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

4577

2011-2012 Regular Sessions

I N A S S E M B L Y

February 4, 2011

Introduced by M. of A. WRIGHT, LATIMER, ARROYO, PEOPLES-STOKES, ENGLEBRIGHT -- Multi-Sponsored by -- M. of A. GANTT, GOTTFRIED, HOOPER, KOLB, LANCMAN, MAISEL, MAYERSOHN, MILLMAN, PAULIN, RAIA, J. RIVERA, ROSENTHAL, SWEENEY -- 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:

Section 1. Legislative findings and declaration. 1. The legislature finds that the current crisis in Sudan's Darfur region involving a conflict between the Republic of Sudan and the People's Liberation Movement or Army has disrupted the peace and security for civilians and has created a climate which violates the Human Rights of ethnic minorities within this nation state.

2. The legislature finds that the armed conflict involving the Republic of Sudan, the National Congress Party (NCP), and the Sudan People's Liberation Movement has created genocidal conditions for innocent civilians within the region of Darfur.

3. The legislature finds that the Report of the United Nations Secretary General on Sudan provides evidence that the prospect for peace and security in the Darfur region of the Republic of Sudan continues to deteriorate in spite of the signing of a Comprehensive Peace Agreement by the Republic of Sudan, the National Congress Party (NCP), and the Sudan Liberation Movement.

4. The legislature finds more than one year after the signing of the Comprehensive Peace Agreement a number of protocols and commissions designed to end ethnic cleansing or crimes against humanity have not yet been established. These include the Human Rights Commission, the Civil

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

LBD05682-01-1

Service Commission, the Land Commission, the National Electoral Commission, and the Commission for the Protection of the Rights of Non-Muslims in the National Capitol.

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

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

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

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

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

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

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

S 423-D. INVESTMENT OF CERTAIN PUBLIC FUNDS IN COMPANIES DOING BUSINESS IN SUDAN. 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 SUDAN OR WITH AGENCIES OR INSTRUMENTALITIES THEREOF. NOTWITHSTANDING ANY PROVISION 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 SUDAN 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 SUDAN 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 PREMA-

TURE 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.