



House of Representatives

General Assembly

File No. 107

February Session, 2010

House Bill No. 5324

House of Representatives, March 23, 2010

The Committee on Government Administration and Elections reported through REP. SPALLONE of the 36th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

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

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

1 Section 1. Section 3-13g of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective from passage*):

3 (a) For the purposes of this section:

4 (1) "Company" means any corporation, utility, partnership, joint
5 venture, franchisor, franchisee, trust, entity investment vehicle,
6 financial institution or other entity or business association, including
7 all wholly-owned subsidiaries, majority-owned subsidiaries, parent
8 companies or affiliates of such entities or business associations that
9 exist for the purpose of making profit;

10 (2) "Doing business in Iran" means engaging in commerce in any
11 form in Iran, including maintaining equipment, facilities, personnel or
12 other apparatus of business or commerce in Iran, including, but not

13 limited to, the lease or ownership of real or personal property in Iran
14 or engaging in any business activity with the government of Iran;

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

19 (4) "Iran" means the Islamic Republic of Iran, including its
20 government and any of its agencies, instrumentalities or political
21 subdivisions;

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

29 (6) "Oil-related activities" include activities such as (A) owning
30 rights to oil blocks, (B) exporting, extracting, producing, refining,
31 processing, exploring for, transporting, selling or trading of oil, (C)
32 constructing, maintaining or operating a pipeline, refinery or other oil
33 field infrastructure, and (D) facilitating such activities, including
34 providing supplies and services in support of such activities, but not
35 including selling retail gasoline and related consumer products; and

36 (7) "Petroleum resources" means petroleum, petroleum byproducts
37 and natural gas.

38 (b) The State Treasurer shall review the major investment [policies]
39 holdings of the state for [purposes of ensuring that state funds are not
40 invested in any corporation engaged in any form of business in Iran
41 which could be considered to be contrary to the foreign policy or
42 national interests of the United States, particularly in respect to the
43 release of all American hostages held in Iran.] the purpose of

44 determining the extent to which state funds are invested in companies
45 doing business in Iran. Whenever feasible and consistent with the
46 fiduciary duties of the State Treasurer, the State Treasurer shall
47 encourage companies in which state funds are invested and that are
48 doing business in Iran, as identified by the United States Department
49 of Treasury's Office of Foreign Assets Control or the State Treasurer, to
50 act responsibly and not take actions that promote or otherwise enable
51 Iran's development of nuclear weaponry or its support of terrorism.

52 (c) The State Treasurer (1) may divest, decide to not further invest
53 state funds or not enter into any future investment in any company
54 doing business in Iran; and (2) shall divest and not further invest in
55 any security or instrument issued by Iran. In determining whether to
56 divest state funds in accordance with the provisions of subdivision (1)
57 of this subsection, the factors that the Treasurer shall consider shall
58 include, but not be limited to, the following: (A) Revenues paid by
59 such company directly to the government of Iran; (B) whether the
60 company is doing business in Iran that involves contracts with or
61 provision of supplies or services to the Government of Iran, companies
62 in which the Government of Iran has any direct or indirect equity
63 share, consortia or projects commissioned by the Government of Iran,
64 or companies involved in consortia or projects commissioned by the
65 Government of Iran and such business involves oil-related activities,
66 mineral extraction activities, investments that directly and significantly
67 contribute to the development of Iran's petroleum resources or any
68 other business activity that has been made the subject of economic
69 sanctions imposed by the United States government; (C) whether the
70 company has demonstrated complicity with an Iranian organization
71 that has been identified as a terrorist organization by the United States
72 government; (D) whether such company knowingly obstructs lawful
73 inquiries into its operations and investments in Iran; (E) whether such
74 company attempts to circumvent any applicable sanctions of the
75 United States; (F) the extent of any humanitarian activities undertaken
76 by such company in Iran; (G) whether such company is authorized by
77 the federal government of the United States to do business in Iran; and
78 (H) any other factor that the Treasurer deems prudent. In the event

79 that the Treasurer determines that divestment of state funds is
80 warranted from a company in which state funds are invested due to
81 such company doing business in Iran, the Treasurer shall give notice to
82 such company that such funds shall be divested from such company
83 for as long as such company does business in Iran.

84 (d) The State Treasurer shall, at least once per fiscal year, provide a
85 report to the Investment Advisory Council on actions taken by the
86 Treasurer pursuant to the provisions of this section.

87 (e) The provisions of this section shall no longer be effective if both
88 of the following occur: (1) Iran is no longer designated by the United
89 States Department of State as a country that is a state sponsor of
90 terrorism due to said department's determination that the country
91 repeatedly provides support for acts of international terrorism; and (2)
92 the President of the United States certifies to the appropriate
93 committee of Congress, pursuant to P.L. 104-172, as amended from
94 time to time, that Iran has ceased its efforts to design, develop,
95 manufacture or acquire a nuclear explosive device or related materials
96 and technology.

