



House of Representatives

General Assembly

File No. 431

February Session, 2006

Substitute House Bill No. 5632

House of Representatives, April 6, 2006

The Committee on Government Administration and Elections reported through REP. CARUSO of the 126th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING DIVESTMENT OF STATE FUNDS INVESTED IN COMPANIES DOING BUSINESS IN SUDAN.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) For the purposes of this
2 section, section 2 of this act and subsection (a) of section 3-37 of the
3 general statutes, as amended by this act:

4 (1) "Company" means any corporation, utility, partnership, joint
5 venture, franchisor, franchisee, trust, entity investment vehicle,
6 financial institution or any wholly-owned subsidiary of such
7 corporation;

8 (2) "Doing business" means maintaining equipment, facilities,
9 personnel or other apparatus of business or commerce in Sudan,
10 including, but not limited to, ownership of real or personal property in
11 Sudan, or engaging in any business activity with the government of
12 Sudan;

13 (3) "Invest" means the commitment of funds or other assets to a
14 company, including, but not limited to, the ownership or control of a
15 share or interest in the company, and the ownership or control of a
16 bond or other debt instrument by the company; and

17 (4) "Sudan" means the Republic of Sudan, including its government,
18 and any of its agencies, instrumentalities or political subdivisions.

19 Sec. 2. (NEW) (*Effective from passage*) (a) The State Treasurer shall
20 review the major investment holdings of the state for the purpose of
21 determining the extent to which state funds are invested in companies
22 doing business in Sudan. Whenever feasible and consistent with the
23 fiduciary duties of the Treasurer, the Treasurer shall encourage
24 companies in which state funds are invested and that are doing
25 business in Sudan, as identified by the United States Department of
26 Treasury's Office of Foreign Assets Control or the Treasurer, to act
27 responsibly and not take actions that promote or otherwise enable
28 human rights violations in Sudan.

29 (b) The State Treasurer (1) may divest, decide to not further invest
30 state funds or not enter into any future investment in any company
31 doing business in Sudan, and (2) shall divest and not further invest in
32 any security or instrument issued by Sudan. In determining whether to
33 divest state funds in accordance with the provisions of subdivision (1)
34 of this subsection, the factors which the Treasurer shall consider shall
35 include, but not be limited to, the following: (A) Revenues paid by
36 such company directly to the government of Sudan, (B) whether such
37 company supplies infrastructure or resources used by the government
38 of Sudan to implement its policies of genocide in Darfur or other
39 regions of Sudan, (C) whether such company knowingly obstructs
40 lawful inquiries into its operations and investments in Sudan, (D)
41 whether such company attempts to circumvent any applicable
42 sanctions of the United States, (E) the extent of any humanitarian
43 activities undertaken by such company in Sudan, (F) whether such
44 company is engaged solely in the provision of goods and services
45 intended to relieve human suffering, or to promote welfare, health,

46 education, religious or spiritual activities, (G) whether such company
47 is authorized by the federal government of the United States to do
48 business in Sudan, (H) evidence that such company has engaged the
49 government of Sudan to cease its abuses in Darfur or other regions in
50 Sudan, (I) whether such company is engaged solely in journalistic
51 activities, and (J) any other factor that the Treasurer deems prudent. In
52 the event that the Treasurer determines that divestment of state funds
53 is warranted from a company in which state funds are invested due to
54 such company doing business in Sudan, the Treasurer shall give notice
55 to such company that such funds shall be divested from such company
56 for as long as such company does business in Sudan.

57 (c) The State Treasurer shall, at least once per fiscal year, provide
58 reports to the Investment Advisory Council on actions taken by the
59 Treasurer pursuant to the provisions of this section.

60 (d) In the event that the President of the United States rescinds or
61 repeals Executive Order 13067 the provisions of this section shall no
62 longer be effective.

63 Sec. 3. Subsection (a) of section 3-37 of the general statutes is
64 repealed and the following is substituted in lieu thereof (*Effective from*
65 *passage*):

66 (a) The Treasurer shall, annually, on or before [October fifteenth]
67 December thirty-first, submit a final audited report to the Governor
68 and a copy of such report to the Investment Advisory Council, which
69 shall include the following information concerning the activities of the
70 office of the State Treasurer for the immediately preceding fiscal year
71 ending June thirtieth: (1) Complete financial statements and
72 accompanying footnotes for the combined investment funds prepared
73 in accordance with generally accepted accounting principles, which
74 financial statements shall be audited in accordance with generally
75 accepted auditing standards and supplementary schedules depicting
76 the interests of the component retirement plans and trust funds; (2)
77 complete financial statements and accompanying footnotes for the
78 Short Term Investment Fund prepared in accordance with generally

