

SENATE BILL No. 555

May 29, 2007, Introduced by Senators CLARKE, CLARK-COLEMAN, GLEASON, HUNTER, THOMAS, PAPPAGEORGE, JANSEN, ANDERSON, SCOTT, BARCIA, BASHAM and JACOBS and referred to the Committee on Appropriations.

A bill to amend 1965 PA 314, entitled
"Public employee retirement system investment act,"
(MCL 38.1132 to 38.1140m) by adding section 13c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

SEC. 13C. (1) AS USED IN THIS SECTION:

(A) "ACTIVE BUSINESS OPERATIONS" MEANS ALL BUSINESS OPERATIONS
THAT ARE NOT INACTIVE BUSINESS OPERATIONS.

(B) "BUSINESS OPERATIONS" MEANS ENGAGING IN COMMERCE IN ANY
FORM IN SUDAN, INCLUDING BY ACQUIRING, DEVELOPING, MAINTAINING,
OWNING, SELLING, POSSESSING, LEASING, OR OPERATING EQUIPMENT,
FACILITIES, PERSONNEL, PRODUCTS, SERVICES, PERSONAL PROPERTY, REAL
PROPERTY, OR ANY OTHER APPARATUS OF BUSINESS OR COMMERCE.

(C) "COMPANY" MEANS ANY SOLE PROPRIETORSHIP, ORGANIZATION,

1 ASSOCIATION, CORPORATION, PARTNERSHIP, JOINT VENTURE, LIMITED
2 PARTNERSHIP, LIMITED LIABILITY PARTNERSHIP, LIMITED LIABILITY
3 COMPANY, OR OTHER ENTITY OR BUSINESS ASSOCIATION, INCLUDING ALL
4 WHOLLY OWNED SUBSIDIARIES, MAJORITY-OWNED SUBSIDIARIES, PARENT
5 COMPANIES, OR AFFILIATES OF SUCH ENTITIES OR BUSINESS ASSOCIATIONS,
6 THAT EXISTS FOR PROFIT-MAKING PURPOSES.

7 (D) "COMPLICIT" MEANS TAKING ACTIONS DURING ANY PRECEDING 20-
8 MONTH PERIOD WHICH HAVE DIRECTLY SUPPORTED OR PROMOTED THE
9 GENOCIDAL CAMPAIGN IN DARFUR, INCLUDING, BUT NOT LIMITED TO,
10 PREVENTING DARFUR'S VICTIMIZED POPULATION FROM COMMUNICATING WITH
11 EACH OTHER, ENCOURAGING SUDANESE CITIZENS TO SPEAK OUT AGAINST AN
12 INTERNATIONALLY APPROVED SECURITY FORCE FOR DARFUR, ACTIVELY
13 WORKING TO DENY, COVER UP, OR ALTER THE RECORD ON HUMAN RIGHTS
14 ABUSES IN DARFUR, OR OTHER SIMILAR ACTIONS.

15 (E) "DIRECT HOLDINGS" IN A COMPANY MEANS ALL SECURITIES OF
16 THAT COMPANY HELD DIRECTLY BY THE RETIREMENT SYSTEM OR IN AN
17 ACCOUNT OR FUND IN WHICH THE RETIREMENT SYSTEM OWNS ALL SHARES OR
18 INTERESTS.

19 (F) "GOVERNMENT OF SUDAN" MEANS THE GOVERNMENT IN KHARTOUM,
20 SUDAN, WHICH IS LED BY THE NATIONAL CONGRESS PARTY OR ANY SUCCESSOR
21 GOVERNMENT FORMED ON OR AFTER OCTOBER 13, 2006 AND DOES NOT INCLUDE
22 THE REGIONAL GOVERNMENT OF SOUTHERN SUDAN.

23 (G) "INACTIVE BUSINESS OPERATIONS" MEANS THE MERE CONTINUED
24 HOLDING OR RENEWAL OF RIGHTS TO PROPERTY PREVIOUSLY OPERATED FOR
25 THE PURPOSE OF GENERATING REVENUES BUT NOT PRESENTLY DEPLOYED FOR
26 SUCH PURPOSE.

