

HB 230 would also impose additional disclosure requirements on investment fund managers who contract with KRS. Investment fund managers would be required to disclose all investment holdings, fees, and commissions. Failure to do so, or failure to adhere to identified standards of professional conduct, would result in forfeiture to KRS of all fees and commissions otherwise due under their contract.

Section 3 would prohibit a Trustee having any interest in, or receiving any fee or profit from, an entity that provides services to the Kentucky Retirement Systems, and would establish that a Trustee who fails to disclose a conflict of interest, in writing, has failed to act in good faith and may forfeit all fees and commissions to the KRS.

Section 4 would amend KRS 61.990 to establish that a Trustee's knowing violation of fiduciary duties or of the duty of disclosure would constitute a Class D felony.

The **fiscal impact of HB 230 on payments required by local governments to the retirement allowance account is indeterminable.** It is possible that the additional disclosure and conflicts requirements, or the additional ethics grounds for removing a Trustee from the Board, would result in more civil actions against Trustees. This would result in increased litigation costs to be reimbursed from the retirement allowance account and the possibility of an increase in fiduciary liability insurance premiums or deductible. In 2016, quotes to the KRS for such insurance increased from \$79,623/year to an average of approximately \$235,000. At the same time the deductible increased from \$250,000 to \$1,000,000.

It is indeterminable whether requiring the Board to comply with the Model Procurement Code would have a negative or positive fiscal impact on contributions required of employers to KRS.

While current law requires the Board reimburse out of the KRS retirement allowance account legal expenses incurred by a trustee resulting from a civil action arising from the performance of the Trustee's official duties, there is no such requirement to pay legal expenses resulting from a criminal action against a Trustee arising from those duties. Therefore, creating new felonies would not have a negative fiscal impact on the retirement allowance account or the amount local government employers must pay into it.

The new Class D felonies created by **HB 230** could have a **minimal fiscal impact on local jails.** It would be rare for a Trustee to be charged with a criminal violation of the amended statutes. However, if that happens, should a court deny 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 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 the 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.

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

Part II, above, addresses HB 230 as introduced. There is no earlier introduced version to compare in Part III.

Data Source(s): Kentucky Retirement Systems; LRC Staff

Preparer: Mary Stephens **Reviewer:** KHC **Date:** 2/7/19