

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Legislative findings. The legislature finds that: 1. the
2 United Nations Security Council voted unanimously for an additional
3 embargo on Iranian arms exports, and calls for nations and institutions
4 to bar new grants or loans to Iran except for humanitarian and develop-
5 mental purposes;
6 2. publicly traded companies in the United States are substantially
7 restricted from doing business in or with foreign states such as Iran
8 that the United States Department of State has identified as sponsoring
9 terrorism;
10 3. all United States and foreign entities that have invested more than
11 \$20 million in Iran's energy sector since August 5, 1996, are subject to
12 sanctions under United States law pursuant to the Iran and Libya Sanc-
13 tions Act of 1996;
14 4. the United States renewed the Iran and Libya Sanctions Act of 1996
15 in 2001 and 2006;
16 5. foreign entities have invested in Iran's petroleum-energy sector
17 despite United States and United Nations sanctions against Iran;
18 6. public retirement systems in the state currently invest on the
19 behalf of the citizens of New York in publicly traded foreign companies
20 that may be at risk due to business ties with foreign states such as
21 Iran that sponsor terrorism and are involved in the proliferation of
22 weapons of mass destruction;

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

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

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

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

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

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

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

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

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

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

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