27 (H) "INDIRECT HOLDINGS" IN A COMPANY MEANS ALL SECURITIES OF

1 THAT COMPANY HELD IN AN ACCOUNT OR FUND, SUCH AS A MUTUAL FUND,
2 MANAGED BY 1 OR MORE PERSONS NOT EMPLOYED BY THE RETIREMENT SYSTEM,
3 IN WHICH THE RETIREMENT SYSTEM OWNS SHARES OR INTERESTS TOGETHER
4 WITH OTHER INVESTORS NOT SUBJECT TO THE PROVISIONS OF THIS ACT.

5 (I) "MARGINALIZED POPULATIONS OF SUDAN" INCLUDE, BUT ARE NOT
6 LIMITED TO, ALL OF THE FOLLOWING:

7 (i) THE PORTION OF THE POPULATION IN THE DARFUR REGION THAT HAS
8 BEEN GENOCIDALLY VICTIMIZED.

9 (ii) THE PORTION OF THE POPULATION OF SOUTHERN SUDAN VICTIMIZED
10 BY SUDAN'S NORTH-SOUTH CIVIL WAR.

11 (iii) THE BEJA, RASHIDIYA, AND OTHER SIMILARLY UNDERSERVED
12 GROUPS OF EASTERN SUDAN.

13 (iv) THE NUBIAN AND OTHER SIMILARLY UNDERSERVED GROUPS IN
14 SUDAN'S ABYEI, SOUTHERN BLUE NILE, AND NUBA MOUNTAIN REGIONS.

15 (v) THE AMRI, HAMADAB, MANASIR, AND OTHER SIMILARLY
16 UNDERSERVED GROUPS OF NORTHERN SUDAN.

17 (J) "MILITARY EQUIPMENT" MEANS WEAPONS, ARMS, MILITARY
18 SUPPLIES, AND EQUIPMENT THAT READILY MAY BE USED FOR MILITARY
19 PURPOSES, INCLUDING, BUT NOT LIMITED TO, RADAR SYSTEMS OR MILITARY-
20 GRADE TRANSPORT VEHICLES; OR SUPPLIES OR SERVICES SOLD OR PROVIDED
21 DIRECTLY OR INDIRECTLY TO ANY FORCE ACTIVELY PARTICIPATING IN ARMED
22 CONFLICT IN SUDAN.

23 (K) "MINERAL EXTRACTION ACTIVITIES" INCLUDE EXPLORING,
24 EXTRACTING, PROCESSING, TRANSPORTING, OR WHOLESALE SELLING OR
25 TRADING OF ELEMENTAL MINERALS OR ASSOCIATED METAL ALLOYS OR OXIDES,
26 INCLUDING GOLD, COPPER, CHROMIUM, CHROMITE, DIAMONDS, IRON, IRON
27 ORE, SILVER, TUNGSTEN, URANIUM, AND ZINC, AS WELL AS FACILITATING

1 SUCH ACTIVITIES, INCLUDING BY PROVIDING SUPPLIES OR SERVICES IN
2 SUPPORT OF SUCH ACTIVITIES.

3 (I) "OIL-RELATED ACTIVITIES" INCLUDE, BUT ARE NOT LIMITED TO,
4 OWNING RIGHTS TO OIL BLOCKS; EXPORTING, EXTRACTING, PRODUCING,
5 REFINING, PROCESSING, EXPLORING FOR, TRANSPORTING, SELLING, OR
6 TRADING OF OIL; CONSTRUCTING, MAINTAINING, OR OPERATING A PIPELINE,
7 REFINERY, OR OTHER OIL-FIELD INFRASTRUCTURE; AND FACILITATING SUCH
8 ACTIVITIES, INCLUDING BY PROVIDING SUPPLIES OR SERVICES IN SUPPORT
9 OF SUCH ACTIVITIES, PROVIDED THAT THE MERE RETAIL SALE OF GASOLINE
10 AND RELATED CONSUMER PRODUCTS SHALL NOT BE CONSIDERED OIL-RELATED
11 ACTIVITIES.

