
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1086

Session of
2007

INTRODUCED BY SHAPIRO, DeWEESE, BASTIAN, BELFANTI, BENNINGHOFF,
BOYD, CALTAGIRONE, COHEN, CONKLIN, COX, CURRY, CUTLER,
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WALKO, WANSACZ, WATSON, YOUNGBLOOD, YUDICHAK, DENLINGER,
PALLONE, SIPTROTH, MOYER, PASHINSKI AND MENSCH,
APRIL 16, 2007

SENATOR BROWNE, FINANCE, IN SENATE, AS AMENDED,
SEPTEMBER 22, 2008

AN ACT

1 Providing for divestiture by the State Treasurer, the State
2 Employees' Retirement System and the Public School Employees'
3 Retirement System of investments in companies doing business
4 in Iran and Sudan.

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

7 Section 1. Short title.

8 This act shall be known and may be cited as the Protecting
9 Pennsylvania's Investments Act.

10 ~~Section 2. Findings and declarations.~~

<—

11 ~~The General Assembly finds and declares as follows:~~

12 ~~(1) In 2001, the United States Securities and Exchange~~

13 ~~Commission determined that companies with business operations~~

1 ~~in terrorist sponsoring states are exposed to a special risk~~
2 ~~category known as Global Security Risk, which is the risk to~~
3 ~~share value and corporate reputation stemming from the~~
4 ~~intersection of a publicly traded company's international~~
5 ~~business activities and security related concerns, such as~~
6 ~~terrorism and weapons proliferation.~~

7 ~~(2) In response to the financial risk posed by~~
8 ~~investments in companies doing business with a state that~~
9 ~~sponsors terrorists, the Securities and Exchange Commission~~
10 ~~established its Office of Global Security Risk to provide for~~
11 ~~enhanced disclosure of material information regarding such~~
12 ~~companies.~~

13 ~~(3) According to a former chair of the Securities and~~
14 ~~Exchange Commission, the fact that a foreign company is doing~~
15 ~~material business with a country, government or entity on the~~
16 ~~Office of Foreign Assets Control's (OFAC) sanctions list is,~~
17 ~~in the Securities and Exchange Commission staff's view,~~
18 ~~substantially likely to be significant to a reasonable~~
19 ~~investor's decision about whether to invest in that company.~~

20 ~~(4) A 2006 report by the United States House of~~
21 ~~Representatives states that "a company's association with~~
22 ~~sponsors of terrorism and human rights abuses, no matter how~~
23 ~~large or small, can have a materially adverse result on a~~
24 ~~public company's activities, financial condition, earnings,~~
25 ~~and stock prices, all of which can negatively affect the~~
26 ~~value of an investment."~~

27 ~~(5) Iran tops the United States State Department's list~~
28 ~~of state sponsors of terrorism, funding such groups as Hamas,~~
29 ~~Hizballah and Islamic Jihad, as well as fueling the~~
30 ~~insurgency in Iraq via its Al Quds force.~~

1 ~~(6) The United States imposed sanctions on Iran by~~
2 ~~designating the Islamic Revolutionary Guard Corps, its Al-~~
3 ~~Quds Force and three state-owned banks as weapons~~
4 ~~proliferators and supporters of terrorism.~~

5 ~~(7) The United Nations Security Council has three times~~
6 ~~voted unanimously to impose sanctions on Iran for its failure~~
7 ~~to suspend its uranium enrichment activities and called for~~
8 ~~an embargo on Iranian arms exports, a freeze on assets abroad~~
9 ~~of an expanded list of individuals and companies involved in~~
10 ~~Iran's nuclear and ballistic missile programs and barring new~~
11 ~~grants or loans to Iran except for humanitarian and~~
12 ~~developmental purposes.~~

13 ~~(8) Foreign entities have invested in Iran's petroleum~~
14 ~~energy sector despite United States and United Nations~~
15 ~~sanctions against Iran.~~

