

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1140 Session of
2007

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AS REPORTED FROM COMMITTEE ON STATE GOVERNMENT, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 20, 2007

AN ACT

1 Prohibiting the investment of State funds in certain private
2 business entities doing business in Sudan; AND PROVIDING
3 INDEMNIFICATION TO CERTAIN PERSONS. <—

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Sudan
8 Divestment Act.

9 Section 2. Declaration of policy.

10 The General Assembly finds and declares as follows:

1 (1) On July 23, 2004, the United States Congress
2 declared that "the atrocities unfolding in Darfur, Sudan, are
3 genocide."

4 (2) On September 9, 2004, Secretary of State Colin L.
5 Powell told the United States Senate Foreign Relations
6 Committee that "genocide has occurred and may still be
7 occurring in Darfur" and "the Government of Sudan and the
8 Janjaweed bear responsibility."

9 (3) On September 21, 2004, addressing the United Nations
10 General Assembly, President George W. Bush affirmed the
11 Secretary of State's finding and stated, "At this hour, the
12 world is witnessing terrible suffering and horrible crimes in
13 the Darfur region of Sudan, crimes my government has
14 concluded are genocide."

15 (4) On December 7, 2004, the United States Congress
16 noted that the genocidal policy in Darfur has led to reports
17 of "systematic rape of thousands of women and girls, the
18 abduction of women and children, and the destruction of
19 hundreds of ethnically African villages, including the
20 poisoning of their wells and the plunder of their crops and
21 cattle upon which the people of such villages sustain
22 themselves."

23 (5) Also on December 7, 2004, Congress found that "the
24 Government of Sudan has restricted access by humanitarian and
25 human rights workers to the Darfur area through intimidation
26 by military and security forces, and through bureaucratic and
27 administrative obstruction, in an attempt to inflict the most
28 devastating harm on those individuals displaced from their
29 villages and homes without any means of sustenance or
30 shelter."

1 (6) On September 25, 2006, Congress reaffirmed that "the
2 genocide unfolding in the Darfur region of Sudan is
3 characterized by acts of terrorism and atrocities directed
4 against civilians, including mass murder, rape, and sexual
5 violence committed by the Janjaweed and associated militias
6 with the complicity and support of the National Congress
7 Party-led faction of the Government of Sudan."

8 (7) On September 26, 2006, the United States House of
9 Representatives stated that "an estimated 300,000 to 400,000
10 people have been killed by the Government of Sudan and its
11 Janjaweed allies since the Darfur crisis began in 2003, more
12 than 2,000,000 people have been displaced from their homes,
13 and more than 250,000 people from Darfur remain in refugee
14 camps in Chad."

15 (8) The Darfur crisis represents the first time the
16 United States Government has labeled ongoing atrocities a
17 genocide.

18 (9) The United States Government has imposed sanctions
19 against the Government of Sudan since 1997. These sanctions
20 are monitored through the United States Treasury Department's
21 Office of Foreign Assets Control (OFAC).

22 (10) According to a former chair of the United States
23 Securities and Exchange Commission, "the fact that a foreign
24 company is doing material business with a country,
25 government, or entity on OFAC's sanctions list is, in the SEC
26 staff's view, substantially likely to be significant to the
27 reasonable investor's decision about whether to invest in
28 that company."

29 (11) Since 1993, the United States Secretary of State
30 has determined that Sudan is a country the government of

1 which has repeatedly provided support for acts of
2 international terrorism, thereby incurring restrictions of
3 United States assistance, defense exports and sales, and
4 financial and other transactions with the Government of
5 Sudan.

6 (12) A 2006 United States House of Representatives
7 report states that "a company's association with sponsors of
8 terrorism and human rights abuses, no matter how large or
9 small, can have a materially adverse result on a public
10 company's operations, financial condition, earnings, and
11 stock prices, all of which can negatively affect the value of
12 an investment."

