

Senate Bill 1005

Sponsored by Senator TAYLOR

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Oregon Investment Council and State Treasurer to try to ensure that moneys in Public Employees Retirement Fund are not invested in companies that operate private prisons or corporations that own more than one million shares in companies that operate private prisons. Directs State Treasurer to adopt engagement policy with private investment fund managers and to encourage managers to end investments with companies that operate private prisons or corporations that own more than one million shares in companies that operate private prisons.

Requires notices to fund managers, companies and Oregon Investment Council. Specifies contents of notices.

Applies subject to specified fiduciary standards.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1 Relating to investment in private prisons; and declaring an emergency.

2 **Be It Enacted by the People of the State of Oregon:**

3 **SECTION 1. As used in sections 1 to 5 of this 2017 Act:**

4 (1) **"Company" means any sole proprietorship, organization, firm, association, corpo-**
5 **ration, utility, partnership, venture, public franchise, franchisor, franchisee or its wholly**
6 **owned subsidiary that exists for profit-making purposes or otherwise to secure economic**
7 **advantage.**

8 (2) **"Fund of funds" means investment funds that function by secondary investment in a**
9 **portfolio of other investments, including investment funds.**

10 (3) **"Index funds" means pooled investments that are passively managed with an intent**
11 **to match or track the performance of a market index.**

12 (4) **"Invest" means to commit funds or other assets to a company. "Invest" includes**
13 **making a loan or other extension of credit to a company, or owning or controlling a share**
14 **or interest in a company or a bond or other debt instrument issued by a company.**

15 (5) **"Investment" means the commitment of funds or other assets to a company for an**
16 **interest in the company. "Investment" includes the ownership or control of a share or in-**
17 **terest in a company or of a bond or other debt instrument issued by a company.**

18 (6) **"Private prison" means prison facilities operated by a private company whose services**
19 **are contracted for by a public body as defined in ORS 174.109, by a governmental unit of any**
20 **other state or by the federal government.**

21 (7) **"Scrutinized company" means a company that operates a private prison or a company**
22 **that owns more than one million shares in a company that operates a private prison.**

23 **SECTION 2. (1) The Oregon Investment Council and the State Treasurer, in the State**
24 **Treasurer's role as investment officer for the council, shall act reasonably and in a manner**
25 **consistent with fiduciary standards, including the provisions of ORS 293.721 and 293.726, to**
26 **try to ensure that managers who are engaged by the council or the State Treasurer for the**
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NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 active management of investment funds consisting of the Public Employees Retirement Fund
2 referred to in ORS 238.660, through the purchase and sale of publicly traded equities, are not
3 investing in publicly traded equities of any scrutinized company.

4 (2) Subsection (1) of this section does not apply to investments indirectly made through
5 index funds, fund of funds or privately placed investments.

6 **SECTION 3.** (1) Consistent with fiduciary standards, including the provisions of ORS
7 293.721 and 293.726, the State Treasurer shall adopt a statement of policy that describes a
8 process of engagement with managers who:

9 (a) Are engaged by the Oregon Investment Council or the State Treasurer for the active
10 management of investment funds consisting of the Public Employees Retirement Fund re-
11 ferred to in ORS 238.660 through the purchase and sale of publicly traded equities; and

12 (b) Have invested such funds in scrutinized companies.

13 (2) The policy required under subsection (1) of this section must require the State
14 Treasurer, to the extent practicable, to identify and send a written notice to the managers
15 described in subsection (1) of this section. The notice shall encourage the managers, con-
16 sistent with fiduciary standards, including the provisions of ORS 293.721 and 293.726, to:

17 (a) Notify scrutinized companies with which the managers have made investments of the
18 State Treasurer's policy adopted pursuant to subsection (1) of this section; and

19 (b) Not later than 90 days after giving the notice, end investments in the scrutinized
20 companies and avoid future investments in the scrutinized companies, as long as the man-
21 agers may do so without monetary loss through reasonable, prudent and productive invest-
22 ments in companies generating returns that are comparable to the returns generated by the
23 scrutinized companies.

24 (3) A notice provided by a manager to a scrutinized company under subsection (2) of this
25 section shall advise the scrutinized company that the company may comment in writing to
26 the State Treasurer to dispute the identification of the company as a scrutinized company.

27 (4) If the State Treasurer determines under subsection (3) of this section that a company
28 is not a scrutinized company, the State Treasurer shall notify the relevant manager of the
29 State Treasurer's determination.

30 (5) The State Treasurer shall advise the Oregon Investment Council of a notice the State
31 Treasurer provides under subsection (2) of this section if the manager to whom the notice
32 was given has not informed the State Treasurer within 180 days after the date the notice
33 was given that the manager has ended the manager's investment in scrutinized companies
34 or plans to divest from investment in scrutinized companies.

35 **SECTION 4.** On or before March 15 of each year, the State Treasurer shall make avail-
36 able on the State Treasurer's website a summary of actions taken during the previous year
37 in accordance with sections 1 to 5 of this 2017 Act. The summary shall include a list of
38 identified scrutinized companies.

39 **SECTION 5.** Sections 3 (2) to (5) and 4 of this 2017 Act apply only if the Legislative As-
40 sembly appropriates sufficient moneys to the State Treasurer, other than moneys described
41 by ORS 293.718 or moneys in the Public Employees Retirement Fund, to administer sections
42 3 (2) to (5) and 4 of this 2017 Act.

43 **SECTION 6.** The State Treasurer shall first make available on the State Treasurer's
44 website the information required under section 4 of this 2017 Act not later than September
45 1, 2018.

1 **SECTION 7. Sections 1 to 5 of this 2017 Act become operative January 1, 2018.**

2 **SECTION 8. This 2017 Act being necessary for the immediate preservation of the public**
3 **peace, health and safety, an emergency is declared to exist, and this 2017 Act takes effect**
4 **on its passage.**

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