Senate

General Assembly

File No. 113

January Session, 2011

Substitute Senate Bill No. 881

Senate, March 21, 2011

The Committee on Government Administration and Elections reported through SEN. SLOSSBERG of the 14th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING THE POWERS OF THE STATE TREASURER, DIVESTMENT OF STATE FUNDS INVESTED IN COMPANIES DOING BUSINESS IN IRAN AND SUDAN, AND THE MEMBERSHIP OF THE TEACHERS' RETIREMENT BOARD AND THE CONNECTICUT STATE EMPLOYEES RETIREMENT COMMISSION.

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

Section 1. (NEW) (*Effective October 1, 2011*) In addition to the powers granted to the Treasurer by any provision of the general statutes and any public or special act, the Treasurer may appoint, as the Treasurer determines is necessary, investment personnel to carry out the provisions of chapter 32 of the general statutes. Such investment personnel shall serve at the pleasure of the Treasurer.

Sec. 2. Subsection (a) of section 3-13a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2011*):

(a) The Treasurer, **[**shall,**]** with the advice and consent of the

Investment Advisory Council, shall appoint a chief investment officer and may appoint a deputy chief investment officer to assist the chief investment officer, for the Connecticut retirement pension and trust funds, who shall serve at the pleasure of the Treasurer and whose compensation shall be determined by the Treasurer within **[**a**]** salary **[**range**]** ranges established by the Treasurer in consultation with the Investment Advisory Council. The provisions of section 4-40 shall not apply to the compensation of said **[**officer. Said**]** officers. The chief investment officer shall be sworn to the faithful discharge of duties under law **[**. Said officer**]** and shall, under the direction of the Treasurer and subject to the provisions of sections 3-13 to 3-13d, inclusive, and 3-31b, advise the Treasurer on investing the trust funds of the state. Said officer shall also perform such other duties as the Treasurer may direct. In addition to said **[**officer**]** officers, the Treasurer may **[**, with the advice and consent of the Investment Advisory Council, appoint a deputy chief investment officer, whose compensation shall be determined by the Treasurer within salary ranges established by the Treasurer in consultation with the Investment Advisory Council and that shall not be subject to the provisions of section 4-40,**]** appoint principal investment officers, investment officers and other personnel to assist said chief investment officer, which officers and other personnel shall serve at the pleasure of the Treasurer.

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

(a) For the purposes of this section:

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

(2) "Doing business in Iran" means engaging in commerce in any

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

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

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

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

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

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

(b) The State Treasurer shall review the major investment **[**policies**]** holdings of the state for **[**purposes of ensuring that state funds are not invested in any corporation engaged in any form of business in Iran which could be considered to be contrary to the foreign policy or national interests of the United States, particularly in respect to the release of all American hostages held in Iran.] the purpose of determining the extent to which state funds are invested in companies doing business in Iran. Whenever feasible and consistent with the fiduciary duties of the State Treasurer, the State Treasurer shall encourage companies in which state funds are invested and that are doing business in Iran, as identified by the United States Department of Treasury's Office of Foreign Assets Control or the State Treasurer, to act responsibly and not take actions that promote or otherwise enable Iran's development of nuclear weaponry or its support of terrorism.

(c) The State Treasurer (1) may divest, decide to not further invest state funds or not enter into any future investment in any company doing business in Iran; and (2) shall divest and not further invest in any security or instrument issued by Iran. In determining whether to divest state funds in accordance with the provisions of subdivision (1) of this subsection, the factors that the Treasurer shall consider shall include, but not be limited to, the following: (A) Revenues paid by such company directly to the government of Iran; (B) whether the company is doing business in Iran that involves contracts with or provision of supplies or services to (i) the government of Iran, (ii) companies in which the government of Iran has any direct or indirect equity share, (iii) consortia or projects commissioned by the government of Iran, or (iv) companies involved in consortia or projects commissioned by the government of Iran where such business involves oil-related activities, mineral extraction activities, investments that directly and significantly contribute to the development of Iran's petroleum resources or any other business activity that has been made the subject of economic sanctions imposed by the United States government; (C) whether the company has demonstrated complicity with an Iranian organization that has been identified as a terrorist organization by the United States government; (D) whether such company knowingly obstructs lawful inquiries into its operations and investments in Iran; (E) whether such company attempts to circumvent any applicable sanctions of the United States; (F) the extent of any humanitarian activities undertaken by such company in Iran; (G) whether such company is authorized by the federal government of the United States to do business in Iran; and (H) any other factor that the Treasurer deems prudent. In the event that the Treasurer determines that divestment of state funds is warranted from a company in which state funds are invested due to such company doing business in Iran, the Treasurer shall give notice to such company that such funds shall be divested from such company for as long as such company does business in Iran.