13 (13) In response to the financial risk posed by
14 investments in companies doing business with a terrorist-
15 sponsoring state, the Securities and Exchange Commission
16 established its Office of Global Security Risk to provide for
17 enhanced disclosure of material information regarding such
18 companies.

19 (14) The current Sudan divestment movement encompasses
20 nearly 100 universities, cities, states and private pension
21 plans.

22 (15) The following are to be commended:

23 (i) The City of Philadelphia, which in September
24 2006 divested its funds from companies doing business in
25 Sudan, the largest city in the United States to do so to
26 date.

27 (ii) The City of Pittsburgh, which in March 2007
28 divested its funds from companies doing business in
29 Sudan.

30 (iii) The over half dozen Pennsylvania colleges and

1 universities which have already divested from companies
2 doing business in Sudan or are considering doing so.

3 (16) Companies facing such widespread divestment present
4 further material risk to remaining investors.

5 (17) It is a fundamental responsibility of the
6 Commonwealth to decide where, how, and by whom financial
7 resources in its control should be invested, taking into
8 account numerous pertinent factors.

9 (18) It is the prerogative and desire of the
10 Commonwealth, in respect to investment resources in its
11 control and to the extent reasonable, with due consideration
12 for, among other things, return on investment, on behalf of
13 itself and its investment beneficiaries, not to participate
14 in an ownership or capital-providing capacity with entities
15 that provide significant practical support for genocide,
16 including certain non-United States companies presently doing
17 business in Sudan.

18 (19) It is the judgment of the General Assembly that
19 this act should remain in effect only insofar as it continues
20 to be consistent with, and does not unduly interfere with,
21 the foreign policy of the United States as determined by the
22 United States Government.

23 (20) It is the judgment of the General Assembly that
24 mandatory divestment of public funds from certain companies
25 is a measure that should be employed sparingly and
26 judiciously. A congressional and presidential declaration of
27 genocide satisfies this high threshold.

28 Section 3. Definitions.

29 The following words and phrases when used in this act shall
30 have the meanings given to them in this section unless the

1 context clearly indicates otherwise:

2 "Active business operations." All business operations that
3 are not inactive business operations.

4 "Business operations." Engaging in commerce in any form in
5 Sudan, including by acquiring, developing, maintaining, owning,
6 selling, possessing, leasing or operating equipment, facilities,
7 personnel, products, services, personal property, real property
8 or any other apparatus of business or commerce.

9 "Company." A sole proprietorship, organization, association,
10 corporation, partnership, joint venture, limited partnership,
11 limited liability partnership, limited liability company or
12 other entity or business association, including a wholly owned
13 subsidiary, majority-owned subsidiary, parent company or
14 affiliate of such entities or business associations, that exists
15 for profit-making purposes.

16 "Complicit." Taking actions during any preceding 20-month
17 period that have directly supported or promoted the genocidal
18 campaign in Darfur, including, but not limited to:

19 (1) preventing members of Darfur's victimized population
20 from communicating with each other;

21 (2) encouraging Sudanese citizens to speak out against
22 an internationally approved security force for Darfur;

23 (3) actively working to deny, cover-up or alter the
24 record on human rights abuses in Darfur; or

25 (4) other similar actions.

26 "Direct holdings in a company." All securities of that
27 company held directly by the public fund in an account or fund
28 in which the public fund owns all shares or interests.

29 "Government of Sudan." The government in Khartoum, Sudan,
30 which is led by the National Congress Party, formerly known as

1 the National Islamic Front, or any successor government formed
2 on or after October 13, 2006, including the coalition National
3 Unity Government agreed upon in the Comprehensive Peace
4 Agreement for Sudan. The term does not include the regional
5 government of southern Sudan.

6 "Inactive business operations." The mere continued holding
7 or renewal of rights to property previously operated for the
8 purpose of generating revenues but not presently deployed for
9 such purpose.

10 "Indirect holdings in a company." All securities of that
11 company held in an account or fund, such as a mutual fund,
12 managed by one or more persons not employed by a public fund, in
13 which the public fund owns shares or interests together with
14 other investors not subject to the provisions of this act.

