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

2477

2011-2012 Regular Sessions

I N S E N A T E

January 21, 2011

Introduced by Sens. PERKINS, BRESLIN, DIAZ, DILAN, DUANE, HASSELL-THOMPSON, KRUEGER, KRUGER, MONTGOMERY, OPPENHEIMER, PARKER, SERRANO, SMITH -- read twice and ordered printed, and when printed to be committed to the Committee on Civil Service and Pensions

AN ACT to amend the retirement and social security law, in relation to prohibiting investment of certain public funds in companies doing business in Sudan

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

Section 1. 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 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.

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

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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 2. This act shall take effect immediately.

FISCAL NOTE.-- This bill would require that any assets of the Common Retirement Fund Invested in any company doing business in or with Sudan or with agencies or instrumentalities be divested not later than three years following the date of enactment of this legislation.

If this bill is enacted, it would decrease the number of investment choices available for investment by the Common Retirement Fund. Presumably this could lead to a lower rate of return on the Fund's investments, decreasing the probability of achieving our actuarial assumed rate of return, currently at 7.5%. A diminished rate of return would cause an increase in the contributions of the State of New York and the participating employers in the New York State and Local Employees' Retirement System and the New York State and Local Police and Fire Retirement System. There also would be additional administrative costs to identify companies that are doing business in or with Sudan.

This estimate, dated January 21, 2011, and intended for use only during the 2011 Legislative Session, is Fiscal Note No. 2011-96, prepared by the Actuary for the New York State and Local Employees Retirement System and the New York State and Local Police and Fire Retirement System.