16 ~~(9) All entities that have invested more than~~
17 ~~\$20,000,000 in any given year in Iran's energy sector since~~
18 ~~August 5, 1996, are subject to sanctions under United States~~
19 ~~law under the Iran and Libya Sanctions Act of 1996 (Public~~
20 ~~Law 104-172, 110 Stat. 1541).~~

21 ~~(10) The United States renewed the Iran and Libya~~
22 ~~Sanctions Act of 1996 in 2001 by enacting the ILSA Extension~~
23 ~~Act of 2001 (Public Law 107-24, 115 Stat. 199) and in 2006 by~~
24 ~~enacting the Iran Freedom Support Act (Public Law 109-293,~~
25 ~~120 Stat. 1344).~~

26 ~~(11) On July 23, 2004, the United States Congress~~
27 ~~declared that "the atrocities unfolding in Darfur, Sudan, are~~
28 ~~genocide."~~

29 ~~(12) On September 9, 2004, Secretary of State Colin L.~~
30 ~~Powell told the United States Senate Foreign Relations~~

1 ~~Committee that "genocide has occurred and may still be~~
2 ~~occurring in Darfur" and "the Government of Sudan and the~~
3 ~~Janjaweed bear responsibility."~~

4 ~~(13) On September 21, 2004, addressing the United~~
5 ~~Nations General Assembly, President George W. Bush affirmed~~
6 ~~the Secretary of State's findings and stated, "At this hour,~~
7 ~~the world is witnessing terrible suffering and horrible~~
8 ~~crimes in the Darfur region of Sudan, crimes my government~~
9 ~~has concluded are genocide."~~

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

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

26 ~~(16) On September 25, 2006, Congress reaffirmed that~~
27 ~~"the genocide unfolding in the Darfur region of Sudan is~~
28 ~~characterized by acts of terrorism and atrocities directed~~
29 ~~against civilians, including mass murder, rape, and sexual~~
30 ~~violence committed by the Janjaweed and associated militias~~

1 ~~with the complicity and support of the National Congress~~
2 ~~Party led faction of the Government of Sudan."~~

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

10 ~~(18) On December 31, 2007, President George Bush signed~~
11 ~~the Sudan Accountability and Divestment Act into law which~~
12 ~~authorizes state and local government to divest assets in~~
13 ~~companies that conduct business operations in Sudan, and to~~
14 ~~prohibit United States Government contracts with such~~
15 ~~companies.~~

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

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

23 ~~(21) Since 1993, the United States Secretary of State~~
24 ~~has determined that Sudan is a country the government of~~
25 ~~which has repeatedly provided support for acts of~~
26 ~~international terrorism, thereby incurring restrictions of~~
27 ~~United States assistance, defense exports and sales, and~~
28 ~~financial and other transactions with Sudan.~~

29 ~~(22) It is a fundamental responsibility of the~~
30 ~~Commonwealth to decide where, how and by whom financial~~

1 ~~resources in its control should be invested, taking into~~
2 ~~account numerous pertinent factors.~~

3 ~~(23) Divestiture should be considered with the intent to~~
4 ~~improve investment performance and, by the rules of prudence,~~
5 ~~fiduciaries must take into account all relevant substantive~~
6 ~~factors in arriving at an investment decision.~~

7 ~~(24) The Commonwealth is deeply concerned about~~
8 ~~investments in publicly traded companies that have~~
9 ~~investments in Iran and Sudan as a financial risk to~~
10 ~~shareholders.~~

11 ~~(25) On July 6, 2007, the Pennsylvania House of~~
12 ~~Representatives passed House Bill No. 1140, Printer's No.~~
13 ~~2190, entitled "An act prohibiting the investment of State~~
14 ~~funds in certain private business entities doing business in~~
15 ~~Sudan; and providing indemnification to certain persons,"~~
16 ~~which would prohibit the investment of State funds in certain~~
17 ~~private business entities doing business in Sudan.~~