15 "Marginalized populations of Sudan." Includes, but are not
16 limited to:

17 (1) the portion of the population in the Darfur region
18 that has been genocidally victimized;

19 (2) the portion of the population of southern Sudan
20 victimized by Sudan's North-South civil war;

21 (3) the Beja, Rashidiya and other similarly underserved
22 groups of eastern Sudan;

23 (4) the Nubian and other similarly underserved groups in
24 Sudan's Abyei, Southern Blue Nile and Nuba Mountain regions;
25 and

26 (5) the Amri, Hamadab, Manasir and other similarly
27 underserved groups of northern Sudan.

28 "Military equipment." Weapons, arms, military supplies and
29 equipment that readily may be used for military purposes,
30 including radar systems or military-grade transport vehicles or

1 supplies or services sold or provided directly or indirectly to
2 any force actively participating in armed conflict in Sudan.

3 "Mineral extraction activities." Includes exploring,
4 extracting, processing, transporting or wholesale selling or
5 trading of elemental minerals or associated metal alloys or
6 oxides (ore), including gold, copper, chromium, chromite,
7 diamonds, iron, iron ore, silver, tungsten, uranium and zinc, as
8 well as facilitating such activities, including by providing
9 supplies or services in support of such activities.

10 "Oil-related activities." Includes, but are not limited to:

11 (1) owning rights to oil blocks;

12 (2) exporting, extracting, producing, refining,
13 processing, exploring for, transporting, selling or trading
14 oil;

15 (3) constructing, maintaining or operating a pipeline,
16 refinery or other oil-field infrastructure; or

17 (4) facilitating such activities, including by providing
18 supplies or services in support of such activities, except
19 that the mere retail sale of gasoline and related consumer
20 products are not oil-related activities.

21 "Power production activities." Any business operation that
22 involves a project commissioned by the National Electricity
23 Corporation of Sudan or another similar Government of Sudan
24 entity whose purpose is to facilitate power generation and
25 delivery, including, but not limited to, establishing power-
26 generating plants or hydroelectric dams, selling or installing
27 components for the project, and providing service contracts
28 related to the installation or maintenance of the project, as
29 well as facilitating such activities, including by providing
30 supplies or services in support of such activities.

1 "Public fund." A Commonwealth fund, including the State
2 Employees' Retirement Fund and the Public School Employees'
3 Retirement Fund. The term includes the State entity responsible
4 for administering the fund.

5 "Scrutinized company." A company that:

6 (1) engages in scrutinized business operations described
7 under section 4; or

8 (2) is complicit in the Darfur genocide.

9 "Social development company." A company whose primary
10 purpose in Sudan is to provide humanitarian goods or services,
11 including medicine or medical equipment, agricultural supplies
12 or infrastructure, educational opportunities, journalism-related
13 activities, information or information materials, spiritual-
14 related activities, services of a purely clerical or reporting
15 nature, food, clothing or general consumer goods that are
16 unrelated to oil-related activities, mineral extraction
17 activities or power production activities.

18 "Substantial action." Adopting, publicizing and implementing
19 a formal plan to cease scrutinized business operations within
20 one year and to refrain from any such new business operations,
21 undertaking humanitarian efforts in conjunction with an
22 international organization, the Government of Sudan, the
23 regional Government of Southern Sudan or a nonprofit entity and
24 evaluated and certified by an independent third party to be
25 substantial in relationship to the company's Sudan business
26 operations and of benefit to one or more marginalized
27 populations of Sudan, or, through engagement with the Government
28 of Sudan, materially improving conditions for the genocidally
29 victimized population in Darfur.

