



National Conference on Public Employee Retirement Systems

The Voice for Public Pensions

February 16, 2018

Dear Mr. Chairman and Ranking Member:

On behalf of the National Conference on Public Employee Retirement Systems (NCPERS), I am writing to relay our serious concerns with, and opposition to, H.R. 4015, the “Corporate Governance Reform and Transparency Act of 2017,” which passed the House of Representatives on December 20, 2017 on a nearly party-line vote and was referred to the Senate Banking, Housing and Urban Affairs Committee the following day.

NCPERS is the largest national, nonprofit public pension advocate, representing approximately 500 funds that manage more than \$3 trillion in pension assets. We strive to protect the autonomy and independence of state and local government retirement systems. H.R. 4015 would undermine this very principle.

The legislation is riddled with worrisome provisions, premised on false assumptions, that undercut the ability of pension plans to receive independent, unbiased corporate governance research, introducing new costs and burdens to pension plans and undermining their ability to effectively exercise their fiduciary responsibilities. We are alarmed by the precedent this legislation would set.

Many pension plans employ proxy advisory firms to provide them with unbiased and independent data and analytical research to help them formulate their corporate governance and proxy voting policies. In addition, in some instances our members ask the proxy advisory firms to implement their proxy voting instructions on their behalf following a plan’s guidelines. The use of proxy research reports prepared by proxy advisory firms is one important way that our members exercise their due diligence to make independent, well-informed decisions.

H.R.4015 would (1) grant corporations the “right to review” these reports *before* the pension plan receives the report; (2) mandate that proxy advisory firms hire an ombudsman – a cost that pension funds would ultimately pay - to receive and resolve corporations’ complaints; and (3) if the ombudsman is unable to resolve the complaints, and if the corporation submits a written request, proxy advisory firms would be required to publish the corporation’s dissenting statement. This would effectively allow corporations the privilege to make the “final cut” on a report that is requested and paid for by the pension plan. Such corporate interference in the affairs of its shareholders is unprecedented and would dilute the independence of the proxy firms’ reports and ultimately the independence of pension plans.

Additionally, the regulatory regime proposed under H.R.4015 is part-inappropriate and part-unnecessary, and would needlessly drive up costs for public pension plans while reducing market choice. While NCPERS welcomes the opportunity to protect public pensions, we are puzzled by the need to impose a new federal regulatory regime that is largely duplicative of

existing SEC requirements that are designed to protect investors, including those for registered investment advisers under the Investment Advisers Act of 1940. Other provisions of H.R. 4015 propose to bypass free-market principles by authorizing the SEC to pre-qualify industry entrants based on a set of vague and highly subjective standards. We believe that contrary to the sponsors' stated intent, namely to increase competition and protect investors, the heavy-handed regime would result in fewer market participants, would enhance barriers to new entrants and could potentially lead smaller proxy advisory firms to exit the industry altogether, reducing market choice for our members. In the end, H.R.4015 would increase costs, perhaps significantly increase costs, to pension plans administrators and beneficiaries while providing no additional benefits.

Public pensions play an important role in the local, state and national economies. We ask that you consider the detrimental impact that H.R. 4015 would have on the independence and financial wellbeing of public pension plans, and urge you to oppose this and any similar legislation.

NCPERS greatly appreciates your time and consideration. If there is any additional information I can provide that would assist you, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'Hank H. Kim', with a stylized flourish extending to the right.

Hank H. Kim, Esq.
Executive Director & Counsel