HB 21-1246

Legislative Council Staff

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Fiscal Note

Drafting Number:	LLS 21-0150	**Date:**	April 9, 2021
Prime Sponsors:	Rep. Sirota Sen. Jaquez Lewis	**Bill Status:**	House Finance
		Fiscal Analyst:	Erin Reynolds | 303-866-4146 Erin.Reynolds@state.co.us

Bill Topic: **PERA DIVESTMENT FROM FOSSIL FUEL COMPANIES**

Summary of Fiscal Impact:

☐ State Revenue
☒ State Expenditure
☐ State Transfer
☐ TABOR Refund
☒ Local Government/School Districts
☒ Statutory Public Entity

This bill requires the Public Employees' Retirement Association to divest from fossil fuel companies. It may increase or prolong state and local expenditures and will increase statutory public entity expenditures on an ongoing basis.

Appropriation Summary: No appropriation is required.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Summary of Legislation

Within six months of the bill's effective date, the Board of Trustees of the Colorado Public Employees' Retirement Association (PERA) must create an exclusion list of all fossil fuel companies where PERA has any money or assets directly invested in stocks, securities, equities, assets, or other obligations. The board is required to notify any company on the list of its inclusion on the list and of the bill's divestment requirements. The board is required to periodically update the exclusion list at least every two years.

A company included on the exclusion list may request that it be removed from the list on the basis of clear and convincing evidence that it is not currently a fossil fuel company or that it will no longer meet such definition by January 1, 2031.

Within six months from the completion of the exclusion list, the board is required to issue a determination as to whether divestment from the companies on the exclusion list complies with the board's fiduciary obligations. If the board determines that divestment from any company on the exclusion list does not comply with its fiduciary obligations, the board will remove the company from the exclusion list.

Beginning one year after the effective date of the bill, the board is required to:

- divest the funds managed by PERA of any holdings of companies on the exclusion list in which any money or assets of the fund are directly invested; and
- cease new direct investments in any company that is a fossil fuel company.

The board is required to complete divestment from fossil fuel companies within five years from the effective date.

Beginning one year after the effective date of the bill, the board must endeavor to ensure that no money or assets of the fund are invested in an indirect investment vehicle unless the board is satisfied that such indirect investment vehicle is unlikely to have in excess of 2 percent of its assets directly or indirectly invested in fossil fuel companies.

The board is required to issue periodic reports to the members of the Pension Review Commission and the PERA website outlining all actions taken to comply with the requirements of the bill.

Background

This LCS memorandum provides an overview of PERA:
https://leg.colorado.gov/sites/default/files/r21-19_update_pera_overview_memo.pdf.

State Expenditures

The bill may prolong state expenditures to PERA through the amortization equalization disbursement (AED), the supplemental amortization equalization disbursement (SAED), and the automatic adjustment provision that triggers when PERA's trusts are forecasted to fall above or below the target 30-year amortization goal in statute (AAP). This impact will be addressed through the annual budget process as the impacts of fossil fuel divestment on PERA's investments and the unfunded liability are better understood.

Local Government and School Districts

Similar to the state, the bill may prolong local government and school district expenditures to PERA.

Statutory Public Entity — PERA

Beginning in FY 2021-22, PERA will have increased costs to implement the bill, paid from the PERA trusts. In FY 2021-22 and FY 2022-23, one-time market and trading fees to sell holdings on the exclusion list are estimated at $21.6 million, based on the assumption that PERA will be required to divest and reinvest about $1.5 billion in securities. These costs may differ if the board determines that divestment from companies on the exclusion list does not comply with its fiduciary obligations. On an ongoing basis beginning in FY 2021-22, PERA will require staffing to acquire necessary data, implement configuration changes, and provide ongoing monitoring of fossil fuel-related investments, as well as software costs to build and maintain systems to comply with the bill's provisions and customized benchmarks. PERA's costs are shown in Table 1.

Table 1
PERA Expenditures Under HB 12-1246

Cost Components	FY 2021-22	FY 2022-23
Public Employees' Retirement Association		
Market and Trading Fees	$21,554,201	
Staff Implementation and Ongoing Monitoring	$208,000	$208,000
Software License	$118,000	$118,000
Custom Ex-Energy Benchmarks	$50,000	$50,000
Total	**$11,153,101**	**$11,153,101**

These estimated costs do not include the opportunity cost of continued investment into those securities that meet the stated criteria.

Effective Date

The bill takes effect upon signature of the Governor, or upon becoming law without his signature.

State and Local Government Contacts

Personnel and Administration

Public Employees' Retirement Association