S T A T E O F N E W Y O R K

3516

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. PERRY, ALFANO -- Multi-Sponsored by -- M. of A. BARRA, BENJAMIN, BRENNAN, CLARK, COOK, FARRELL, GANTT, GLICK, GOTTFRIED, GREENE, HOOPER, HOYT, LATIMER, McENENY, MILLMAN, PHEFFER, J. RIVERA, SCHROEDER, SWEENEY, TOWNS, WRIGHT -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the state finance law, in relation to the investment of certain public employee retirement funds in companies doing business in Sudan; and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative findings and declaration. The legislature finds that increased international efforts to end the crisis in Sudan's Darfur region must be taken and concurs with the United States policy which has officially declared that genocide is ongoing in the Sudan. The legislature makes the following additional findings that:

(1) Significant pressure from the United States government has not convinced the Sudanese government to disassociate itself from certain repressive and terrorist factions;

(2) The Sudanese government places severe limitations on the political and religious freedoms of the Sudanese people despite promises and pledges to end the twenty year civil war between the government and the Sudan People's Liberation Movement/Army;

(3) The Sudanese government violates the rules of war by deliberately attacking civilians and, since 1983, the war and famine-related effects have led to more than two million deaths and over four million refugees;

(4) The government of Sudan continues to engage in arbitrary arrest, prolonged detention, extra-judicial killings, torture and rape of the Sudanese people and apostasy from Islam is punishable by death;

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(5) Severe restrictions are placed on freedoms of assembly, association, movement, and speech and the government actively censors the press;

(6) Slavery and slavery-like indentured servitude continues to exist and the pro-government militia continues to engage in abduction and slavery with impunity; and

(7) The 2002 Machakos Protocol, signed by the government and the Sudan People's Liberation Movement/Army, has recognized that "Sudan is a multi-cultural, multi-racial, multi-ethnic, multi-religious, and multi-lingual country," and that there "shall be freedom of belief, worship and conscience for followers of all religions or beliefs or customs and no one shall be discriminated against on such grounds" once a peace agreement is signed.

Therefore it is in the interest of this state that the legislature declare that a prohibition be enacted to prohibit the investment of public employee retirement funds in companies doing business in Sudan until significant improvements in human rights are made.

S 2. The state finance law is amended by adding a new section 98-aa to read as follows:

S 98-AA. INVESTMENT OF STATE EMPLOYEE BENEFIT FUNDS; LIMITATIONS. 1. NOTWITHSTANDING ANY RULE OR REGULATION TO THE CONTRARY, THE STATE COMPTROLLER, IN CONSULTATION WITH THE COMMISSIONER OF TAXATION AND FINANCE, SHALL DIVEST STATE EMPLOYEE PENSION OR ANNUITY FUNDS FROM ANY CORPORATIONS, BANKS AND FINANCIAL INSTITUTIONS OR THEIR SUBSIDIARIES, THAT CONDUCT BUSINESS IN, OR HAVE TIES TO SUDAN EITHER DIRECTLY OR THROUGH ITS INSTRUMENTALITIES. NO STATE EMPLOYEE ASSETS SHALL BE INVESTED IN THE STOCKS, SECURITIES OR OTHER OBLIGATIONS OF ANY CORPORATION, BANK OR FINANCIAL INSTITUTION WHICH DIRECTLY OR THROUGH A SUBSIDIARY IS ENGAGED IN BUSINESS IN OR WITH SUDAN OR ITS INSTRUMENTALITIES.

2. THE COMPTROLLER AND COMMISSIONER OF TAXATION AND FINANCE SHALL TAKE THE APPROPRIATE STEPS, AS SOON AS PRACTICABLE, TO SELL, REDEEM, DIVEST OR WITHDRAW ANY INVESTMENT HELD IN VIOLATION OF SUBDIVISION ONE OF THIS SECTION.

S 3. Within 60 days of the effective date of this act, the state comptroller and the commissioner of taxation and finance shall file, with the governor and the legislature, a report of all investments held which are in violation of the provisions of this act. Every year thereafter, the comptroller shall report on all investments sold, redeemed, divested or withdrawn in compliance with this act. Each report after the initial report shall include: a description of the progress which the state has made since the previous report and since the enactment of this act to implement the provisions of this act.

S 4. This act shall take effect on the thirtieth day after it shall become a law and shall expire December 31, 2012 when upon such date the provisions of this act shall be deemed repealed.