Local Government Mandate Statement Kentucky Legislative Research Commission 2019 Regular Session

Part I: Measure Information

Bill Request #: 918
Bill #: HB 126
Document ID #: 1268
Bill Subject/Title: AN ACT relating to the fiduciary duties of the trustees and investment managers for the state administered retirement systems.
Sponsor: Representative Lisa Willner
Unit of Government: X City X County X Urban-County X Charter County X Consolidated Local X Government
Office(s) Impacted: jails
Requirement: X Mandatory Optional
Effect on Powers & Duties: X Modifies Existing Adds New Eliminates Existing

Part II: Bill Provisions and the Estimated Fiscal Impact Relating to Local Government

The County Employees Retirement System (CERS) and the Kentucky Teachers Retirement System (KTRS) (the Systems) are governed by separate Boards of Trustees. Expenses of each Board are paid from the respective System's retirement allowance fund, which is funded by money paid into the retirement allowance fund by each System's employers and members. **HB 126** would amend the following statutes that govern these Boards to:

 Amend KRS 61.645 to end the exemption and require each Board to comply with KRS Chapter 45 (Budget and Financial Administration), KRS Chapter 45A (Model Procurement Code), and KRS Chapter 56 (State lands and buildings) to contract for investment and other professional services and to deal with property in the exercise of the Boards' powers and duties; knowing failure to do so would constitute a Class D felony. 2. Amend KRS 61.990 to subject Trustees who knowingly violate statutes that prohibit Trustees serving who have a conflict of interest (KRS 61.655), or require Trustees act in the best interest of members and beneficiaries of the Systems under a good faith interpretation of the law (KRS 61.650), and require Trustees make informed decisions, act in good faith, and act in the best interest of the Kentucky Retirement Systems (KRS 61.645), to prosecution for a Class D felony.

HB 126 would have **no or minimal fiscal impact on county or school district employers** who contribute to the Systems. It is indeterminable whether requiring the Systems to comply with the Model Procurement Code and other financial administration statutes would have a negative or positive fiscal impact on the two systems, though the requirement would seem to be aimed at saving the Systems money or, at the least, to stem any loss of assets. While current law requires the Board to reimburse out of their System's retirement allowance fund any legal expenses incurred by a trustee resulting from a civil action arising from the performance of the trustee's official duties, there is no requirement for reimbursement of legal expenses resulting from a criminal action arising from those duties. Therefore, creating new felonies would not have a negative fiscal impact on retirement allowance funds or the amount local government employers must pay into them.

The new Class D felonies created by HB 126 could have a **minimal fiscal impact on local jails**. It would likely be rare for a Trustee to be charged with a criminal violation of the amended statutes. However, should that happen, if a court denies bail to a Class D felony defendant, the local government is responsible for incarcerating the defendant until disposition of the case. While the expense of housing inmates varies by jail, each additional inmate increases facility costs by an estimated average of \$31.34 per day, which equals the per diem and medical expenses that the Department of Corrections (DOC) pays jails to house felony offenders. A Class D felon may spend up to 5 years incarcerated. Upon sentencing, a Class D felon is housed in one of Kentucky's full service jails for the duration of his or her sentence. Assuming the felon serves 20%, or one year of his or her sentence, DOC would reimburse the local jail \$11,439.10 (365 days x \$31.34/day). Since the per diem pays for the estimated average cost of housing a Class D felon, the per diem may be less than, equal to, or greater than the actual housing cost. It is unknown whether the reimbursement represents a profit, loss, or breaking even to the local jail.

Part III: Differences to Local Government Mandate Statement from Prior Versions

Part II, above, refers to HB 126 as introduced. There is no earlier introduced version of the bill to compare for Part III.

Data Source(s): LRC Staff; Kentucky Teachers Retirement System

Preparer: Mary Stephens **Reviewer:** KHC **Date:** 2/6/19