12 (M) "POWER PRODUCTION ACTIVITIES" MEANS ANY BUSINESS OPERATION
13 THAT INVOLVES A PROJECT COMMISSIONED BY THE NATIONAL ELECTRICITY
14 CORPORATION OF SUDAN OR OTHER SIMILAR GOVERNMENT OF SUDAN ENTITY
15 WHOSE PURPOSE IS TO FACILITATE POWER GENERATION AND DELIVERY,
16 INCLUDING, BUT NOT LIMITED TO, ESTABLISHING POWER-GENERATING PLANTS
17 OR HYDROELECTRIC DAMS, SELLING OR INSTALLING COMPONENTS FOR THE
18 PROJECT, PROVIDING SERVICE CONTRACTS RELATED TO THE INSTALLATION OR
19 MAINTENANCE OF THE PROJECT, AS WELL AS FACILITATING SUCH
20 ACTIVITIES, INCLUDING BY PROVIDING SUPPLIES OR SERVICES IN SUPPORT
21 OF SUCH ACTIVITIES.

22 (N) "RETIREMENT SYSTEM" MEANS THE MICHIGAN LEGISLATIVE
23 RETIREMENT SYSTEM CREATED BY THE MICHIGAN LEGISLATIVE RETIREMENT
24 SYSTEM ACT, 1957 PA 261, MCL 38.1001 TO 38.1080, THE RETIREMENT
25 SYSTEM CREATED UNDER THE FIRE FIGHTERS AND POLICE OFFICERS
26 RETIREMENT ACT, 1937 PA 345, MCL 38.551 TO 38.562, THE RETIREMENT
27 SYSTEM CREATED UNDER THE JUDGES RETIREMENT ACT OF 1992, 1992 PA

1 234, MCL 38.2101 TO 38.2670, THE RETIREMENT SYSTEM CREATED UNDER
2 THE STATE EMPLOYEES RETIREMENT ACT, 1943 PA 240, MCL 38.1 TO 38.61,
3 AND THE RETIREMENT SYSTEM CREATED UNDER THE PUBLIC SCHOOL EMPLOYEES
4 RETIREMENT ACT OF 1979, 1980 PA 300, MCL 38.1301 TO 38.1408.

5 (O) "SCRUTINIZED COMPANY" MEANS ANY COMPANY, EXCEPT A SOCIAL
6 DEVELOPMENT COMPANY THAT IS NOT COMPLICIT IN THE DARFUR GENOCIDE,
7 THAT MEETS THE CRITERIA IN SUBPARAGRAPH (i), (ii), OR (iii):

8 (i) THE COMPANY HAS BUSINESS OPERATIONS THAT INVOLVE CONTRACTS
9 WITH OR PROVISION OF SUPPLIES OR SERVICES TO 1 OR MORE OF THE
10 FOLLOWING:

11 (A) THE GOVERNMENT OF SUDAN.

12 (B) COMPANIES IN WHICH THE GOVERNMENT OF SUDAN HAS ANY DIRECT
13 OR INDIRECT EQUITY SHARE.

14 (C) GOVERNMENT OF SUDAN-COMMISSIONED CONSORTIA OR PROJECTS.

15 (D) COMPANIES INVOLVED IN GOVERNMENT OF SUDAN-COMMISSIONED
16 CONSORTIA OR PROJECTS AND THAT HAVE 1 OR MORE OF THE FOLLOWING:

17 (I) MORE THAN 10% OF THE COMPANY'S REVENUES OR ASSETS LINKED
18 TO SUDAN INVOLVE OIL-RELATED ACTIVITIES OR MINERAL EXTRACTION
19 ACTIVITIES, LESS THAN 75% OF THE COMPANY'S REVENUES OR ASSETS
20 LINKED TO SUDAN INVOLVE CONTRACTS WITH OR PROVISION OF OIL-RELATED
21 OR MINERAL EXTRACTING PRODUCTS OR SERVICES TO THE REGIONAL
22 GOVERNMENT OF SOUTHERN SUDAN OR A PROJECT OR CONSORTIUM CREATED
23 EXCLUSIVELY BY THAT REGIONAL GOVERNMENT, AND THE COMPANY HAS FAILED
24 TO TAKE SUBSTANTIAL ACTION.

