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BILL ANALYSIS

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Senate Bill 144 (Substitute S-4 as reported)

Sponsor: Senator John F. Kelly

Committee: Judiciary

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RATIONALE

Although equal employment opportunity in Northern Ireland was mandated by Great Britain's 1976 Fair Employment Act, unemployment among Catholics in that country reportedly is more than twice as high as it is among other denominations. Although overall employment in Northern Ireland has been estimated at 22%, Catholic unemployment has been estimated to be as high as 35% and Protestant unemployment at only 12%. While the British government acknowledges that economic inequality exists, some people believe that it still demonstrates a lack of will to institute any effective action to rectify the situation.

The dominating force in Northern Ireland's domestic economy is the Northern Ireland Civil Service, and although the Northern Ireland Constitution Act of 1973 declares it unlawful for the Civil Service to discriminate on the grounds of religious belief, Catholics account for only 13% of senior civil service positions. The ratio of Catholics to Protestants in the power industries, insurance, banking, and business services reportedly is 1:5. The Fair Employment Act of 1976 was hailed as a major breakthrough in the battle against discrimination, but many now believe that its impact on the promotion of equality has been negligible. In fact, many feel that the Fair Employment Agency, which was created by the Act, is merely a tool of the British government and was established to sustain anti-Catholic discrimination.

CONTENT

The bill would amend Public Act 314 of 1965, which regulates the investment of assets of public employee retirement systems, to require the investment fiduciary to use capital, common, and preferred stock, American depository receipts, or other evidence of residual ownership of a corporation in which it has investments, to support shareholder resolutions and initiatives proposing the adoption of the "MacBride Principles" for companies doing business in Northern Ireland. Those holdings also would have to be used to support shareholder resolutions and initiatives proposing to "recognize efforts to end employment discrimination contained in...the Anglo-Irish Agreement" signed on November 15, 1985. If a provision of the MacBride Principles were found to be in violation of Great Britain's law, however, then the proposed duties of the investment fiduciary would not apply to the extent that a shareholder resolution or initiative included the unlawful provision.

The "MacBride Principles" would be "those requirements for companies doing business in Northern Ireland designed to do all of the following":

- Increase representation from underrepresented religious groups in the work force, including managerial, supervisory, administrative, clerical, and technical jobs.

- Provide security for minority employees both at work and while traveling to and from the workplace.
- Ban "provocative religious or political emblems" in the workplace.
- Publicly advertise all employment openings and make special recruitment efforts to attract applicants from underrepresented religious groups.
- Prohibit layoff, recall, and termination procedures from favoring particular religious groups.
- Abolish job reservations, apprenticeship restrictions and differential employment criteria that discriminate on the basis of religion or ethnic origin.
- Develop training programs to prepare minority employees for skilled jobs by training, upgrading, and improving their skills.
- Establish procedures to assess, identify, and recruit minority employees with potential for advancement.
- Appoint senior management staff members to oversee the efforts to comply with the principles and implementing timetables for their achievement.

Proposed MCL 38.1133a

BACKGROUND

England began its colonization of Ireland during the 12th century and, in the 17th century, sent groups of Scottish settlers to "Ulster", or Northern Ireland. The northeast section of Ireland, consequently, became predominantly Protestant. Many Irish Catholics fled to the western counties, and Catholics throughout Ireland were subject to harsh penal laws. By the time of the English Reformation in 1688, 95% of Irish Catholics reportedly owned no land. Efforts were made to induce the Catholics to join the Anglican Church, and Catholic uprisings were forcibly suppressed by the British government. In 1829, the British Parliament passed the Catholic Emancipation Act, but poverty, the desire for independence, and absentee landlordism sustained efforts to obtain home rule. In 1916, a Republic was proclaimed after the Easter Rebellion occurred, and a provisional Irish government was established. In 1922, a treaty was agreed to, whereby England retained control of Protestant Ulster and the rest of Ireland became the Irish Free State.

Ulster, or Northern Ireland, comprises the six northeast counties of the island. Approximately one-third of Ulster's population is Catholic and this segment of the population is still fighting to attain equal treatment in employment, education, and housing. Many of Northern Ireland's Catholics have taken to street fighting, but others have joined the Fair Employment Trust, a society that was formed in 1985 to promote the social advancement of all Northern Irishers. The trust's aims are:

- To promote civic peace and social justice by pursuing equal opportunity for all citizens.

