



# Colorado PERA Board of Trustees' STATEMENT ON DIVESTMENT

January 18, 2019

The world faces many critical issues today including genocide, pollution, terrorism, human and animal rights violations, and public health crises. As individual Americans, we enjoy the political and philosophical freedom to speak out against atrocities and join in those causes which are aligned with our personal beliefs. As an organization however, PERA does not have the authority to determine social policy, foreign policy, economic policy, or any other policy beyond the operation of the retirement system. PERA serves the singular purpose of ensuring the retirement security of Colorado's current and former public servants. Because global issues are difficult to prioritize and proper recourse falls beyond the duty of the retirement system, PERA will implement the divestment mandates passed by the Colorado General Assembly but would recommend the legislature thoughtfully consider such proposals with caution and fiduciary care.

Periodically, the Colorado General Assembly has added its voice to those striving to address complex issues in today's world. Colorado Statute 24-54.8-101 *et seq.*, titled Sudan Divestment by Public Pension Plans, was signed into law on April 19, 2007 (since repealed by operation of law); and Colorado Statute 24-54.8-201 *et seq.*, titled Divestment From Companies With Prohibitions Against Israel, was signed into law on March 18, 2016. PERA cannot and does not dispute that body's goals. However, in considering issues of divestment, the General Assembly should also be cognizant of the following:

» First, in meeting its fiduciary responsibilities, PERA seeks to maximize long-term risk-adjusted investment returns while incorporating the fund's liability characteristics. To that end, PERA does not make investment decisions based on any one singular factor. Security prices are dependent upon many factors, including economic, political, environmental, industry, and company-specific risks. A central component in managing investment risk is diversification. Divestment, by its nature, adversely affects diversification by limiting the investible universe.

» Second, ordering divestment comes with significant associated costs. Those costs include the cost to search for and certify those entities that may have the characteristics or affiliations targeted by a divestment effort; the transaction costs that will be incurred in selling or disposing of securities; the cost of researching and conducting due diligence for any replacement securities or funds; the opportunity cost; the cost of potentially reduced investment return; and the cost of creating investment strategies that exclude such entities.

» Third, the money administered by PERA, whether received through investment returns, employee contributions, employer contributions, or direct distribution from the State, immediately becomes part of a trust fund. This means that money transferred to PERA is no longer "public money" or "state money." Such money is paid as compensation pursuant to employment contracts and agreements between employers and employees and is considered earned at the time of transfer, just as employees who invest in defined contribution retirement plans retain ownership over the funds they have invested. Thus any divestment directive

*(continued on reverse)*



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affects money that is not the property of the state or any other public employer, and in the case of the employee's contributions and investment returns, never was.

- » Fourth, the activities of a company that trigger a divestment mandate may constitute a very small fraction of the company's total global operations. Frequently the companies in question are multinational, with primary headquarters in friendly foreign nations and significant operations in the United States, and even here in Colorado. Divestment mandates are designed to impose economic hardship on the subject companies but there is no assurance where the impact of that pressure will be felt. Widespread divestment could (and is intended to) impair the economic resources required for a company to operate, potentially resulting in an array of unintended consequences.

The issues facing our world today are not easily separated into gradations of severity or importance. Consensus as to the priority of these types of issues and the proper recourse is difficult to achieve. As a result, once a divestment mandate is imposed to address one issue, the resulting "slippery slope" makes differentiation among the remaining issues contentious and divisive. Increased divestment is costly and limits PERA's ability to effectively seek the best risk-adjusted returns to secure the retirement benefits of public servants. For these reasons, PERA will oppose divestment efforts unless such opposition is inconsistent with its fiduciary duty, but will implement divestment mandates passed by the Colorado General Assembly.