25 (II) MORE THAN 10% OF THE COMPANY'S REVENUES OR ASSETS LINKED
26 TO SUDAN INVOLVE POWER PRODUCTION ACTIVITIES, LESS THAN 75% OF THE
27 COMPANY'S POWER PRODUCTION ACTIVITIES INCLUDE PROJECTS WHOSE INTENT

1 IS TO PROVIDE POWER OR ELECTRICITY TO THE MARGINALIZED POPULATIONS
2 OF SUDAN, AND THE COMPANY HAS FAILED TO TAKE SUBSTANTIAL ACTION.

3 (ii) THE COMPANY IS COMPLICIT IN THE DARFUR GENOCIDE.

4 (iii) THE COMPANY SUPPLIES MILITARY EQUIPMENT WITHIN SUDAN,
5 UNLESS IT CLEARLY SHOWS THAT THE MILITARY EQUIPMENT CANNOT BE USED
6 TO FACILITATE OFFENSIVE MILITARY ACTIONS IN SUDAN OR THE COMPANY
7 IMPLEMENTS RIGOROUS AND VERIFIABLE SAFEGUARDS TO PREVENT USE OF
8 THAT EQUIPMENT BY FORCES ACTIVELY PARTICIPATING IN ARMED CONFLICT.

9 (P) "SOCIAL DEVELOPMENT COMPANY" MEANS A COMPANY WHOSE PRIMARY
10 PURPOSE IN SUDAN IS TO PROVIDE HUMANITARIAN GOODS OR SERVICES,
11 INCLUDING MEDICINE OR MEDICAL EQUIPMENT, AGRICULTURAL SUPPLIES OR
12 INFRASTRUCTURE, EDUCATIONAL OPPORTUNITIES, JOURNALISM-RELATED
13 ACTIVITIES, INFORMATION OR INFORMATION MATERIALS, SPIRITUAL-RELATED
14 ACTIVITIES, SERVICES OF A PURELY CLERICAL OR REPORTING NATURE,
15 FOOD, CLOTHING, OR GENERAL CONSUMER GOODS THAT ARE UNRELATED TO
16 OIL-RELATED ACTIVITIES, MINERAL EXTRACTION ACTIVITIES, OR POWER
17 PRODUCTION ACTIVITIES.

18 (Q) "SUBSTANTIAL ACTION" MEANS ADOPTING, PUBLICIZING, AND
19 IMPLEMENTING A FORMAL PLAN TO CEASE SCRUTINIZED BUSINESS OPERATIONS
20 WITHIN 1 YEAR AND TO REFRAIN FROM ANY NEW BUSINESS OPERATIONS,
21 UNDERTAKING SIGNIFICANT HUMANITARIAN EFFORTS IN CONJUNCTION WITH AN
22 INTERNATIONAL ORGANIZATION, THE GOVERNMENT OF SUDAN, THE REGIONAL
23 GOVERNMENT OF SOUTHERN SUDAN, OR A NONPROFIT ENTITY AND EVALUATED
24 AND CERTIFIED BY AN INDEPENDENT THIRD PARTY TO BE SUBSTANTIAL IN
25 RELATIONSHIP TO THE COMPANY'S SUDAN BUSINESS OPERATIONS AND OF
26 BENEFIT TO 1 OR MORE MARGINALIZED POPULATIONS OF SUDAN, OR THROUGH
27 ENGAGEMENT WITH THE GOVERNMENT OF SUDAN, MATERIALLY IMPROVING

1 CONDITIONS FOR THE GENOCIDALLY VICTIMIZED POPULATION IN DARFUR.

2 (2) WITHIN 90 DAYS AFTER THE EFFECTIVE DATE OF THE AMENDATORY
3 ACT THAT ADDED THIS SECTION, THE RETIREMENT SYSTEM SHALL MAKES ITS
4 BEST EFFORTS TO IDENTIFY ALL SCRUTINIZED COMPANIES IN WHICH THE
5 RETIREMENT SYSTEM HAS DIRECT OR INDIRECT HOLDINGS OR COULD POSSIBLY
6 HAVE SUCH HOLDINGS IN THE FUTURE. THE EFFORTS SHALL INCLUDE 1 OR
7 MORE OF THE FOLLOWING:

8 (A) REVIEWING AND RELYING, AS APPROPRIATE IN THE RETIREMENT
9 SYSTEM'S JUDGMENT, ON PUBLICLY AVAILABLE INFORMATION REGARDING
10 COMPANIES WITH BUSINESS OPERATIONS IN SUDAN, INCLUDING INFORMATION
11 PROVIDED BY NONPROFIT ORGANIZATIONS, RESEARCH FIRMS, INTERNATIONAL
12 ORGANIZATIONS, AND GOVERNMENT ENTITIES.

13 (B) CONTACTING ASSET MANAGERS CONTRACTED BY THE RETIREMENT
14 SYSTEM THAT INVEST IN COMPANIES WITH BUSINESS OPERATIONS IN SUDAN.

15 (C) CONTACTING OTHER INSTITUTIONAL INVESTORS THAT HAVE
16 DIVESTED FROM OR ENGAGED WITH COMPANIES THAT HAVE BUSINESS
17 OPERATIONS IN SUDAN.

18 (3) BY THE FIRST MEETING OF THE RETIREMENT SYSTEM FOLLOWING
19 THE 90-DAY PERIOD DESCRIBED IN SUBSECTION (2), THE RETIREMENT
20 SYSTEM SHALL ASSEMBLE ALL SCRUTINIZED COMPANIES IDENTIFIED INTO A
21 SCRUTINIZED COMPANIES LIST.

22 (4) THE RETIREMENT SYSTEM SHALL UPDATE THE SCRUTINIZED
23 COMPANIES LIST ON A QUARTERLY BASIS BASED ON EVOLVING INFORMATION
24 FROM, AMONG OTHER SOURCES, THOSE SOURCES LISTED IN SUBSECTION (2).

25 (5) THE RETIREMENT SYSTEM SHALL ADHERE TO THE FOLLOWING
26 PROCEDURE FOR COMPANIES ON THE SCRUTINIZED COMPANIES LIST:

27 (A) THE RETIREMENT SYSTEM SHALL IMMEDIATELY DETERMINE THE

1 COMPANIES ON THE SCRUTINIZED COMPANIES LIST IN WHICH THE RETIREMENT
2 SYSTEM OWNS DIRECT OR INDIRECT HOLDINGS.

3 (B) FOR EACH COMPANY IDENTIFIED IN SUBDIVISION (A) WITH ONLY
4 INACTIVE BUSINESS OPERATIONS, THE RETIREMENT SYSTEM SHALL SEND A
5 WRITTEN NOTICE INFORMING THE COMPANY OF THIS SECTION AND
6 ENCOURAGING IT TO CONTINUE TO REFRAIN FROM INITIATING ACTIVE
7 BUSINESS OPERATIONS IN SUDAN UNTIL IT IS ABLE TO AVOID SCRUTINIZED
8 BUSINESS OPERATIONS. THE RETIREMENT SYSTEM SHALL CONTINUE THE
9 CORRESPONDENCE ON A SEMIANNUAL BASIS.

10 (C) FOR EACH COMPANY NEWLY IDENTIFIED IN SUBDIVISION (A) WITH
11 ACTIVE BUSINESS OPERATIONS, THE RETIREMENT SYSTEM SHALL SEND A
12 WRITTEN NOTICE INFORMING THE COMPANY OF ITS SCRUTINIZED COMPANY
13 STATUS AND THAT IT MAY BECOME SUBJECT TO DIVESTMENT BY THE
14 RETIREMENT SYSTEM. THE NOTICE SHALL OFFER THE COMPANY THE
15 OPPORTUNITY TO CLARIFY ITS SUDAN-RELATED ACTIVITIES AND SHALL
16 ENCOURAGE THE COMPANY, WITHIN 90 DAYS, TO EITHER CEASE ITS
17 SCRUTINIZED BUSINESS OPERATIONS OR CONVERT SUCH OPERATIONS TO
18 INACTIVE BUSINESS OPERATIONS IN ORDER TO AVOID QUALIFYING FOR
19 DIVESTMENT BY THE RETIREMENT SYSTEM.

