

FISCAL NOTE
Requested by Legislative Council
02/28/2013

Amendment to: HB 1304

- 1 A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2011-2013 Biennium		2013-2015 Biennium		2015-2017 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$0	\$90,888	\$0	\$96,212
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

- 1 B. **County, city, school district and township fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

	2011-2013 Biennium	2013-2015 Biennium	2015-2017 Biennium
Counties	\$0	\$0	
Cities	\$0	\$2,272	\$2,405
School Districts	\$0	\$0	\$0
Townships	\$0	\$0	\$0

- 2 A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

In order to comply with the language in HB1304, the SIB would require assistance from a consultant with expertise in identifying these companies and internal staff resources to perform the on-going analysis and reporting at both the board and legislative levels.

- B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

HB1304 would require the State Investment Board (SIB) to follow specific procedures for identifying, analyzing, engaging, monitoring and divesting in companies subject or liable to sanctions. In order to identify these companies, the SIB would require assistance from a consultant with expertise in this area. The estimated cost of this type of consulting relationship is \$10,000+ per year. Additionally, once the companies are identified, internal staff time would be required to provide analysis of the companies reported by the consultant to the SIB, engage these companies directly, monitor and analyze the responses received from these companies, provide reports to the SIB and legislative management, and supervise the divestment process to ensure transaction costs are minimized. Based on information received from other states' investment offices, it is estimated that approximately 25% of an FTE's time would be required to ensure compliance with this bill. The House Appropriations Committee has approved an additional FTE for an Investment Analyst within the RIO appropriation bill (HB1022). With the addition of this position, no further FTEs are being requested specifically for HB1304, however, 25% of the cost of this position is being considered a cost of this bill. In the fiscal note submitted to the House Government and Veterans Affairs Committee on the original version of HB1304, it was estimated that approximately 7.5% of the aggregate public equity portfolio and 1% of the aggregate fixed income portfolio may be subject to divestment, resulting in transaction costs of \$1.9 million from selling the scrutinized companies and purchasing replacement securities. With the approval of the amendment to House Bill 1304, however, which would require the state investment board to apply the exclusive benefit rule to any public employees retirement system fund created by the laws of this state, we are unable to make any reliable estimate of transaction costs given the uncertainty surrounding divestment activity needed to comply with the bill to the extent that it does not result in a breach of the exclusive benefit rule. As with any divestment program, a great deal rides on the fiduciary analysis of offending securities to assess the potential costs, market impact and potential to affect risk and return associated with divestment.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

- A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

- B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Expenditures for this bill include 25% of one FTE estimated to be \$66,349 for the 2013-15 biennium and \$72,889 for the 2015-17 biennium, plus 25% of the associated operating costs for that position of \$4,539 for the 2013-15 biennium and \$2,323 for the 2015-17 biennium. A consultant would also be required to assist in developing and maintaining the list of scrutinized companies. The cost of this service is estimated at \$20,000 for the 2013-15 biennium and \$21,000 for the 2015-17 biennium. With the approval of the amendment to House Bill 1304, however, which would require the state investment board to apply the exclusive benefit rule to any public employees retirement system fund created by the laws of this state, we are unable to make any reliable estimate of transaction costs given the uncertainty surrounding divestment activity needed to comply with the bill to the extent that it does not result in a breach of the exclusive benefit rule. Without an amendment for the non-pension funds, we expect there will still be costs to those funds for divestment and there may still be costs for the pension funds if the divestment meets the exclusive benefit rule.

- C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

An FTE for an Investment Analyst was approved and included in the RIO appropriation bill (HB1022), therefore no additional appropriation authority would be required in HB1304. The consulting expenses and any resulting investment transaction costs are covered under continuing appropriation per NDCC 21-10-06.2.

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