



Breaking News!

**Bulletin from the Colorado School and
Public Employees Retirement Association**



January 2019 – Vol. 2

PERA Divestment Might Be Legislative Issue

As of this late-January writing, over 250 bills have been introduced in 2019's legislative session. No PERA-connected bills have been submitted yet, but conversations are happening that could produce several PERA bills.

One possible PERA legislative development could be on the topic of **divestment**.

Divestment involves not allowing a fund to invest in certain products, companies that produce certain products, companies that do business in certain countries, or other prohibited parameters. For example, some "socially responsible" mutual funds exclude investments in tobacco-producing or tobacco-product companies. A national organization called 350.org believes investors should divest from fossil fuels.

A PERA divestment bill, if passed, would require the PERA Board to remove from its portfolio any investments in products, companies, countries, or other parameters named in the bill.

The PERA Board has adopted a policy on divestment. A PDF attachment containing that PERA Board Statement on Divestment is attached at the end of this bulletin.

Connected with the topic of divestment is a promise made by Trustees as they become members of the PERA Board. Trustees take what is called a "**fiduciary oath**," requiring them to act only with regard to the best interests of PERA employees and retirees. That generally means investing for the best possible financial health of the fund. Board members have held that legislation requiring divestment generally damages financial returns, and thus runs contrary to their fiduciary oath. The PERA Board has generally opposed such legislation in the past.

If a PERA divestment bill does materialize, CSPERA will send a bulletin with information about its content, its assigned committee, and the legislators involved in that hearing.

As always, we encourage PERA employees and retirees to learn about PERA legislation and to participate in the shaping of your retirement plan by communicating your opinion to your representative and senator. It's important that CSPERA members from **all** of our local associations around Colorado participate, so that all legislators hear locally-affected constituent comments as they discuss possible PERA laws.

A high number of representatives and senators are newly elected this session. A soon-to-follow Breaking News bulletin will give county-specific information naming new legislators. If you find that you are in a county with new legislators, keep in mind that a PERA local-voter comment will be especially important to new legislators who have little PERA background from previous years in office.



Colorado PERA Board of Trustees' STATEMENT ON DIVESTMENT

January 18, 2019

The world faces many critical issues today including genocide, pollution, terrorism, human and animal rights violations, and public health crises. As individual Americans, we enjoy the political and philosophical freedom to speak out against atrocities and join in those causes which are aligned with our personal beliefs. As an organization however, PERA does not have the authority to determine social policy, foreign policy, economic policy, or any other policy beyond the operation of the retirement system. PERA serves the singular purpose of ensuring the retirement security of Colorado's current and former public servants. Because global issues are difficult to prioritize and proper recourse falls beyond the duty of the retirement system, PERA will implement the divestment mandates passed by the Colorado General Assembly but would recommend the legislature thoughtfully consider such proposals with caution and fiduciary care.

Periodically, the Colorado General Assembly has added its voice to those striving to address complex issues in today's world. Colorado Statute 24-54.8-101 *et seq.*, titled Sudan Divestment by Public Pension Plans, was signed into law on April 19, 2007 (since repealed by operation of law); and Colorado Statute 24-54.8-201 *et seq.*, titled Divestment From Companies With Prohibitions Against Israel, was signed into law on March 18, 2016. PERA cannot and does not dispute that body's goals. However, in considering issues of divestment, the General Assembly should also be cognizant of the following:

- First, in meeting its fiduciary responsibilities, PERA seeks to maximize long-term risk-adjusted investment returns while incorporating the fund's liability characteristics. To that end, PERA does not make investment decisions based on any one singular factor. Security prices are dependent upon many factors, including economic, political, environmental, industry, and company-specific risks. A central component in managing investment risk is diversification. Divestment, by its nature, adversely affects diversification by limiting the investible universe.

- Second, ordering divestment comes with significant associated costs. Those costs include the cost to search for and certify those entities that may have the characteristics or affiliations targeted by a divestment effort; the transaction costs that will be incurred in selling or disposing of securities; the cost of researching and conducting due diligence for any replacement securities or funds; the opportunity cost; the cost of potentially reduced investment return; and the cost of creating investment strategies that exclude such entities.
- Third, the money administered by PERA, whether received through investment returns, employee contributions, employer contributions, or direct distribution from the State, immediately becomes part of a trust fund. This means that money transferred to PERA is no longer "public money" or "state money." Such money is paid as compensation pursuant to employment contracts and agreements between employers and employees and is considered earned at the time of transfer, just as employees who invest in defined contribution retirement plans retain ownership over the funds they have invested. Thus any divestment directive

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