18 ~~(26) By investing in publicly traded companies having~~
19 ~~investments in Iran and Sudan, the State Treasurer, the State~~
20 ~~Employees' Retirement System and the Public School Employees'~~
21 ~~Retirement System could put the fund they oversee at~~
22 ~~financial risk.~~

23 ~~(27) Divestiture from markets that are vulnerable to~~
24 ~~embargo, loan restrictions and sanctions from the United~~
25 ~~States and the international community, including the United~~
26 ~~Nations Security Council, is in accordance with the rules of~~
27 ~~prudence.~~

28 ~~(28) The General Assembly finds that this act should~~
29 ~~remain in effect only insofar as it continues to be~~
30 ~~consistent with and does not unduly interfere with the~~

~~foreign policy of the United States as determined by the
Federal Government.~~

~~(29) To protect the Commonwealth's assets, it is in the
best interest of the Commonwealth to enact a statutory
prohibition regarding the investments in companies doing
business in Iran and Sudan managed by the State Treasurer,
the State Employees' Retirement System and the Public School
Employees' Retirement System.~~

Section 3 2. Definitions. <—

The following words and phrases when used in this act shall
have the meanings given to them in this section unless the
context clearly indicates otherwise:

"Board." As defined in SECTION 102 OF THE ACT OF FEBRUARY 1, <—
1974 (P.L.34, NO.15), KNOWN AS THE PENNSYLVANIA MUNICIPAL
RETIREMENT LAW; 71 Pa.C.S. Pt. XXV (relating to retirement for
State employees and officers); or 24 Pa.C.S. Pt. IV (relating to <—
retirement for school employees).

"Business activities." Owning or controlling property or
assets located in, having employees or facilities located in,
providing goods or services to, having distribution agreements
with, issuing credit or loans to, purchasing bonds or commercial
paper issued by, investing in or having equity ties to or with
Iran, Sudan or any company domiciled in Iran or Sudan ~~or their~~ <—
affiliates.

"Company." Any sole proprietorship, organization,
association, corporation, partnership, joint venture, limited
partnership, limited liability partnership, limited liability
company or other entity or business association that exists for
the purpose of making a profit.

"Direct holdings." All securities of a company that are held

1 directly by the public fund ~~or in an account or fund in which~~ <—
2 ~~the public fund owns all shares and interests.~~

3 "Government of Iran." The government of Iran and its
4 instrumentalities and companies owned or controlled by the
5 government of Iran.

6 "Government of Sudan." The government in Khartoum, Sudan,
7 which is led by the National Congress Party, formerly known as
8 the National Islamic Front, or any successor government formed
9 on or after October 13, 2006, including the coalition the
10 National Unity Government agreed upon in the Comprehensive Peace
11 Agreement for Sudan. The term does not include the regional
12 government of southern Sudan.

13 "Inactive business activities." The continued holding or
14 renewal of rights to property previously operated for the
15 purpose of generating revenues but not presently deployed for
16 that purpose.

17 "Indemnatee." Each current or former board member, duly
18 appointed designee of a board member, officer, employee,
19 including, without limitation, the attorneys in the Office of
20 Chief Counsel that serve a public fund, agent, research firm or
21 investment manager of a public fund who was or is a party to, or
22 is threatened to be made a party to, or is otherwise involved in
23 any proceeding by reason of the fact that the person is or was a
24 board member, designee of a board member, officer, employee,
25 agent, research firm or investment manager of a public fund.

26 ~~"Indirect holdings." All securities of a company that are~~ <—
27 ~~held in an account or fund, such as a mutual fund, managed by~~
28 ~~one or more persons not employed by the public fund, in which~~
29 ~~the public fund owns shares or interests together with other~~
30 ~~investors not subject to the provisions of this act.~~

1 "Iran." The Islamic Republic of Iran.

2 "List of State Sponsors of Terrorism." The list of countries
3 designated by the United States Secretary of State as having
4 repeatedly provided support for acts of international terrorism
5 as reported annually in Country Reports on Terrorism in
6 accordance with 22 U.S.C. § 2656(f).