20 (D) IF, WITHIN 90 DAYS FOLLOWING THE RETIREMENT SYSTEM'S FIRST
21 ENGAGEMENT WITH A COMPANY PURSUANT TO SUBDIVISION (C), THAT COMPANY
22 CEASES SCRUTINIZED BUSINESS OPERATIONS, THE COMPANY SHALL BE
23 REMOVED FROM THE SCRUTINIZED COMPANIES LIST AND THIS SECTION SHALL
24 CEASE TO APPLY TO IT UNLESS IT RESUMES SCRUTINIZED BUSINESS
25 OPERATIONS. IF, WITHIN 90 DAYS FOLLOWING THE RETIREMENT SYSTEM'S
26 FIRST ENGAGEMENT, THE COMPANY CONVERTS ITS SCRUTINIZED ACTIVE
27 BUSINESS OPERATIONS TO INACTIVE BUSINESS OPERATIONS, THE COMPANY

1 SHALL BE SUBJECT TO THIS SECTION.

2 (E) IF, AFTER 90 DAYS FOLLOWING THE RETIREMENT SYSTEM'S FIRST
3 ENGAGEMENT WITH A COMPANY PURSUANT TO SUBDIVISION (C), THE COMPANY
4 CONTINUES TO HAVE SCRUTINIZED ACTIVE BUSINESS OPERATIONS, AND ONLY
5 WHILE THE COMPANY CONTINUES TO HAVE SCRUTINIZED ACTIVE BUSINESS
6 OPERATIONS, THE RETIREMENT SYSTEM SHALL SELL, REDEEM, DIVEST, OR
7 WITHDRAW ALL PUBLICLY TRADED SECURITIES OF THE COMPANY, ACCORDING
8 TO THE FOLLOWING SCHEDULE:

9 (i) AT LEAST 50% OF THE ASSETS SHALL BE REMOVED FROM THE
10 RETIREMENT SYSTEM'S ASSETS UNDER MANAGEMENT WITHIN 9 MONTHS AFTER
11 THE COMPANY'S MOST RECENT APPEARANCE ON THE SCRUTINIZED COMPANIES
12 LIST.

13 (ii) 100% OF THE ASSETS SHALL BE REMOVED FROM THE RETIREMENT
14 SYSTEM'S ASSETS UNDER MANAGEMENT WITHIN 15 MONTHS AFTER THE
15 COMPANY'S MOST RECENT APPEARANCE ON THE SCRUTINIZED COMPANIES LIST.

16 (F) EXCEPT AS PROVIDED IN SUBDIVISIONS (G) AND (H), AT NO TIME
17 SHALL THE RETIREMENT SYSTEM ACQUIRE SECURITIES OF COMPANIES ON THE
18 SCRUTINIZED COMPANIES LIST THAT HAVE ACTIVE BUSINESS OPERATIONS.

19 (G) NO COMPANY WHICH THE UNITED STATES GOVERNMENT
20 AFFIRMATIVELY DECLARES TO BE EXCLUDED FROM ITS PRESENT OR ANY
21 FUTURE FEDERAL SANCTIONS REGIME RELATING TO SUDAN SHALL BE SUBJECT
22 TO DIVESTMENT OR INVESTMENT PROHIBITION PURSUANT TO SUBDIVISIONS
23 (E) AND (F).

