

Chapter 162, P.L. 2005

(Approved July 28, 2005)

[First Reprint]

ASSEMBLY, No. 3482

STATE OF NEW JERSEY

211th LEGISLATURE

INTRODUCED NOVEMBER 4, 2004

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**Kavanaugh, Kenny, Lance, Littell, Sarlo, Sweeney
and Turner**

SYNOPSIS

Prohibits investment of certain public funds in foreign companies doing business in Sudan.

CURRENT VERSION OF TEXT

As reported by the Senate State Government Committee on June 16, 2005, with amendments.

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SSG committee amendments adopted June 16, 2005.

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(Sponsorship Updated As Of: 6/28/2005)

AN ACT concerning the investment of certain public funds and supplementing chapter 18A of Title 52 of the New Jersey Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. The Legislature finds and declares that:

a. The State of New Jersey is deeply concerned over the poor human rights situation in Sudan, calls for stepped-up international efforts to end the crisis in Sudan's Darfur region and concurs with United States policy which has officially declared that genocide is ongoing in the Sudan;

b. Despite significant pressure from the United States government, the government of Sudan has not taken all the necessary actions to disassociate itself fully from its ties to terrorism;

c. The government of Sudan places severe limitations on the political and religious freedoms of the Sudanese people despite promises of improvement and pledges to end the 20-year civil war between the government and the Sudan People's Liberation Movement/Army;

d. The government of Sudan violates the rules of war by deliberately attacking civilians and, since 1983, the war and famine-related effects have led to more than two million deaths and over four million people displaced;

e. The government of Sudan continues to engage in arbitrary arrest, prolonged detention, extra-judicial killings, torture and rape of the Sudanese people and apostasy from Islam is punishable by death;

f. Severe restrictions are placed on the freedoms of assembly, association, movement, and speech and the government actively censors the press;

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g. The most sobering violation of human rights in Sudan is the existence of slavery or slavery-like indenture and the pro-government militia continues to engage in abduction and slavery with impunity;

h. The 2002 Machakos Protocol, signed by both sides in the civil war in Sudan, has recognized that "Sudan is a multi-cultural, multi-racial, multi-ethnic, multi-religious, and multi-lingual country," and that there "shall be freedom of belief, worship and conscience for followers of all religions or beliefs or customs and no one shall be discriminated against on such grounds" once a peace agreement is signed; and

i. It is in the best interest of this State that a statutory prohibition be enacted to prohibit the investment of public employee retirement funds in ¹foreign¹ companies doing business in Sudan given the poor human rights situation in Sudan and the lack of signs of improvement.

2. Notwithstanding any provision of law to the contrary, no assets of any pension or annuity fund under the jurisdiction of the Division of Investment in the Department of the Treasury, or its successor, shall be invested in any ¹[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] foreign company with an equity tie to government of Sudan or its instrumentalities and is engaged in business in or with the same. The provisions of this section shall not apply to the activities of any foreign company providing humanitarian aid to the Sudanese people through either a governmental or non-governmental organization.

As used in this section, "equity tie" means manufacturing or mining plants, employees or advisors, facilities or an investment, fiduciary,

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monetary or physical presence of any kind; and "humanitarian aid" means the provision of goods and services intended to relieve human suffering or to promote the general welfare, health, and religious and spiritual activities¹.

3. The State Investment Council and the Director of the Division of Investment shall ¹, after reviewing the recommendations of, and consulting with, an independent research firm that specializes in global security risk for portfolio determinations selected by the Treasurer,¹ take appropriate action to sell, redeem, divest or withdraw any investment held in violation of the provision of this act. This act 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 act.

4. Within 60 days after the effective date of this act, the Director of the Division of Investment shall file with the Legislature a report of all investments held as of the effective date of this act which are in violation of the provisions of this act. Every year thereafter, the director shall report on all investments sold, redeemed, divested or withdrawn in compliance with this act.

Each report after the initial report shall provide: a description of the progress which the division has made since the previous report and since the enactment of this act in implementing the provisions of section 2 of this act.

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5. This act shall take effect on the first day of the month after enactment.