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

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

Sec. 4. Subsection (a) of section 3-21e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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

(1) "Company" means any corporation, utility, partnership, joint venture, franchisor, franchisee, trust, entity investment vehicle, financial institution or **[**any wholly-owned subsidiary of such corporation**]** other entity or business association, including all wholly-owned subsidiaries, majority-owned subsidiaries, parent companies or affiliates of such entities or business associations, that exist for the

purpose of making profit;

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

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

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

Sec. 5. Subsection (a) of section 10-183*l* of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(a) **[**On and after July 1, 1991, the**]** The management of the system shall **[**continue to**]** be vested in the Teachers' Retirement Board, which shall consist of twelve members, including the **[**Commissioner of Social Services**]** Treasurer and the Commissioner of Education, or their designees, who shall be voting members of the board, ex officio. On or before June 15, 1985, and quadrennially thereafter, the members of the system shall elect from their number, in a manner prescribed by said board, two persons to serve as members of said board for terms of four years beginning July first following such election. Both of such persons shall be active teachers who shall be nominated by the members of the system who are not retired and elected by all the members of the system. On or before July 1, 1991, and quadrennially thereafter, the members of the system shall elect from their number, in a manner prescribed by said board, three persons to serve as members of said board for terms of four years beginning July first following such election. Two of such persons shall be retired teachers who shall be nominated by the retired members of the system and elected by all the members of the system and one shall be an active teacher who shall be nominated by the members of the system who are not retired and elected by all the members of the system. If a vacancy occurs in the positions filled by the members of the system who are not retired, said board shall elect a member of the system who is not retired to fill the unexpired portion of the term. If a vacancy occurs in the positions filled by the retired members of the system, said board shall elect a retired member of the system to fill the unexpired portion of the term. The Governor shall appoint five public members to said board in accordance with the provisions of section 4-9a. The members of the board shall serve without compensation, but shall be reimbursed for any expenditures or loss of salary or wages which they incur through service on the board. All decisions of the board shall require the approval of six members of the board or a majority of the members who are present, whichever is greater.

Sec. 6. Subsection (a) of section 5-155a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2011*):

(a) The general administration and responsibility for the proper operation of the state employees retirement system is vested in a single board of trustees to be known as the Connecticut State Employees Retirement Commission. Notwithstanding the provisions of section 4-9a, the Retirement Commission shall consist of the following: (1) **[**Six**]** The Treasurer or a designee, who shall be a voting ex-officio member; (2) six trustees representing employees who shall be appointed by the bargaining agents in accordance with the provisions of applicable collective bargaining agreements. The trustees representing employees shall not be members of the same bargaining unit. The trustees representing employees shall serve three-year terms; **[**(2)**]** (3) six management trustees who are members of the state employees retirement system, who shall serve three-year terms. The management trustees shall be appointed by the Governor; **[**(3)**]** (4) two actuarial trustees who are enrolled actuaries and Fellows of the Society of

Actuaries. One actuarial trustee shall be nominated by the management trustees and one shall be nominated by the trustees representing employees. The Governor shall appoint the actuarial trustees for three-year terms; <u>and</u> **[**(4)**]** <u>(5)</u> one neutral trustee who shall be chairman of the State Employees Retirement Commission. Such neutral trustee shall be enrolled in the National Academy of Arbitrators and shall be nominated by the employee and management trustees and appointed by the Governor. The neutral trustee shall serve a two-year term. If a vacancy occurs in the office of a trustee, the vacancy shall be filled for the unexpired term in the same manner as the office was previously filled. The trustees, with the exception of the chairman and the actuarial trustees, shall serve without compensation but shall be reimbursed in accordance with the standard travel regulations for all necessary expenses that they may incur through service on the commission. The chairman and the actuarial trustees shall be compensated at their normal and usual per diem fee, plus travel expenses, from the funds of the retirement system for each day of service to the commission. Each trustee shall, within ten days after appointment or election, take an oath of office that so far as it devolves upon the trustee, the trustee will diligently and honestly administer the affairs of the commission, and will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the state retirement system. Each trustee's term shall begin from the date the trustee takes such an oath. The trustees shall appoint a representative from among the municipalities that have accepted the provisions of part II of chapter 113, who shall serve as a municipal liaison to the commission, at the commission's pleasure and under such terms and conditions as the commission may prescribe. Each trustee shall be entitled to one vote on the commission. A majority of the commission shall constitute a quorum for the transaction of any business, the exercise of any power or the performance of any duty authorized or imposed by law. The Retirement Commission shall be within the Retirement Division of the office of the Comptroller for administrative purposes only. The Comptroller, ex officio, shall be the nonvoting secretary of the commission and shall provide secretariat support to the commission.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*October 1, 2011*	New section
Sec. 2	*October 1, 2011*	3-13a(a)
Sec. 3	*from passage*	3-13g
Sec. 4	*from passage*	3-21e(a)
Sec. 5	*July 1, 2011*	10-183l(a)
Sec. 6	*July 1, 2011*	5-155a(a)

GAE *Joint Favorable Subst.*

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill has no fiscal impact.