24 (H) SUBDIVISIONS (E) AND (F) SHALL NOT APPLY TO INDIRECT
25 HOLDINGS IN ACTIVELY MANAGED INVESTMENT FUNDS. THE RETIREMENT
26 SYSTEM SHALL, HOWEVER, SUBMIT LETTERS TO THE MANAGERS OF SUCH
27 INVESTMENT FUNDS CONTAINING COMPANIES WITH SCRUTINIZED ACTIVE

1 BUSINESS OPERATIONS REQUESTING THAT THEY CONSIDER REMOVING
2 IDENTIFIED COMPANIES FROM THE FUND OR CREATE A SIMILAR ACTIVELY
3 MANAGED FUND WITH INDIRECT HOLDINGS DEVOID OF IDENTIFIED COMPANIES.
4 IF THE MANAGER CREATES A SIMILAR FUND, THE RETIREMENT SYSTEM SHALL
5 REPLACE ALL APPLICABLE INVESTMENTS WITH INVESTMENTS IN THE SIMILAR
6 FUND IN AN EXPEDITED TIME FRAME CONSISTENT WITH PRUDENT INVESTING
7 STANDARDS. FOR THE PURPOSES OF THIS SECTION, "PRIVATE EQUITY FUNDS"
8 SHALL BE DEEMED TO BE ACTIVELY MANAGED INVESTMENT FUNDS.

9 (6) THE RETIREMENT SYSTEM SHALL FILE A PUBLICLY AVAILABLE
10 REPORT TO THE LEGISLATURE AND ATTORNEY GENERAL THAT INCLUDES THE
11 SCRUTINIZED COMPANIES LIST WITHIN 30 DAYS AFTER THE LIST IS
12 CREATED. ANNUALLY THEREAFTER, THE RETIREMENT SYSTEM SHALL FILE A
13 PUBLICLY AVAILABLE REPORT TO THE LEGISLATURE AND ATTORNEY GENERAL
14 AND SEND A COPY OF THAT REPORT TO THE UNITED STATES PRESIDENTIAL
15 SPECIAL ENVOY TO SUDAN THAT INCLUDES ALL OF THE FOLLOWING:

16 (A) A SUMMARY OF CORRESPONDENCE WITH COMPANIES ENGAGED BY THE
17 RETIREMENT SYSTEM UNDER THIS SECTION.

18 (B) ALL INVESTMENTS SOLD, REDEEMED, DIVESTED, OR WITHDRAWN IN
19 COMPLIANCE WITH THIS SECTION.

20 (C) ALL PROHIBITED INVESTMENTS UNDER THIS SECTION.

21 (D) ANY PROGRESS MADE UNDER SUBSECTION (5) (H) .

22 (7) THIS SECTION IS EFFECTIVE UNTIL THE FIRST OCCURRENCE OF
23 ANY OF THE FOLLOWING:

24 (A) THE UNITED STATES CONGRESS OR THE PRESIDENT OF THE UNITED
25 STATES DECLARES THAT THE DARFUR GENOCIDE HAS BEEN HALTED FOR AT
26 LEAST 12 MONTHS.

27 (B) THE UNITED STATES REVOKES ALL SANCTIONS IMPOSED AGAINST

1 THE GOVERNMENT OF SUDAN.

2 (C) THE CONGRESS OR PRESIDENT OF THE UNITED STATES DECLARES
3 THAT THE GOVERNMENT OF SUDAN HAS HONORED ITS COMMITMENTS TO CEASE
4 ATTACKS ON CIVILIANS, DEMOBILIZE AND DEMILITARIZE THE JANJAWEEED AND
5 ASSOCIATED MILITIAS, GRANT FREE AND UNFETTERED ACCESS FOR
6 DELIVERIES OF HUMANITARIAN ASSISTANCE, AND ALLOW FOR THE SAFE AND
7 VOLUNTARY RETURN OF REFUGEES AND INTERNALLY DISPLACED PERSONS.

8 (D) THE CONGRESS OR PRESIDENT OF THE UNITED STATES, THROUGH
9 LEGISLATION OR EXECUTIVE ORDER, DECLARES THAT MANDATORY DIVESTMENT
10 OF THE TYPE PROVIDED FOR IN THIS ACT INTERFERES WITH THE CONDUCT OF
11 UNITED STATES FOREIGN POLICY.