79 accepted accounting principles and supplementary schedules listing all
 80 assets held by the Short Term Investment Fund; (3) a discussion and
 81 review of the performance of the combined investment funds and
 82 Short Term Investment Fund for such fiscal year in accordance with
 83 recognized and appropriate performance presentation and disclosure,
 84 including an analysis of the return earned by the portfolio and each
 85 combined investment fund as well as the risk profile of the portfolio
 86 and each combined investment fund according to investment industry
 87 standards; (4) the activities and transactions in such reasonable detail
 88 as is appropriate of the cash management division including
 89 information on the state's cash receipts and disbursements for the fiscal
 90 year, and the debt management division including the financial
 91 statements of the tax-exempt proceeds fund prepared in accordance
 92 with generally accepted accounting principles; (5) financial statements
 93 and accompanying footnotes as well as a summary of operating results
 94 for the Second Injury Fund for such fiscal year; (6) a financial summary
 95 and report on the activities of the state's unclaimed property program
 96 for such fiscal year; (7) a listing of the companies from which state
 97 funds were divested based upon such companies' business in Sudan,
 98 pursuant to the provisions of section 2 of this act, and any companies
 99 identified by the Treasurer as companies from which investment of
 100 state funds has been declared impermissible by the Treasurer,
 101 pursuant to the provisions of section 2 of this act; and [(7)] (8) such
 102 other information as the Treasurer deems of interest to the public.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>from passage</i>	New section
Sec. 3	<i>from passage</i>	3-37(a)

GAE *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill is permissive. It is not expected to result in a fiscal impact to the state because it is anticipated that if the Treasurer chooses to disinvest any funds, they will be reinvested in other companies that will produce similar rates of return.

The Out Years

There is no annualized ongoing fiscal impact.

OLR Bill Analysis
sHB 5632

***AN ACT CONCERNING DIVESTMENT OF STATE FUNDS
INVESTED IN COMPANIES DOING BUSINESS IN SUDAN.***

SUMMARY:

This bill allows the state treasurer to divest, or decide against further or future investments of, state funds in any company doing business in Sudan. It requires her to divest or halt further investments in any security or instrument issued by Sudan while federal Executive Order 13067 is in effect. A “company” is any corporation, utility, partnership, joint venture, franchisor, franchisee, trust, entity investment vehicle, financial institution, or its wholly-owned subsidiary. It is doing business when it maintains equipment, facilities, personnel, or other business apparatus in Sudan.

In addition, the bill extends, from October 15 to December 31, the deadline for the treasurer to submit her annual report to the governor thereby making the date consistent with that of the state comptroller’s report. It requires the treasurer to include in her report a list of the companies from which the state has divested its fund or in which she cannot invest because of the company’s business in Sudan.

EFFECTIVE DATE: Upon passage

STATE INVESTMENTS IN SUDAN

The bill requires the state treasurer to (1) determine the extent of the state’s investment in companies doing business in the Republic of Sudan, including its government, agencies, instrumentalities, or political subdivisions and (2) encourage such companies in which the state is invested to refrain from any actions that promote or otherwise enable human rights violations in Sudan. The treasurer must offer the encouragement whenever feasible and in a manner consistent with her

fiduciary duties. The treasurer may determine the companies doing business in Sudan from the U.S. Treasury's Office of Foreign Assets Controls or from her own review.

The treasurer may divest, or decide against future investments of, state funds in any company doing business in, or any security or instrument issued by, Sudan after various considerations. She must consider, among other things:

1. revenue the company paid directly to the Sudanese government;
2. whether the company supplies the government with the infrastructure or resources it uses to implement its policies of genocide in Darfur or other regions of Sudan;
3. whether the company knowingly obstructs lawful inquiries into its operations and investments in Sudan;
4. whether the company attempts to circumvent any applicable U.S. sanctions;
5. the extent of the company's humanitarian activities in Sudan;
6. whether the company is engaged solely (a) in journalism, (b) to provide goods and services intended to relieve human suffering, or (c) to promote welfare, health, education, religious or spiritual activities;
7. whether the federal government authorizes the company to do business in Sudan;
8. evidence that the company has engaged the Sudanese government to stop its abuses in Darfur or other regions in Sudan; and
9. any other factor the treasurer deems prudent.

If the treasurer decides to divest the state's funds from any company, she must give the company notice. At least once per fiscal

year, she must report to the Investment Advisory Council on her actions regarding companies doing business in Sudan.

BACKGROUND

Executive Order 13067

President William Clinton issued executive order 13067 on November 3, 1997 (1) declaring a national emergency with respect to the Sudanese government's policies and actions, (2) banning any U.S. company from doing business in Sudan, and (3) imposing trade sanctions.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 17 Nay 2 (03/22/2006)