7 "Marginalized populations of Sudan." Include, but are not
8 limited to, the portion of the population in the Darfur region
9 that has been genocidally victimized; the portion of the
10 population of southern Sudan victimized by Sudan's North-South
11 civil war; the Beja, Rashidiya and other similarly underserved
12 groups of eastern Sudan; the Nubian and other similarly
13 underserved groups in Sudan's Abyei, Southern Blue Nile and Nuba
14 Mountain regions; and the Amri, Hamadab, Manasir and other
15 similarly underserved groups of northern Sudan.

16 "Military equipment." Weapons, arms, military supplies and
17 equipment that may be used readily for military purposes,
18 including, but not limited to, radar systems or military-grade
19 transport vehicles; or supplies or services sold or provided
20 directly or indirectly to any force actively participating in
21 armed conflict in Sudan.

22 "Mineral extraction activities." Include exploring,
23 extracting, processing, transporting or wholesale selling or
24 trading of elemental minerals or associated metal alloys or
25 oxides (ore), including gold, copper, chromium, chromite,
26 diamonds, iron, iron ore, silver, tungsten, uranium and zinc, as
27 well as facilitating such activities, including by providing
28 supplies or services in support of such activities.

29 ~~"Oil related activities." Include, but are not limited to,~~
30 ~~owning rights to oil blocks; exporting, extracting, producing,~~

<—

1 ~~refining, processing, exploring for, transporting, selling or~~
2 ~~trading of oil; constructing, maintaining or operating a~~
3 ~~pipeline, refinery or other oil field infrastructure; and~~
4 ~~facilitating such activities, including by providing supplies or~~
5 ~~services in support of such activities, provided that the mere~~
6 ~~retail sale of gasoline and related consumer products shall not~~
7 ~~be considered oil related activities.~~

8 "OIL-RELATED ACTIVITIES." THE TERM INCLUDES ALL OF THE
9 FOLLOWING:

<—

10 (1) DEVELOPMENT OF PETROLEUM OR NATURAL GAS RESOURCES OF
11 IRAN OR SUDAN. THIS PARAGRAPH DOES NOT INCLUDE THE MERE SALE
12 OF GASOLINE AND RELATED CONSUMER PRODUCTS.

13 (2) OWNING RIGHTS TO OIL OR NATURAL GAS BLOCKS.

14 (3) EXPORTING, EXTRACTING, PRODUCING, REFINING,
15 PROCESSING, EXPLORING FOR, TRANSPORTING, SELLING OR TRADING
16 OIL OR NATURAL GAS.

17 (4) CONSTRUCTING, MAINTAINING OR OPERATING ANY PIPELINE,
18 REFINERY, LIQUEFACTION FACILITY OR OTHER OIL OR NATURAL GAS
19 INFRASTRUCTURE.

20 (5) FACILITATING ACTIVITIES REFERRED TO IN PARAGRAPH
21 (1), (2), (3) OR (4), INCLUDING BY SUPPLYING SERVICES IN
22 SUPPORT OF THE ACTIVITIES.

23 "Power production activities." Business operations that
24 involve a project commissioned by the National Electricity
25 Corporation (NEC) of Sudan or other similar government of Sudan
26 entity whose purpose is to facilitate power generation and
27 delivery, including, but not limited to, establishing power-
28 generating plants or hydroelectric dams, selling or installing
29 components for the project, providing service contracts related
30 to the installation or maintenance of the project, as well as

1 facilitating such activities, including by providing supplies or
2 services in support of such activities.

3 "Proceeding." Any threatened, pending or completed action,
4 suit or proceeding, including, without limitation, an action,
5 suit or proceeding by or in the right of a public fund, relating
6 to compliance with any investment limitations imposed by
7 statute, whether civil, criminal, administrative, investigative
8 or through arbitration.

9 "Public fund." Any of the following:

10 (1) The State Employees' Retirement Fund established
11 pursuant to 71 Pa.C.S. Pt. XXV (relating to retirement for
12 State employees and officers).