- Sections 1 and 2 are technical and conform statutory language to current practice.

- Sections 3 and 4 are permissive. Divesting funds invested in Iran is not expected to have 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.

- Sections 5 and 6 have no fiscal impact because the Treasurer will not incur any cost to attend these meetings.

The Out Years

State Impact: None

Municipal Impact: None

Sources: Office of the State Treasurer

OLR Bill Analysis
sSB 881

AN ACT CONCERNING THE POWERS OF THE STATE TREASURER, DIVESTMENT OF STATE FUNDS INVESTED IN COMPANIES DOING BUSINESS IN IRAN AND SUDAN, AND THE MEMBERSHIP OF THE TEACHERS' RETIREMENT BOARD AND THE CONNECTICUT STATE EMPLOYEES RETIREMENT COMMISSION.

SUMMARY:

This bill makes various changes concerning the Office of the State Treasurer, including her personnel appointments, role on certain governing boards, appointments to the Investment Advisory Council (IAC), and investment policies in companies doing business in Iran or Sudan.

Generally, the bill:

1. authorizes the state treasurer to appoint investment personnel for duties beyond the investment of pension and trust funds;

2. eliminates a requirement that the IAC provide advice and consent for all appointments the treasurer makes;

3. makes the treasurer an ex-officio, voting member of the Teachers' Retirement Board and the State Employees Retirement Commission;

4. removes the Department of Social Services commissioner from the Teachers' Retirement Board;

5. requires the treasurer to divest existing and halt further, investments in any security or instrument issued by Iran;

6. allows her to divest existing, or decide against further or future, investments of state funds in companies doing business in Iran; and

7. expands a similar law concerning divestment from companies doing business in Sudan.

The bill also eliminates an obsolete provision concerning American hostages in Iran.

EFFECTIVE DATE: Upon passage, except the provisions concerning (1) the Teachers' Retirement Board and the State Employees Retirement Commission are effective July 1, 2011 and (2) the treasurer's authority to appoint personnel are effective October 1, 2011.

§§ 1 & 2—PERSONNEL

The bill authorizes the state treasurer to appoint investment personnel for duties beyond the investment of pension and trust funds. Under current law, the treasurer may appoint personnel only to invest pension and trust funds. Under current law and the bill, appointees serve at the pleasure of the treasurer.

The bill eliminates the requirement that the IAC approve the treasurer's appointees for principal investment officer, investment officer, and other personnel. It maintains the requirement for the chief investment officer and deputy chief investment officer appointees.

§§ 5 & 6—TEACHERS' RETIREMENT BOARD AND CONNECTICUT STATE EMPLOYEES RETIREMENT COMMISSION

The bill replaces the social services commissioner with the state treasurer as one of two ex-officio members of the Teachers' Retirement Board. It specifies that the two ex-officio members have voting privileges. By law, the education commissioner is the other ex-officio voting member. The board manages the Teachers' Retirement System.

The bill increases, from six to seven, the size of the State Employees Retirement Commission by adding the treasurer, or her designee, as an ex-officio, voting member. The commission administers the State

Employees Retirement System, the Municipal Employees Retirement System, and all other state retirement and pension plans, except the Teachers' Retirement System.

§§ 3 & 4—DIVESTMENT FROM COMPANIES DOING BUSINESS IN IRAN OR SUDAN

With respect to Iran, 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 that could be considered contrary to U.S. national interests. With respect to Sudan, existing law (1) allows the state treasurer to divest, or decide against further or future investments of, state funds in any company doing business in Sudan and (2) requires her to divest and halt further investments in any security or instrument issued by Sudan.

The bill makes the law on Iran parallel to the law on Sudan. It requires the treasurer to review major investment holdings, instead of policies, for purposes of divesting and halting 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 engaged 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 (i.e., companies doing business in Iran).

A "company" is any for-profit 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.

Iran Divestment

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 Control or from her own review.

The treasurer must divest and not invest further in any Iranian-issued security or investment. She may divest, or decide against future investments of, state funds in any company doing business in 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 company's business in Iran 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 if its 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.

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.

As used above, "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.

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

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.

Sudan Divestment

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, including leasing property, and "companies" to include an entity, its wholly-owned subsidiaries, majority-owned subsidiaries, parent companies, and affiliates that exist to make a profit.

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." Such a designation results in four main sanctions: (1) restrictions on U.S. foreign assistance; (2) a ban on defense exports and sales; (3) certain controls over exports of dual-use items; and (4) miscellaneous financial and other restrictions. In addition, other sanctions penalize persons and countries engaging in certain trade with state sponsors. There are currently four designated countries: Cuba, Iran, Sudan and Syria.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute
Yea 15 Nay 0 (03/07/2011)