

## **Virginia Retirement System 2008 Fiscal Impact Statement**

**1. Bill Number:** HB556

House of Origin      X      Introduced                  Substitute                  Engrossed

Second House                  In Committee              Substitute                  Enrolled

**2. Patron:**        Valentine

**3. Committee:** Appropriations

**4. Title:**            **Retirement System; investments related to Sudan.**

**5. Summary:** Virginia Retirement System; investments related to Sudan. Requires the Virginia Retirement System, under certain circumstances, to divest itself of investments in companies meeting certain criteria gauged to be related to the genocide in the Darfur region of Sudan.

**6.        Fiscal Impact Estimates:** Transaction costs for selling the stocks of scrutinized companies and buying substitutes are expected to range from \$600,000 to \$2.7 million. VRS is unable to estimate the possible loss in future earnings that could result from a restricted set of investment opportunities.

**7. Budget Amendment Necessary:** No

**8. Fiscal Implications:** See Other Comments below.

**9. Specific Agency or Political Subdivisions Affected:** VRS

**10. Technical Amendment Necessary:** Yes. VRS staff has worked with the Sudan Investment Task Force to craft the necessary amendments.

**11. Other Comments:**

VRS holds no direct investments in Sudan, holds no securities traded on the Sudan stock exchange, and fully complies with federal sanctions imposed upon Sudan. As the VRS Board of Trustees is not a policy making body, it takes no position on legislation. However, the Board wishes to convey a number of concerns about divestment legislation:

**Fiduciary/Constitutional Concern** – Article 11 of the Virginia Constitution sets out an important fiduciary standard that requires VRS trust funds to be “invested and administered solely in the interests of the members and beneficiaries thereof”. Divestment is contrary to this principal as it requires the Board to consider interests other than the best interest of members. The Board endorses the current standard as a means to insulate the investment program from political exigencies of the day and ill-considered investment schemes.

**Adverse Impact on the Investment Program** – The bill would require VRS to sell profitable investments. Based on a current divestment list furnished by the Sudan Divestment Task Force,

the stocks of 22 companies would be restricted. As of 11/30/07, VRS held 10 of those companies at a market value of \$51 million. In the last year, restricted stocks earned a return of 90 percent, substantially outperforming other public equities as a class. VRS is unable, however, to estimate the possible loss in future earnings a result of restricted investment opportunities.

**Troublesome Precedent** – Legislative restrictions proposed in this bill, while affecting only a small slice of the VRS Trust Fund, could open the door to further restrictions aimed at addressing other pressing political issues such as terrorism.

**Cost of Administration** – Depending on the size of the divestment list, VRS expects to incur transaction costs between \$600,000 and \$2.7 million. These represent the costs of selling restricted securities and buying Sudan-free replacements.

**Actions Taken by VRS** – Since the 2007 legislative session when divestment legislation was first introduced, the VRS Board of Trustees has taken the following actions to address the General Assembly's concerns:

- Modified the VRS proxy voting policy to support well-written shareholder proposals that call for offending companies to terminate business operations in Sudan.
- Contacted VRS investment managers who currently hold companies on the Task Force's "worst offenders list" to inquire as to any possible additional investment risks these securities might pose as a result of being targeted companies.
- Interacted with public pension peers to learn how they manage divestment activities related to Sudan.
- Monitored U.S. Government policy developments on Sudan and also Sudan-related information provided by Non-Governmental Organizations.

**Date:** 1/18/2008 pas

**Document:** HB556.DOC