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# Indiana bill targets ESG policies in pension investments

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Legislation that imposes environmental, social, and governance investment rules on Indiana's public pension system is advancing after revisions cut the potential impact of the rules to $550,000 from $6.7 billion.

If adopted and signed by Gov. Eric Holcomb, the pension system would be required to divest from and terminate some investment relationships when various ESG policies are in place.

The Republican-backed HB1008 surfaced earlier this year and was advancing before briefly stalling after a report from the Legislative Services Agency warned of a potential $6.7 billion hit to investment returns over the next 10 years. The legislation impacts nine funds managed by the Indiana Public Retirement System (INPRS) and the Indiana State Police Pension Trust.

The original $6.7 billion blow would pose a financial burden on employer contributions and hurt the funds' health. It's currently at a collective funded ratio of nearly 90% with a $3.7 billion unfunded liability and $42 billion in investments.

Indiana Rep. Ethan Manning, R-Logansport, is the author of HB1008, which imposes anti-ESG restrictions on state pension investment decisions.

The bill provides that a fiduciary, in making and supervising investments of a reserve fund of the public pension system shall discharge the fiduciary's duties solely in the financial interest of the participants and beneficiaries of the public pension system.

"These are policies that have been cooked up by Wall Street that are trying to push the sort of environmental policies, social policies and ideological things that could never pass through this legislature," the bill's sponsor Rep. Ethan Manning, R-Logansport, told committee members.

Anti-ESG policies and legislation has swept across Republican-led states in recent years targeting pension fund investments, rating agencies and underwriters. In Indiana, the GOP holds a legislative majority and Holcomb is a Republican.

Since 2021, 18 states have proposed or adopted legislation or regulation limiting the ability of the state government to do business with financial institutions that

restrict funding to certain industries, like firearms or fossil fuel, based on ESG criteria, according to law firm Morgan Lewis.

The legislation cites specific examples of investment violations in cases where a fiduciary may be reasonably determined to have taken an action or considered a factor with a purpose to further social, political, or ideological interests.

Such issues include any investment boycotts for reasons related to greenhouse emissions and fossil fuels, gun manufacturing, marketing, or advertising, contracts with the U.S. Immigration and Customs Enforcement and border security regulations and policies.

Democrats on the committee pushed back, calling the measure unneeded as the pension system already pledges to put fiscal considerations first and questioned the potential harm the funds could suffer, and some worried the measure would lead to a cascade of further politically partisan anti-ESG targets that might carry greater costs.

Rep. Ed Delaney, D-Indianapolis, pressed for an amendment that would require the pension system to track the impact and require the state's general fund to compensate any losses. He also wanted to allow members to pull their money from the funds.

"This gun isn't going to shot one time," he said, adding, he believes other industries will eventually be targeted. "We are undercutting the public's confidence in our plans and they ought to be" able to remove their money.

The House Ways and Means Committee passed the amended version Tuesday, meeting a deadline for legislation to clear committees, and it could receive a House floor vote as soon as this week with a Monday deadline looming, according to a House GOP aide. The bill passed on a party line vote of 15-8 with one GOP member joining Democrats in opposition.

Under the original version, fund managers would be subject to the same fiduciary duties as government entities and the definition of fiduciary commitment in the bill would prevent INPRS from using outside investment managers who pursue or market ESG investments for other clients. The prohibitions in the bill to divest or limit investments in certain sectors would limit the potential for active management of INPRS funds and could effectively prohibit investment in private equity as well as the use of active public managers.

Those funds have outperformed more traditional public market indices in the portfolio. The fiscal impact stood to take a deep toll on fund investments.

"Such a decrease would reduce the estimated annual return on investment for defined benefit pensions managed by INPRS from 6.25% to 5.05%," the report warned. "This would likely result in increased expenditures for state employers for pension contributions. Large decreases in investment earnings would result in increased unfunded liability in the defined benefit funds, requiring a significant increase in employer contributions and state fund appropriations over time to make up for lower investment returns."

If the system lowered expected target rate of return for defined benefit funds, which is currently at 6.25%, employer contribution rates for the defined benefit funds managed by INPRS would likely increase beginning in FY 2025.

The amended version exempts private market funds and private equity managers from the more stringent provisions and limits the ban on ESG considerations solely to investment managers' work on the state's pension assets.