Do we really want to turn over a 156 billion dollar combined Ohio retirement portfolio to strangers and have them make a determination as to what are appropriate investments?

Instead of providing or selling the list to our trusted investment counselors, the bill will require our systems and others to turn over their portfolio and have it assessed by a private company—apparently affiliated with the Center for Security Policy. How many such companies are there that do this assessment? How much will this cost and who will pay for it? (If asset managers are required to foot the bill (line 354), they will simply pass that cost onto the respective systems.) What criteria will these private companies use in assessing these various investments? What is its political world view of the Center for Security Policy?

If the retirement systems currently own inappropriate investments, why have they not been sanctioned by our government? It is our understanding that these investments are not illegal or prohibited. Should this bill pass, PERI suspects that Vanguard or Fidelity could hold these investments in a mutual fund and

private citizens could own the fund; however, the retirement systems would be required to divest the fund. Will the state indemnify the systems for any losses?

If certain investments are improper, let it be our federal government that tells us.

If the Center is concerned with risk, why do they not cover the so-called exempted American companies and why is there an exception for humanitarian investments? Are not these investments subject to the same global risk as the other investments they deem inappropriate?

Section 145.11 imposes a fiduciary duty on the OPERS board to discharge its duties solely in the interest of the participants and beneficiaries and for the exclusive purpose of providing benefits to participants and beneficiaries. We believe that if the OPERS board did what this bill will require it to do, the board would be breaching its fiduciary duties. PERI further believes that the bill recognizes this. Section 137.97 (lines 389-404) provides that a public investor is not liable for breach of its fiduciary duty if it divests pursuant to the bill; the section also holds board members and others harmless from lawsuits. Also, Section 137.08 states that provisions of the bill prevail over any conflicting provisions of Section 145.11. In addition, consideration should be undertaken to determine if this type of legislation would violate any of the federal tax laws under which the systems were created. Specifically, will divestiture that is done to affect social, public, or foreign policy subject the retirement systems to IRS scrutiny?

In closing Mr. Chairman and members of the Committee, and with all due respect to the sponsors, since it would be an obvious breach of the Board's fiduciary duties to undertake divestiture actions on its own, PERI believes that it is inappropriate for the General Assembly to be passing legislation requiring the Board to do so. In addition, proponents allege that the five retirement systems and the state have investments that support our enemies. None of us want to inadvertently support terrorism. If the Center is aware of investments which do support our enemies or terrorism, as loyal and patriotic Americans, the Center should make this information public and not require that it be purchased