12 (8) WITH RESPECT TO ACTIONS TAKEN IN COMPLIANCE WITH THIS
13 SECTION, INCLUDING ALL GOOD FAITH DETERMINATIONS REGARDING
14 COMPANIES AS REQUIRED BY THIS SECTION, THE RETIREMENT SYSTEM SHALL
15 BE EXEMPT FROM ANY CONFLICTING STATUTORY OR COMMON LAW OBLIGATIONS,
16 INCLUDING ANY OBLIGATIONS IN RESPECT TO CHOICE OF ASSET MANAGERS,
17 INVESTMENT FUNDS, OR INVESTMENTS FOR THE RETIREMENT SYSTEM'S
18 SECURITIES PORTFOLIOS.

19 (9) NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, THE
20 RETIREMENT SYSTEM SHALL BE PERMITTED TO CEASE DIVESTING FROM
21 CERTAIN SCRUTINIZED COMPANIES PURSUANT TO THIS SECTION AND REINVEST
22 IN CERTAIN SCRUTINIZED COMPANIES FROM WHICH IT DIVESTED PURSUANT TO
23 THIS SECTION IF CLEAR AND CONVINCING EVIDENCE SHOWS THAT THE VALUE
24 FOR ALL ASSETS UNDER MANAGEMENT BY THE RETIREMENT SYSTEM BECOMES
25 EQUAL TO OR LESS THAN 99.50% OF THE HYPOTHETICAL VALUE OF ALL
26 ASSETS UNDER MANAGEMENT BY THE RETIREMENT SYSTEM ASSUMING NO
27 DIVESTMENT FOR ANY COMPANY HAD OCCURRED UNDER THIS SECTION.

1 CESSATION OF DIVESTMENT, REINVESTMENT, AND ANY SUBSEQUENT ONGOING
2 INVESTMENT AUTHORIZED UNDER THIS SECTION SHALL BE STRICTLY LIMITED
3 TO THE MINIMUM STEPS NECESSARY TO AVOID THE CONTINGENCY SET FORTH
4 IN THE PRECEDING SENTENCE. FOR ANY CESSATION OF DIVESTMENT,
5 REINVESTMENT, AND SUBSEQUENT ONGOING INVESTMENT AUTHORIZED BY THIS
6 SECTION, THE RETIREMENT SYSTEM SHALL PROVIDE A WRITTEN REPORT TO
7 THE LEGISLATURE AND ATTORNEY GENERAL IN ADVANCE OF INITIAL
8 REINVESTMENT, UPDATED SEMIANNUALLY, SETTING FORTH THE REASONS AND
9 JUSTIFICATION, SUPPORTED BY CLEAR AND CONVINCING EVIDENCE, FOR ITS
10 DECISIONS TO CEASE DIVESTMENT, REINVEST, OR REMAIN INVESTED IN
11 COMPANIES WITH SCRUTINIZED ACTIVE BUSINESS OPERATIONS. THIS SECTION
12 HAS NO APPLICATION TO REINVESTMENT IN COMPANIES ON THE GROUND THAT
13 HAVE CEASED TO HAVE SCRUTINIZED ACTIVE BUSINESS OPERATIONS.

14 (10) THE ATTORNEY GENERAL SHALL ENFORCE THE PROVISIONS OF THIS
15 SECTION AND, THROUGH ANY LAWFUL DESIGNEE, MAY BRING SUCH ACTIONS IN
16 COURT AS ARE NECESSARY TO DO SO.

17 (11) IF ANY PROVISION, SECTION, SUBSECTION, SENTENCE, CLAUSE,
18 PHRASE, OR WORD OF THIS LEGISLATION OR ITS APPLICATION TO ANY
19 PERSON OR CIRCUMSTANCE IS FOUND TO BE INVALID, ILLEGAL,
20 UNENFORCEABLE, OR UNCONSTITUTIONAL, THE SAME IS HEREBY DECLARED TO
21 BE SEVERABLE AND THE BALANCE OF THIS LEGISLATION SHALL REMAIN
22 EFFECTIVE AND FUNCTIONAL NOTWITHSTANDING SUCH INVALIDITY,
23 ILLEGALITY, UNENFORCEABILITY, OR UNCONSTITUTIONALITY.