30 Section 4. Scrutinized business operations.

1 (a) General rule.--A company engages in scrutinized business
2 operations if:

3 (1) the company has business operations that involve
4 contracts with or providing supplies or services to the
5 Government of Sudan, a company in which the Government of
6 Sudan has any direct or indirect equity share, a Government
7 of Sudan-commissioned consortium or project or a company
8 involved in a Government of Sudan-commissioned consortium or
9 project and:

10 (i) more than 10% of the company's revenues or
11 assets linked to Sudan involve oil-related activities or
12 mineral extraction activities, less than 75% of the
13 company's revenues or assets linked to Sudan involve
14 contracts with or provision of oil-related or mineral
15 extracting products or services to the regional
16 government of southern Sudan or a project or consortium
17 created exclusively by that regional government and the
18 company has failed to take substantial action; or

19 (ii) more than 10% of the company's revenues or
20 assets linked to Sudan involve power production
21 activities, less than 75% of the company's power
22 production activities include projects whose intent is to
23 provide power or electricity to the marginalized
24 populations of Sudan and the company has failed to take
25 substantial action; or

26 (2) the company supplies military equipment within
27 Sudan, unless:

28 (i) the company clearly shows that the military
29 equipment cannot be used to facilitate offensive military
30 actions in Sudan; or

(ii) the company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict, including:

(A) using post-sale tracking of such equipment by the company;

(B) certification from a reputable and objective third party that such equipment is not being used by a party participating in armed conflict in Sudan; or

(C) selling such equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

(b) Social development company.--Notwithstanding any other provision of this act, a social development company that is not complicit in the Darfur genocide may not be considered a scrutinized company.

Section 5. Identification of companies.

(a) Identification.--Within 90 days following the effective date of this act, the public fund shall make its best efforts to identify all scrutinized companies in which the public fund has direct or indirect holdings or could possibly have such holdings in the future. Efforts shall include, as appropriate, any of the following:

(1) reviewing and relying, as appropriate in the public fund's judgment, on publicly available information regarding companies with business operations in Sudan, including information provided by nonprofit organizations, research firms, international organizations and government entities;

(2) contacting asset managers contracted by the public fund that invest in companies with business operations in

1 Sudan; or

2 (3) contacting other institutional investors that have
3 divested from or engaged with companies that have business
4 operations in Sudan.

5 (b) List.--By the first meeting of the public fund following
6 the 90-day period described in subsection (a), the public fund
7 shall assemble all scrutinized companies identified into a
8 scrutinized companies list.

9 (c) Update.--The public fund shall update the scrutinized
10 companies list on a quarterly basis based on evolving
11 information from, among other sources, those listed in
12 subsection (a).

13 Section 6. Required actions.

14 (a) Engagement.--The public fund shall adhere to the
15 following procedure for companies on the scrutinized companies
16 list:

17 (1) The public fund shall immediately determine the
18 companies on the scrutinized companies list in which the
19 public fund owns direct or indirect holdings.

20 (2) For each company identified in paragraph (1) with
21 only inactive business operations, the public fund shall send
22 a written notice informing the company of this act and
23 encouraging it to continue to refrain from initiating active
24 business operations in Sudan until it is able to avoid
25 scrutinized business operations. The public fund shall
26 continue such correspondence on a semiannual basis.

27 (3) For each company newly identified in paragraph (1)
28 with active business operations, the public fund shall send a
29 written notice informing the company of its scrutinized
30 company status and that it may become subject to divestment

1 by the public fund. The notice shall offer the company the
2 opportunity to clarify its Sudan-related activities and shall
3 encourage the company, within 90 days, to either cease its
4 scrutinized business operations or convert the operations to
5 inactive business operations in order to avoid qualifying for
6 divestment by the public fund.

7 (4) If, within 90 days following the public fund's first
8 engagement with a company pursuant to paragraph (3), that
9 company ceases scrutinized business operations, the company
10 shall be removed from the scrutinized companies list and the
11 provisions of this section shall cease to apply to it unless
12 it resumes scrutinized business operations. If, within 90
13 days following the public fund's first engagement, the
14 company converts its scrutinized active business operations
15 to inactive business operations, the company shall be subject
16 to all provisions relating thereto.