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OVER

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- To contribute to social advancement by encouraging workplace harmony as an incentive to investment and industrial development.
- To promote harmonious community relations and well-being through the advancement of education in the area of equal opportunity in society.

Sean MacBride, founder of Amnesty International and winner of the Nobel Peace Prize and the Lenin Peace Prize, was a co-founder of the trust and the author of the MacBride Principles. The trust has sought support from United States legislatures to encourage the American public to recognize its efforts in fighting for what the trust labels "the eradication of economic apartheid and community inequality in Northern Ireland". To date, the cities of New York, Detroit, Cleveland, Hartford, and Philadelphia, as well as the states of New York, Massachusetts, Connecticut, New Jersey, and Rhode Island have enacted legislation in support of the MacBride Principles, and legislation is pending in several other states.

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the assets of public employee retirement systems. The impact of the bill would depend on the extent to which the bill would require the State Treasurer to make investment decisions other than those that would maximize the value of pension fund assets. It seems unlikely that the bill's requirement that the investment fiduciary support stockholder resolutions or initiatives promoting the MacBride principles for companies doing business in Northern Ireland and the Anglo-Irish Agreement would have any measurable effect on public pension fund assets. Department of Treasury staff reports that it does not know the percentage of State pension fund assets that would be affected by this bill.

ARGUMENTS

Supporting Argument

Support for the MacBride Principles is a nonviolent step toward a just solution to the inequality of employment opportunity in Northern Ireland. The corporations operating in the historical, political, cultural, and economic context of Northern Ireland are in need of a uniform standard, such as the MacBride Principles, by which they can measure their actions. Such standards need specific implementation plans. Given the volatility that exists in the work force of Northern Ireland, companies need the encouragement or pressure of shareholder resolutions to adopt and implement such standards. While the Principles have similarities to the Fair Employment Act, it is not sufficient simply to discourage future discrimination as the Act does. Specific, effective standards, such as the MacBride Principles, are needed to end the inequalities existing in Northern Ireland.

Supporting Argument

Unlike apartheid in South Africa, religious discrimination in Northern Ireland is not the law of the land, but nevertheless is prevalent. By requiring pension fund fiduciaries to support shareholder resolutions advocating the adoption of the MacBride Principles, the bill would encourage efforts to end discriminatory employment

practices in Northern Ireland. The State Treasurer reportedly has already voted in favor of adopting the MacBride Principles on a number of occasions and mandating such a vote statutorily would bolster that position.

Response: Votes in favor of the MacBride Principles would be meaningless because the employment practices of United States firms operating in Northern Ireland have been consistent with the country's religious composition. American investments have not bolstered religious discriminatory practices. In addition, the Principles would do little to promote equality and could even be divisive because they would require employers to favor Catholic employees and applicants. Further, even the United States State Department has been active in opposing the MacBride Principles. According to the March 1988 issue of Governing magazine, the U.S. State Department has warned that the MacBride Principles "have the potential to exacerbate seriously the present economic difficulties in Northern Ireland, thereby making their adoption a hollow victory indeed".

Opposing Argument

The bill could contribute to the economic woes of Northern Ireland, because it could result in the divestment of retirement systems' investments in corporations that do business in Northern Ireland.

Response: The bill does not propose a divestiture requirement, nor does it suggest or imply that U.S. companies or pension funds should divest. The bill simply would require support of shareholder resolutions; if pension funds were to divest, their fiduciaries would have no such vote. Divestment is counterproductive to the bill's aim, which is to focus public and corporate attention on the political and religious struggle in Northern Ireland and to force the U.S. corporations that operate there and the British government to address the issue. With hundreds of billions of dollars invested in U.S. companies, public pension funds across the country have enormous influence on corporate decisions. That influence can be used constructively to promote equal opportunity in hiring practices in Northern Ireland.

Opposing Argument

The situation in Northern Ireland is a foreign policy matter, and it would be inappropriate for the Michigan Legislature to mandate policies to intervene in foreign affairs. To enable the Federal government to establish consistent foreign policies, matters such as sending signals to governments of other countries should be left to the Federal government.

Response: The bill does not address a foreign policy matter, but rather specifies requirements for the management of the State's public retirement systems' investments of their assets. This is entirely within the scope of the State's functions.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.