13 (2) The Public School Employees' Retirement Fund
14 established pursuant to 24 Pa.C.S. Pt. IV (relating to
15 retirement for school employees).

16 (3) THE PENNSYLVANIA MUNICIPAL RETIREMENT FUND. <—

17 ~~(3)~~ (4) Any Commonwealth fund administered by OF WHICH <—
18 the State Treasurer IS THE CUSTODIAN. <—

19 "Scrutinized business activities." Business activities that
20 have resulted in a company becoming a scrutinized company.

21 "Scrutinized company." Any of the following:

22 ~~(1) Any foreign company that has business activities~~ <—
23 ~~with a value of at least \$20,000,000 in Iran in any 12 month~~
24 ~~period, or that has supplied military equipment to the~~
25 ~~Government of Iran, or that has knowingly and willfully~~
26 ~~violated United States export controls with respect to Iran.~~

27 (1) ANY FOREIGN COMPANY THAT HAS: <—

28 (I) INVESTED AT LEAST \$20,000,000 IN THE DEVELOPMENT
29 OF THE PETROLEUM OR NATURAL GAS RESOURCES OF IRAN IN ANY
30 12-MONTH PERIOD SINCE AUGUST 5, 1996;

1 (II) SUPPLIED MILITARY EQUIPMENT TO THE GOVERNMENT
2 OF IRAN WITHIN THE 12-MONTH PERIOD PRIOR TO THE EFFECTIVE
3 DATE OF THIS SECTION; OR

4 (III) KNOWINGLY AND INTENTIONALLY VIOLATED THE
5 UNITED STATES EXPORT CONTROLS WITH RESPECT TO IRAN DURING
6 THE 12-MONTH PERIOD PRIOR TO THE EFFECTIVE DATE OF THIS
7 SECTION.

8 (2) Any foreign company that meets the criteria set
9 forth either in subparagraph (i) or (ii):

10 (i) The company has business operations that involve
11 contracts with or provision of supplies or services to
12 the government of Sudan, companies in which the
13 government of Sudan has any direct ~~or indirect~~ equity <—
14 share, government of Sudan-commissioned consortiums or
15 projects, or companies involved in government of Sudan-
16 commissioned consortiums or projects; and

17 (A) More than 10% of the company's revenue or
18 assets linked to Sudan involve oil-related activities
19 or mineral extraction activities; less than 75% of
20 the company's revenues or assets linked to Sudan
21 involve contracts with or provision of oil-related or
22 mineral extracting products or services to the
23 regional government of southern Sudan or a project or
24 consortium created exclusively by that regional
25 government; and the company has failed to take
26 substantial action specific to Sudan; or

27 (B) More than 10% of the company's revenues or
28 assets linked to Sudan involve power production
29 activities; less than 75% of the company's power
30 production activities include projects whose intent

1 is to provide power or electricity to the
2 marginalized populations of Sudan; and the company
3 has failed to take substantial action specific to
4 Sudan.

5 (ii) The company supplies military equipment within
6 Sudan, unless it clearly shows that the military
7 equipment cannot be used to facilitate offensive military
8 actions in Sudan or the company's implements rigorous and
9 verifiable safeguards to prevent use of that equipment by
10 forces actively participating in armed conflict, for
11 example, through post-sale tracking of such equipment by
12 the company, certification from a reputable and objective
13 third party that such equipment is not being used by a
14 party participating in armed conflict in Sudan, or sale
15 of such equipment solely to the regional government of
16 southern Sudan or any internationally recognized
17 peacekeeping force or humanitarian organization.

18 The term does not include a foreign company that is a social
19 development company.

20 "Social development company." A company whose primary
21 purpose in Iran or Sudan is to provide humanitarian goods or
22 services, including medicine or medical equipment, agricultural
23 supplies or infrastructure; educational opportunities;
24 journalism-related activities; information or information
25 materials; spiritual-related activities; services of a purely
26 clerical or reporting nature; food, clothing or general consumer
27 goods.