17 (b) Divestment.--The public fund shall adhere to the
18 following procedure for companies on the scrutinized companies
19 list:

20 (1) If, after 90 days following the public fund's first
21 engagement with a company pursuant to subsection (a)(3), the
22 company continues to have scrutinized active business
23 operations, and only while the company continues to have
24 scrutinized active business operations, the public fund shall
25 sell, redeem, divest or withdraw all publicly traded
26 securities of the company, except as provided, according to
27 the following schedule:

28 (i) At least 50% of such assets shall be removed
29 from the public fund's assets under management by nine
30 months after the company's most recent appearance on the

1 scrutinized companies list.

2 (ii) 100% of such assets shall be removed from the
3 public fund's assets under management within 15 months
4 after the company's most recent appearance on the
5 scrutinized companies list.

6 (2) If a company that ceased scrutinized active business
7 operations following engagement pursuant to subsection (a)(3)
8 resumes such operations, paragraph (1) shall immediately
9 apply, and the public fund shall send a written notice to the
10 company. The company shall also be immediately reintroduced
11 onto the scrutinized companies list.

12 (c) Prohibition.--At no time shall the public fund acquire
13 securities of companies on the scrutinized companies list that
14 have active business operations, except as provided in
15 subsection (d).

16 (d) Exemption.--No company which the United States
17 Government affirmatively declares to be excluded from its
18 present or any future Federal sanctions regime relating to Sudan
19 shall be subject to divestment or investment prohibition
20 pursuant to subsections (b) and (c).

21 (e) Excluded securities.--Notwithstanding any provision of
22 this act to the contrary, subsections (b) and (c) shall not
23 apply to indirect holdings in actively managed investment funds.
24 The public fund shall, however, submit letters to the managers
25 of such investment funds containing companies with scrutinized
26 active business operations requesting that they consider
27 removing such companies from the fund or create a similar
28 actively managed fund with indirect holdings devoid of such
29 companies. If the manager creates a similar fund, the public
30 fund shall replace all applicable investments with investments

1 in the similar fund in an expedited time frame consistent with
2 prudent investing standards. For the purposes of this section,
3 "private equity" funds shall be deemed to be actively managed
4 investment funds.

5 Section 7. Reporting.

6 (a) Initial report.--The public fund shall file a publicly
7 available report to the General Assembly and the ~~Attorney~~ <—
8 ~~General~~ AUDITOR GENERAL that includes the scrutinized companies <—
9 list within 30 days after the list is created.

10 (b) Subsequent reports.--Annually thereafter, the public
11 fund shall file a publicly available report to the General
12 Assembly and the ~~Attorney General~~ AUDITOR GENERAL and send a <—
13 copy of that report to the United States Presidential Special
14 Envoy to Sudan, or an appropriate designee or successor, that
15 includes:

16 (1) A summary of correspondence with companies engaged
17 by the public fund under section 6(a)(2) and (3).

18 (2) All investments sold, redeemed, divested or
19 withdrawn in compliance with section 6(b).

20 (3) All prohibited investments under section 6(c).

21 (4) Any progress made under section 6(e).

22 Section 8. Expiration.

23 This act shall expire upon the occurrence of any of the
24 following:

25 (1) The Congress or President of the United States
26 declares that the Darfur genocide has been halted for at
27 least 12 months.

28 (2) The United States revokes all sanctions imposed
29 against the Government of Sudan.

30 (3) The Congress or President of the United States

1 declares that the Government of Sudan has honored its
2 commitments to cease attacks on civilians, demobilize and
3 demilitarize the Janjaweed and associated militias, grant
4 free and unfettered access for deliveries of humanitarian
5 assistance and allow for the safe and voluntary return of
6 refugees and internally displaced persons.

7 (4) The Congress or President of the United States,
8 through legislation or executive order, declares that
9 mandatory divestment of the type provided for in this act
10 interferes with the conduct of United States foreign policy.

