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Senate Bill 1105 (as enacted)
Sponsor: Senator Hoon-Yung Hopgood
Senate Committee: Reforms, Restructuring and Reinventing
House Committee: Detroit's Recovery and Michigan's Future

PUBLIC ACT 535 of 2014

Date Completed: 2-26-15

CONTENT

The bill amended the Public Employee Retirement System Investment Act to provide that the investment fiduciary of a large sponsored system (a retirement system of the City of Detroit) that invests or has invested in a hazardous waste deep disposal well facility, may not make an additional investment in that facility, except to prepare the property for sale for a different purpose, and must sell, divest, or withdraw all investments in the facility under certain circumstances.

The Act codifies the investment authority of State and local public employee retirement systems, and defines and limits the amount and type of investments that may be made by those acting as an investment fiduciary (typically, the applicable retirement board) on behalf of a retirement system. A "large sponsored system" is a system created and established by a city that is subject to a plan for adjustment and either the city has a population of more than 600,000, or the system has discharged at least \$1.0 billion of pension liabilities in bankruptcy, or both. (Detroit's retirement system meets those criteria.)

Under the bill, subject to Section 13g of the Act, an investment fiduciary of a large sponsored system that invests or has invested in a hazardous waste deep disposal well facility regulated under Part 111 (Hazardous Waste Management) or Part 121 (Liquid Industrial Wastes) of the Natural Resources and Environmental Protection Act is prohibited from making an additional investment in the hazardous waste deep disposal well facility, unless the investment is solely to prepare the property on which the facility is located for sale for purposes other than operation as a hazardous waste deep disposal well facility or similar hazardous facility.

In addition, the bill requires the investment fiduciary to sell, redeem, divest, or withdrawal all investments in the hazardous waste deep disposal well facility within 180 days after any of the following occur:

- The operator of the facility files for bankruptcy.
- A controlling interest in the operator is sold, transferred, purchased, or acquired.
- There is an Environmental Protection Agency (EPA) action for a violation at the facility.
- The EPA revokes the operator's license.
- The EPA or the Department of Environmental Quality orders operations at the facility to terminate.

(Section 13g requires a large sponsored system to establish an investment committee, requires it to recommend certain investment decisions to the system's governing board, and requires the decisions to be implemented under the plan for adjustment if the board disapproves the committee's recommendation.)

The bill took effect on January 15, 2015.

MCL 38.1132d & 38.1133

Legislative Analyst: Suzanne Lowe

FISCAL IMPACT

The bill will have no fiscal impact on the State.

To the extent the bill requires a change in investment strategy that otherwise would not occur, the bill may have an indeterminate fiscal impact on the City of Detroit's retirement system assets. If the city is required, for one of the five reasons outlined in the bill, to sell its investment in the hazardous waste deep disposal well facility, the sale of the asset may be at a gain or loss, or have no impact, depending on market conditions and values. Similarly, the prohibition against investing resources in the well may produce a positive or negative net investment change, depending on market conditions, values, and risk, and the availability and performance of other investment options.

Fiscal Analyst: Kathryn Summers

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