28 "Substantial action specific to Iran." Adopting, publicizing
29 and implementing a formal plan to cease scrutinized business
30 activities within one year and to refrain from any such new

1 business activities in Iran.

2 "Substantial action specific to Sudan." Adopting,
3 publicizing and implementing a formal plan to cease scrutinized
4 business operations within one year and to refrain from any such
5 new business operations; undertaking significant humanitarian
6 efforts in conjunction with an international organization, the
7 government of Sudan, the regional government of southern Sudan
8 or a nonprofit entity and evaluated and certified by an
9 independent third party to be substantial in relationship to the
10 company's Sudan business operations and of benefit to one or
11 more marginalized populations of Sudan; or through engagement
12 with the government of Sudan, materially improving conditions
13 for the genocidally victimized population in Darfur.

14 "Sudan." The Democratic Republic of Sudan.

15 Section 4 3. Identification of companies. <—

16 (a) Best effort.--Within ~~30~~ 90 days after the effective date <—
17 of this section, a public fund shall make its best effort to
18 identify all scrutinized companies in which the public fund has
19 direct ~~or indirect~~ holdings. A public fund shall, ~~at a minimum,~~ <—
20 review ~~and rely~~, as appropriate in the public fund's judgment, <—
21 ~~on~~ publicly available information regarding foreign companies <—
22 that have scrutinized business activities, including information
23 provided by nonprofit organizations, research firms,
24 international organizations and government entities.

25 (b) Assembly.--By the first meeting of a public fund
26 following the ~~30-day~~ TIME period under subsection (a), the <—
27 public fund shall assemble all scrutinized companies that fit
28 the criteria specified in paragraph (1) of the definition of
29 "scrutinized company" into a Scrutinized Companies with
30 Activities in Iran List and shall assemble all scrutinized

1 companies that fit criteria specified in paragraph (2) of the
2 definition of "scrutinized company" into a Scrutinized Companies
3 with Activities in Sudan List.

4 (c) Update.--A public fund shall, from the effective date of
5 this section, annually update and make publicly available its
6 Scrutinized Companies with Activities in Iran List and
7 Scrutinized Companies with Activities in Sudan List based on
8 evolving information from, among other sources, those listed
9 under subsection (a). In addition, a public fund shall provide a
10 copy of its lists to all other public funds including all
11 updates.

12 Section 5 4. Required actions. <—

13 (a) Procedure.--A public fund shall adhere to the procedures
14 under this section for assembling companies on its Scrutinized
15 Companies with Activities in Iran List and Scrutinized Companies
16 with Activities in Sudan List.

17 (b) Engagement.--

18 (1) For each company on a public fund's Scrutinized
19 Companies with Activities in Iran List or Scrutinized
20 Companies with Activities in Sudan List in which the public
21 fund has direct ~~and indirect~~ holdings, the public fund shall <—
22 send a written notice informing the company of its
23 scrutinized company status and specify the business
24 activities which have resulted in this determination and that
25 it may become subject to divestment by the public fund. The
26 notice must inform the company of the opportunity to clarify
27 its scrutinized business activities and encourage the
28 company, within 90 days of the date of receipt of the notice,
29 to cease its scrutinized business activities in Iran, Sudan
30 or both, or convert the activities to inactive business

1 activities in order to avoid qualifying for divestment by the
2 public fund. The notice shall be sent no later than 120 days
3 after the effective date of this section.

4 (2) If, within 90 days of the date of receipt of a
5 notice under paragraph (1), a company announces by public
6 disclosure substantial action specific to Iran or substantial
7 action specific to Sudan, the public fund may maintain its
8 holdings, but the company shall remain on the Scrutinized
9 Companies with Activities in Iran List or Scrutinized
10 Companies with Activities in Sudan List pending completion of
11 the companies' cessation of scrutinized business activities.
12 Following completion of a company's cessation of scrutinized
13 business activities, the public fund shall remove the company
14 from its Scrutinized Companies with Activities in Iran List
15 or Scrutinized Companies with Activities in Sudan List.

