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

2830

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. FITZPATRICK -- 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 public pension funds in companies doing business in Iran 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. The legislature finds that: 1. the United Nations Security Council voted unanimously for an additional embargo on Iranian arms exports, and calls for nations and institutions to bar new grants or loans to Iran except for humanitarian and developmental purposes;

2. publicly traded companies in the United States are substantially restricted from doing business in or with foreign states such as Iran that the United States Department of State has identified as sponsoring terrorism;

3. all United States and foreign entitles that have invested more than $20 million in Iran's energy sector since August 5, 1996, are subject to sanctions under United States law pursuant to the Iran and Libya Sanctions Act of 1996;

4. the United States renewed the Iran and Libya Sanctions Act of 1996 in 2001 and 2006;

5. foreign entities have invested in Iran's petroleum-energy sector despite United States and United Nations sanctions against Iran;

6. public retirement systems in the state currently invest on the behalf of the citizens of New York in publicly traded foreign companies that may be at risk due to business ties with foreign states such as Iran that sponsor terrorism and are involved in the proliferation of weapons of mass destruction;

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

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7. excluding companies with business activities in foreign states such as Iran that sponsor terrorism and divesting from public portfolios will help protect the public retirement systems in this state from investment losses related to these business activities and may improve the investment performance of the public retirement systems; and

8. it is unconscionable for this state to invest in foreign companies with business activities benefiting foreign states such as Iran that commit egregious violations of human rights and sponsor terrorism.

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

S 423-C. INVESTMENT OF CERTAIN PUBLIC FUNDS IN COMPANIES DOING BUSINESS IN IRAN. 1. ON AND AFTER THE EFFECTIVE DATE OF THIS SECTION, NO MONEYS OR ASSETS OF THE COMMON RETIREMENT FUND SHALL BE INVESTED IN THE STOCKS, SECURITIES OR OTHER OBLIGATIONS OF ANY INSTITUTION OR COMPANY DOING BUSINESS IN OR WITH IRAN OR WITH AGENCIES OR INSTRUMENTALITIES THEREOF. NOTWITHSTANDING ANY PROVISIONS OF LAW TO THE CONTRARY, NO ASSETS OF ANY PENSION OR ANNUITY FUND UNDER THE JURISDICTION OF THE COMPTROLLER, SHALL BE INVESTED IN ANY BANK OR FINANCIAL INSTITUTION WHICH DIRECTLY OR THROUGH A SUBSIDIARY HAS OUTSTANDING LOANS TO OR FINANCIAL ACTIVITIES IN IRAN OR ITS INSTRUMENTALITIES AND NO SUCH ASSETS SHALL BE INVESTED IN THE STOCKS, SECURITIES OR OTHER OBLIGATIONS OF ANY COMPANY WHICH DIRECTLY OR THROUGH A SUBSIDIARY IS ENGAGED IN BUSINESS IN OR WITH IRAN OR ITS INSTRUMENTALITIES.

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

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

S 3. This act shall take effect immediately and shall expire and be deemed repealed once both of the following have occurred:

(1) Iran has been removed from the United States Department of State's list of countries which have been determined to have repeatedly provided support for acts of international terrorism; and

(2) The President determines and certifies to the appropriate congressional committees that Iran has ceased its efforts to design, develop, manufacture, or acquire a nuclear explosive device or related materials and technology.

The comptroller shall notify the legislative bill drafting commission upon the occurrence of both of the events described in subdivisions one and two of this section in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effecting the provisions of section 44 of the legislative law and section 70-b of the public officers law.