

1548

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. WRIGHT, LATIMER, ARROYO, PEOPLES, ENGLEBRIGHT, BENJAMIN, ALFANO -- Multi-Sponsored by -- M. of A. BACALLES, BARRA, BRODSKY, GANTT, GLICK, GOTTFRIED, GREENE, HOOPER, JOHN, KOLB, LANCMAN, MAISEL, MAYERSOHN, MILLMAN, PAULIN, RAIA, J. RIVERA, ROSENTHAL, SCOZZAFAVA, SWEENEY, TOWNSEND, WALKER -- read once and referred to the Committee on Governmental Employees

AN ACT to amend the retirement and social security law, in relation to the investment of certain public employee retirement funds in companies doing business with the Republic of Sudan or its instrumentalities

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

- 1 Section 1. Legislative findings and declaration. 1. The legislature
2 finds that the current crisis in Sudan's Darfur region involving a
3 conflict between the Republic of Sudan and the People's Liberation Move-
4 ment or Army has disrupted the peace and security for civilians and has
5 created a climate which violates the Human Rights of ethnic minorities
6 within this nation state.
7 2. The legislature finds that the armed conflict involving the Repub-
8 lic of Sudan, the National Congress Party (NCP), and the Sudan People's
9 Liberation Movement has created genocidal conditions for innocent civil-
10 ians within the region of Darfur.
11 3. The legislature finds that the Report of the United Nations Secre-
12 tary General on Sudan provides evidence that the prospect for peace and
13 security in the Darfur region of the Republic of Sudan continues to
14 deteriorate in spite of the signing of a Comprehensive Peace Agreement
15 by the Republic of Sudan, the National Congress Party (NCP), and the
16 Sudan Liberation Movement.
17 4. The legislature finds more than one year after the signing of the
18 Comprehensive Peace Agreement a number of protocols and commissions

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

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1 designed to end ethnic cleansing or crimes against humanity have not yet
2 been established. These include the Human Rights Commission, the Civil
3 Service Commission, the Land Commission, the National Electoral Commis-
4 sion, and the Commission for the Protection of the Rights of Non-Muslims
5 in the National Capitol.

6 5. The legislature finds that national security officers continue to
7 arrest and arbitrarily detain individuals considered to be a threat to
8 the state, including students and human rights defenders. Ill-treatment
9 and torture of people in national security custody continue to be
10 reported. The process of legislative reform envisaged by the Comprehen-
11 sive Peace Agreement and the Interim National Constitution has not yet
12 commenced.

13 6. The legislature finds that in Darfur, as detailed in the report of
14 the Secretary General on Sudan to the U.N. Security Council, indiscrimi-
15 nate attacks continue against civilians, including assault and rape of
16 women by armed militias. Police and other officials are often involved
17 in human rights abuse.

18 7. The legislature finds that in southern Sudan and Abyei, rights to
19 due process and fair trial guarantees are hampered by a lack of human
20 and financial resources in the law enforcement and justice sectors. In
21 the absence of a functioning justice system in some regions, customary
22 laws are applied that do not adequately protect individual rights.

23 8. The legislature finds owing to lack of agreement between the
24 National Congress Party and the Sudan People Liberation Movement on the
25 draft law for the National Independent Human Rights Commission, no
26 developments have taken place in relation to the establishment of the
27 Commission. In addition, there have been insufficient efforts to consult
28 with civil society and other relevant actors in the preparation of the
29 draft law.

30 9. The legislature finds that aspects of the peace agreement that were
31 intended to encourage distributive justice, wealth sharing, and to
32 reduce conflicts based upon a fight over the natural resources of the
33 Republic of Sudan have failed to progress. Specifically, the Fiscal and
34 Financial Allocations and Monitoring Commission and the National Petro-
35 leum Commission have failed to quantify the share of oil revenues which
36 were to be transferred to the Government of Southern Sudan.

37 10. The legislature finds that the instigation and propagation of
38 armed conflict based upon religious extremism and a fight over petrole-
39 um, carbon fuels and other natural resources poses a serious threat to
40 the African Continent, and a threat to world peace and security.

41 S 2. The retirement and social security law is amended by adding a new
42 section 423-c to read as follows:

43 S 423-C. INVESTMENT OF CERTAIN PUBLIC FUNDS IN COMPANIES DOING BUSI-
44 NESS IN SUDAN. 1. ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, NO
45 MONEYS OR ASSETS OF THE COMMON RETIREMENT FUND SHALL BE INVESTED IN THE
46 STOCKS, SECURITIES OR OTHER OBLIGATIONS OF ANY INSTITUTION OR COMPANY
47 DOING BUSINESS IN OR WITH SUDAN OR WITH AGENCIES OR INSTRUMENTALITIES
48 THEREOF. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, NO ASSETS
49 OF ANY PENSION OR ANNUITY FUND UNDER THE JURISDICTION OF THE COMP-
50 TROLLER, SHALL BE INVESTED IN ANY BANK OR FINANCIAL INSTITUTION WHICH
51 DIRECTLY OR THROUGH A SUBSIDIARY HAS OUTSTANDING LOANS TO OR FINANCIAL
52 ACTIVITIES IN SUDAN OR ITS INSTRUMENTALITIES AND NO SUCH ASSETS SHALL BE
53 INVESTED IN THE STOCKS, SECURITIES OR OTHER OBLIGATIONS OF ANY COMPANY
54 WHICH DIRECTLY OR THROUGH A SUBSIDIARY IS ENGAGED IN BUSINESS IN OR WITH
55 SUDAN OR ITS INSTRUMENTALITIES.

1 2. THE COMPTROLLER SHALL TAKE APPROPRIATE ACTION TO SELL, REDEEM,
2 DIVEST OR WITHDRAW ANY INVESTMENT HELD IN VIOLATION OF THE PROVISIONS OF
3 THIS SECTION. THIS SECTION SHALL NOT BE CONSTRUED TO REQUIRE THE PREMA-
4 TURE OR OTHERWISE IMPRUDENT SALE, REDEMPTION, DIVESTMENT OR WITHDRAWAL
5 OF AN INVESTMENT, BUT SUCH SALE, REDEMPTION, DIVESTMENT OR WITHDRAWAL
6 SHALL BE COMPLETED NOT LATER THAN THREE YEARS FOLLOWING THE EFFECTIVE
7 DATE OF THIS SECTION.

8 3. WITHIN SIXTY DAYS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE
9 COMPTROLLER SHALL FILE WITH THE LEGISLATURE A REPORT OF ALL INVESTMENTS
10 HELD AS OF THE EFFECTIVE DATE OF THIS SECTION WHICH ARE IN VIOLATION OF
11 THE PROVISIONS OF THIS SECTION. EVERY YEAR THEREAFTER, THE COMPTROLLER
12 SHALL REPORT ON ALL INVESTMENTS SOLD, REDEEMED, DIVESTED OR WITHDRAWN IN
13 COMPLIANCE WITH THIS SECTION. EACH REPORT AFTER THE INITIAL REPORT SHALL
14 PROVIDE A DESCRIPTION OF THE PROGRESS WHICH THE COMPTROLLER HAS MADE
15 SINCE THE PREVIOUS REPORT AND SINCE THE EFFECTIVE DATE OF THIS SECTION.

16 S 3. This act shall take effect immediately.