

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:

1 Section 1. Legislative findings and declaration. The legislature
2 finds that increased international efforts to end the crisis in Sudan's
3 Darfur region must be taken and concurs with the United States policy
4 which has officially declared that genocide is ongoing in the Sudan.
5 The legislature makes the following additional findings that:
6 (1) Significant pressure from the United States government has not
7 convinced the Sudanese government to disassociate itself from certain
8 repressive and terrorist factions;
9 (2) The Sudanese government places severe limitations on the political
10 and religious freedoms of the Sudanese people despite promises and
11 pledges to end the twenty year civil war between the government and the
12 Sudan People's Liberation Movement/Army;
13 (3) The Sudanese government violates the rules of war by deliberately
14 attacking civilians and, since 1983, the war and famine-related effects
15 have led to more than two million deaths and over four million refugees;
16 (4) The government of Sudan continues to engage in arbitrary arrest,
17 prolonged detention, extra-judicial killings, torture and rape of the
18 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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1 (5) Severe restrictions are placed on freedoms of assembly, associ-
2 ation, movement, and speech and the government actively censors the
3 press;

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

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

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

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

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

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

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

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