11 Section 9. Other legal obligations.

12 With respect to actions taken in compliance with this act,
13 including all good faith determinations regarding companies as
14 required by this act, the public fund shall be exempt from any
15 conflicting statutory or common law obligations, including any
16 obligations in respect to choice of asset managers, investment
17 funds or investments for the public fund's securities
18 portfolios.

19 Section 10. Reinvestment in certain companies with scrutinized
20 active business operations.

21 (a) Reinvestment.--Notwithstanding any other provision of
22 this act to the contrary, the public fund shall be permitted to
23 cease divesting from certain scrutinized companies pursuant to
24 section 6(b) or reinvest in certain scrutinized companies from
25 which it divested pursuant to section 6(b) if clear and
26 convincing evidence shows that the value for all assets under
27 management by the public fund becomes equal to or less than
28 99.50% (50 basis points) of the hypothetical value of all assets
29 under management by the public fund assuming no divestment for
30 any company had occurred under section 6(b).

1 (b) Limitation.--Cessation of divestment, reinvestment or
2 any subsequent ongoing investment authorized by this section
3 shall be strictly limited to the minimum steps necessary to
4 avoid the contingency set forth in subsection (a).

5 (c) Report.--For any cessation of divestment, reinvestment
6 or subsequent ongoing investment authorized by this section, the
7 public fund shall provide a written report to the General
8 Assembly and the ~~Attorney General~~ AUDITOR GENERAL in advance of <—
9 initial reinvestment, updated semiannually thereafter as
10 applicable, setting forth the reasons and justification,
11 supported by clear and convincing evidence, for its decisions to
12 cease divestment, reinvest or remain invested in companies with
13 scrutinized active business operations.

14 (d) Application.--This section has no application to
15 reinvestment in companies on the ground that have ceased to have
16 scrutinized active business operations.

17 SECTION 11. INDEMNIFICATION. <—

18 (A) GENERAL RULE.--EACH INDEMNITEE SHALL BE INDEMNIFIED AND
19 HELD HARMLESS BY THE COMMONWEALTH FOR ALL GOOD FAITH ACTIONS
20 TAKEN BY THE INDEMNITEE AND FOR ALL GOOD FAITH FAILURES TO TAKE
21 ACTION, REGARDLESS OF THE DATE OF ANY SUCH ACTION OR FAILURE TO
22 TAKE ACTION; IN CONNECTION WITH ATTEMPTS TO COMPLY WITH ANY
23 INVESTMENT LIMITATIONS IMPOSED BY STATUTE AGAINST ALL EXPENSE,
24 LIABILITY AND LOSS, INCLUDING, WITHOUT LIMITATION, ATTORNEY
25 FEES, JUDGMENTS, FINES, TAXES, PENALTIES AND AMOUNTS PAID OR TO
26 BE PAID IN SETTLEMENTS REASONABLY INCURRED OR SUFFERED BY THE
27 INDEMNITEE IN CONNECTION WITH ANY PROCEEDING.

28 (B) ADVANCE PAYMENT.--THE RIGHT TO INDEMNIFICATION PROVIDED
29 IN THIS SECTION SHALL INCLUDE THE RIGHT TO HAVE THE EXPENSES
30 REASONABLY INCURRED BY THE INDEMNITEE IN DEFENDING ANY

1 PROCEEDING PAID BY THE COMMONWEALTH IN ADVANCE OF THE FINAL
2 DISPOSITION OF THE PROCEEDING UPON THE RECEIPT BY THE
3 COMMONWEALTH OF A WRITTEN UNDERTAKING BY THE INDEMNITEE TO
4 REFUND THE AMOUNTS SO ADVANCED IF IT IS ULTIMATELY DETERMINED
5 THAT THE INDEMNITEE IS NOT ENTITLED TO INDEMNIFICATION UNDER
6 THIS SECTION.