97 Sec. 2. Subsection (a) of section 3-21e of the general statutes is
98 repealed and the following is substituted in lieu thereof (*Effective from*
99 *passage*):

100 (a) For the purposes of this section and subsection (a) of section 3-
101 37:

102 (1) "Company" means any corporation, utility, partnership, joint
103 venture, franchisor, franchisee, trust, entity investment vehicle,
104 financial institution or [any wholly-owned subsidiary of such
105 corporation] other entity or business association, including all wholly-
106 owned subsidiaries, majority-owned subsidiaries, parent companies or
107 affiliates of such entities or business associations, that exist for the
108 purpose of making profit;

109 (2) "Doing business in Sudan" means engaging in commerce in any

110 form in Sudan, including maintaining equipment, facilities, personnel
111 or other apparatus of business or commerce in Sudan, including, but
112 not limited to, the lease or ownership of real or personal property in
113 Sudan, or engaging in any business activity with the government of
114 Sudan;

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	3-13g
Sec. 2	<i>from passage</i>	3-21e(a)

GAE *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

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***State Impact:*** None***Municipal Impact:*** None*Sources: Office of the State Treasurer*

OLR Bill Analysis**HB 5324*****AN ACT CONCERNING DIVESTMENT OF STATE FUNDS INVESTED IN COMPANIES DOING BUSINESS IN IRAN AND SUDAN.*****SUMMARY:**

Current law requires the state treasurer to review the state's major investment policies to ensure that state funds are not invested in corporations engaged in business in Iran considered contrary to U.S. national interests. This bill instead requires the state treasurer to divest and halt further investments in any security or instrument issued by Iran. It allows her to divest, or decide against further or future investments of, state funds in any company doing business in Iran.

A "company" is any corporation, utility, partnership, joint venture, franchisor, franchisee, trust, entity investment vehicle, financial institution, or other entity or business association, including its wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates that exist to make a profit. A company is "doing business with Iran" when it engages in any form of commerce in Iran, including maintaining equipment, facilities, personnel, or other business or commerce apparatus in Iran, including leasing or owning real or personal property or engaging in any business activity with its government.

These provisions have no effect if (1) the U.S. State Department removes Iran from its State Sponsors of Terrorism List (see BACKGROUND) and (2) the U.S. president certifies to the appropriate congressional committee that Iran has ceased its efforts to design, develop, manufacture, or acquire a nuclear explosive device or related materials and technology.

At least once per fiscal year the treasurer must report to the Investment Advisory Council on her actions regarding companies doing business in Iran.

The bill makes changes to definitions under a parallel law concerning divestment of state funds from companies doing business in Sudan. In doing so, it expands “doing business in Sudan” to mean commerce in any form and “companies” to include an entity, its wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, and affiliates that exist to make a profit.

Finally, the bill eliminates an obsolete provision concerning American hostages in Iran.

EFFECTIVE DATE: Upon passage

STATE INVESTMENTS IN IRAN

The bill requires the treasurer to (1) determine the extent of the state's investment in companies doing business in Iran and (2) encourage such companies in which the state is invested to act responsibly and not take actions that promote or otherwise enable Iran’s development of nuclear weapons or terrorism. 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 Iran 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, Iran after various considerations. Among other things, she must consider:

1. revenue the company paid directly to the Iranian government;
2. whether the company demonstrates complicity with an Iranian organization that the U.S. government identifies as terrorist;
3. whether the company knowingly obstructs lawful inquiries into

its operations and investments in Iran;

4. whether the company attempts to circumvent any applicable U.S. sanctions;
5. the extent of any humanitarian activities the company undertakes in Iran;
6. whether the federal government authorizes the company to do business in Iran; and
7. any other factor the treasurer deems prudent.

If the business involves (1) oil-related activities, (2) mineral extraction activities, (3) investments that directly and significantly contribute to the development of Iran's petroleum resources, or (4) any other activity on which the U.S. government has imposed economic sanctions, the treasurer must consider when a company's transactions involve (1) contracts with, or the provision of supplies or services to, the Iranian government; (2) companies in which the Iranian government has any direct or indirect equity share; (3) consortia or projects commissioned by the Iranian Government; or (4) companies involved in consortia or projects commissioned by the Iranian government.

Under the bill, "mineral extraction activities" are activities such as exploring, extracting, processing, transporting, or wholesale selling or trading of elemental minerals, associated metal alloys or oxides (ore), including gold, copper, chromium, chromite, diamonds, iron, silver, tungsten, uranium and zinc; as well as facilitating these activities, including providing supplies or services in their support. "Oil-related activities" include activities such as (1) owning rights to oil blocks (areas with oil fields), (2) exporting, extracting, producing, refining, processing, exploring for, transporting, selling or trading oil; (3) constructing, maintaining, or operating a pipeline, refinery, or other oil field infrastructure; and (4) facilitating these activities, including providing supplies and services to support them. Oil-related activities

do not include selling retail gasoline and related consumer products. "Petroleum resources" are petroleum, petroleum byproducts, or natural gas.

If the treasurer decides to divest the state's funds, she must give the company notice that the state will divest as long as it continues to do business in Iran.

BACKGROUND

State Sponsors of Terrorism

Countries that the U.S. Secretary of State determines have repeatedly provided support for acts of international terrorism are designated state sponsors of terrorism. Four main sanctions result from this: restrictions on U.S. foreign assistance; a ban on defense exports and sales; certain controls over exports of dual use items; and miscellaneous financial and other restrictions. In addition, other sanctions penalize persons and countries engaging in certain trade with state sponsors. Currently there are four designated countries: Cuba, Iran, Sudan and Syria.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 15 Nay 0 (03/10/2010)