16 (c) Divestment.--

17 (1) If, after 90 days following the effective date of
18 receipt of the notice under subsection (b)(1), a company has
19 not announced by public disclosure substantial action
20 specific to Iran, substantial action specific to Sudan or
21 both as specified in the notice, or the public fund
22 determines or becomes aware that the company continues to
23 have scrutinized business activities, the public fund, within
24 ~~15~~ 24 months after the 90-day period, shall sell, redeem, <—
25 divest or withdraw from its direct ~~and indirect~~ holdings all <—
26 securities of the company.

27 (2) If a public fund determines or becomes aware that a
28 company that ceased scrutinized business activities following
29 engagement under subsection (b) has resumed the activities,
30 the public fund shall send a written notice to the company

under subsection (b), and the company shall be immediately
~~reintroduced~~ PLACED onto the public fund's Scrutinized
Companies with Activities in Iran List or Scrutinized
Companies with Activities in Sudan List.

(3) A public fund shall monitor a scrutinized company
that has announced by public disclosure substantial action
specific to Iran, substantial action specific to Sudan or
both. If after one year the public fund determines or becomes
aware that the company has not implemented the plan, within
~~six~~ 15 months after the expiration of the one-year period,
the public fund shall sell, redeem, divest or withdraw from
its direct ~~and indirect~~ holdings all securities of the
company.

(d) Prohibition.--A public fund may not acquire securities
of a company on its Scrutinized Companies with Activities in
Iran List or Scrutinized Companies with Activities in Sudan
List.

(e) Excluded securities.--Nothing in this act shall apply to
the public fund's holdings in alternative investments.

Section 6 5. Reporting.

(a) Report to United States Attorney General.--Within 30
days of the passage of this act, administrators of the public
fund shall file a written report to the United States Attorney
General detailing the requirements contained in this act.

(b) Duty of public fund.--A public fund shall, within 30
days of the creation of its Scrutinized Companies with
Activities in Iran List and Scrutinized Companies with
Activities in Sudan List, provide a report to the Governor; the
President pro tempore of the Senate; the Speaker of the House of
Representatives; and each member of the boards of THE

1 PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM, the State Employees'
2 Retirement System and Public School Employees' Retirement System
3 ~~that includes~~. THE REPORT SHALL INCLUDE the items required under <—
4 subsection ~~(b)~~ (C). The report shall be made available to the <—
5 public.

6 (c) Contents.--The report under subsection ~~(a)~~ (B) shall <—
7 include the most recent Scrutinized Companies with Activities in
8 Iran List and Scrutinized Companies with Activities in Sudan
9 List and all of the following:

10 (1) A summary of correspondence with companies engaged
11 by the public fund under section 5 4. <—

12 (2) All investments sold, redeemed, divested or
13 withdrawn in compliance with section 5~~(e)~~ 4(C). <—

14 (3) All prohibited investments under section 5~~(d)~~ 4(D). <—

15 (4) A list of all publicly traded securities held by the
16 public fund.

17 Section 7 6. Expiration. <—

18 (a) Recurrence of investment in Iran.--A public fund shall
19 have no obligations under this act with respect to a company
20 engaged in business activities in Iran upon the occurrence of
21 any of the following:

22 (1) Iran does not appear on the List of State Sponsors
23 of Terrorism.

24 (2) The President or Congress of the United States,
25 through legislation or executive order, declares that
26 mandatory divestment of the type provided for in this act
27 interferes with the conduct of United States foreign policy.

28 (b) Recurrence of investment in Sudan.--A public fund shall
29 have no obligations under this act with respect to a company
30 engaged in business activities in Sudan upon the occurrence of

1 any of the following:

2 (1) The President or Congress of the United States
3 declares Darfur genocide has been halted for at least 12
4 months.

5 (2) The United States revokes all sanctions imposed
6 against the government of Sudan.