7 (C) PERSONS ENTITLED.--INDEMNIFICATION PURSUANT TO THIS
8 SECTION SHALL CONTINUE AS TO AN INDEMNITEE WHO HAS CEASED TO BE
9 A BOARD MEMBER, DESIGNEE OF A BOARD MEMBER, OFFICER OR EMPLOYEE
10 OF A PUBLIC FUND AND SHALL INURE TO THE BENEFIT OF SUCH PERSON'S
11 LEGAL REPRESENTATIVES, HEIRS, EXECUTORS AND ADMINISTRATORS.

12 (D) REIMBURSEMENT TO PUBLIC FUNDS.--TO THE EXTENT THAT THE
13 COMMONWEALTH DOES NOT MAKE ANY INDEMNIFICATION PAYMENTS,
14 INCLUDING ANY ADVANCEMENT OF LEGAL FEES AND EXPENSES, WITHIN 30
15 DAYS OF DEMAND THEREFORE, A PUBLIC FUND SHALL MAKE SUCH PAYMENT
16 AND THE COMMONWEALTH SHALL REIMBURSE THE PUBLIC FUND.

17 (E) CONSTRUCTION.--THE REPEAL OR AMENDMENT OF ANY PROVISION
18 OF THIS SECTION SHALL NOT LIMIT THE RIGHTS OF ANY INDEMNITEE TO
19 INDEMNIFICATION, INCLUDING ADVANCEMENT OF EXPENSES, WITH RESPECT
20 TO ANY ACTION OR FAILURE TO ACT OCCURRING PRIOR TO THE EFFECTIVE
21 DATE OF SUCH REPEAL OR AMENDMENT.

22 (F) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
23 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
24 SUBSECTION:

25 "INDEMNITEE." EACH CURRENT OR FORMER BOARD MEMBER, DULY
26 APPOINTED DESIGNEE OF A BOARD MEMBER, OFFICER, EMPLOYEE,
27 INCLUDING, WITHOUT LIMITATION, THE ATTORNEYS IN THE OFFICE OF
28 CHIEF COUNSEL THAT SERVE A PUBLIC FUND, AGENT, RESEARCH FIRM, OR
29 INVESTMENT MANAGER OF A PUBLIC FUND WHO WAS OR IS A PARTY TO, OR
30 IS THREATENED TO BE MADE A PARTY TO, OR IS OTHERWISE INVOLVED

1 IN, ANY PROCEEDING, BY REASON OF THE FACT THAT THE PERSON IS OR
2 WAS A BOARD MEMBER, DESIGNEE OF A BOARD MEMBER, OFFICER,
3 EMPLOYEE, AGENT, RESEARCH FIRM OR INVESTMENT MANAGER OF A PUBLIC
4 FUND.

5 "PROCEEDING." ANY THREATENED, PENDING OR COMPLETED ACTION,
6 SUIT OR PROCEEDING, INCLUDING, WITHOUT LIMITATION, AN ACTION,
7 SUIT OR PROCEEDING BY OR IN THE RIGHT OF A PUBLIC FUND, RELATING
8 TO COMPLIANCE WITH ANY INVESTMENT LIMITATIONS IMPOSED BY
9 STATUTE, WHETHER CIVIL, CRIMINAL, ADMINISTRATIVE, INVESTIGATIVE
10 OR THROUGH ARBITRATION.

11 ~~Section 11. Enforcement.~~

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12 ~~The Attorney General is charged with enforcing the provisions~~
13 ~~of this act and through any lawful designee may bring such~~
14 ~~actions in court as are necessary.~~

15 SECTION 12. AUDITS.

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16 THE AUDITOR GENERAL SHALL CONDUCT AN ANNUAL COMPLIANCE AUDIT
17 OF EACH PUBLIC FUND SUBJECT TO THE PROVISIONS OF THIS ACT. THE
18 AUDITOR GENERAL MAY REFER ANY FINDING OF AN AUDIT CONDUCTED
19 UNDER THIS SECTION TO THE ATTORNEY GENERAL FOR INVESTIGATION.

20 Section ~~12~~ 13. Effective date.

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21 This act shall take effect in 60 days.