7 (3) The President or Congress of the United States
8 declares that the government of Sudan has honored its
9 commitments to cease attacks on civilians, demobilize and
10 demilitarize the Janjaweed and associated militias, grant
11 free and unfettered access for deliveries of humanitarian
12 assistance and allow for the safe and voluntary return of
13 refugees and internally displaced persons.

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

18 Section 7. Conflict with other laws.

<—

19 A public fund may perform any action necessary to comply with
20 this act, notwithstanding the provisions of any other law,
21 including, but not limited to, any fiduciary or prudent
22 investing responsibilities as prescribed in 24 Pa.C.S. § 8521
23 (relating to management of fund and accounts) and 71 Pa.C.S. §
24 5931 (relating to management of fund and accounts) and any
25 obligations of a public fund with respect to choice of asset
26 managers, investment funds or investments for the public fund's
27 securities portfolios.

28 Section 8. Indemnification.

<—

29 (a) General rule.--Each indemnitee shall be indemnified and
30 held harmless by the Commonwealth for all good faith actions

1 taken by the indemnitee and for all good faith failures to take
2 action, regardless of the date of any such action or failure to
3 take action, in connection with attempts to comply with any
4 investment limitations imposed by statute against all expense,
5 liability and loss, including, without limitation, attorney
6 fees, judgments, fines, taxes, penalties and amounts paid or to
7 be paid in settlements reasonably incurred or suffered by the
8 indemnitee in connection with any proceeding.

9 (b) Advance payment.--The right to indemnification provided
10 in this section shall include the right to have the expenses
11 reasonably incurred by the indemnitee in defending any
12 proceeding paid by the Commonwealth in advance of the final
13 disposition of the proceeding upon the receipt by the
14 Commonwealth of a written undertaking by the indemnitee to
15 refund the amounts so advanced if it is ultimately determined
16 that the indemnitee is not entitled to indemnification under
17 this section.

18 (c) Persons entitled.--Indemnification pursuant to this
19 section shall continue as to an indemnitee who has ceased to be
20 a board member, designee of a board member, officer or employee
21 of a public fund and shall inure to the benefit of such person's
22 legal representatives, heirs, executors and administrators.

23 (d) Reimbursement to public funds.--To the extent that the
24 Commonwealth does not make any indemnification payments,
25 including any advancement of legal fees and expenses, within 30
26 days of demand therefor, a public fund shall make such payment
27 and the Commonwealth shall reimburse the public fund.

28 (e) Construction.--The repeal, expiration or amendment of
29 any provision of this section shall not limit the rights of any
30 indemnitee to indemnification, including advancement of

1 expenses, with respect to any action or failure to act occurring
2 prior to the effective date of such repeal or amendment.

3 Section ~~10~~ 9. Reimbursement. <—

4 After the end of the fiscal year of each public fund, the
5 public fund shall submit to ~~and~~ the Secretary of the Budget <—
6 ~~shall certify~~ the determination of the net losses, if any, costs <—
7 and expenses incurred by the public fund as a result of
8 compliance with the provisions of this act, and the Commonwealth
9 shall ~~promptly~~, WITHIN 30 DAYS, reimburse the public fund for <—
10 those losses, costs and expenses from the General Fund. ~~If the~~ <—
11 ~~public fund accrues net gains as a result of compliance with the~~
12 ~~provisions of this act, the gains shall first be offset against~~
13 ~~the costs and expenses of compliance with this act during the~~
14 ~~previous fiscal year and any balance shall be offset against the~~
15 ~~costs and expenses of compliance and any net losses incurred in~~
16 ~~future fiscal years.~~

17 Section ~~11~~ 29. Severability. <—

18 If any provision of this act or its application to any person
19 or circumstances is held invalid, the invalidity shall not
20 affect other provisions or applications of this act that can be
21 given effect without the invalid provision or application.

22 Section ~~12~~ 30. Effective date. <—

23 This act shall take effect immediately.