
A BILL FOR AN ACT

RELATING TO THE EMPLOYEE RETIREMENT SYSTEM.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that divesture is an
2 effective tool to bring change in governments and businesses
3 throughout the world. Divestment was used by state pension
4 funds in the 1980s as a means to end South Africa's apartheid
5 policy.

6 The legislature also finds that public funds that have
7 refused to invest in countries that sponsor terrorism have been
8 successful financially. According to Divestterror.org, in 2006,
9 the Missouri Investment Trust was the first public fund in the
10 country to invest in terror free companies has generated better
11 returns after it divested the stocks of companies partnering
12 with terrorist-sponsoring states and has outperformed the
13 benchmark index by 3.9%.

14 Accordingly, the purpose of this Act is to mandate the
15 State of Hawaii Employees' Retirement System to divest itself
16 from companies that operate in countries that support terrorist
17 activities.



1 SECTION 2. As used in this Act, the following terms shall
2 apply:

3 "Business ties" means owning or controlling property or
4 assets located in, having employees or facilities located in,
5 providing goods and services to, obtaining goods or services
6 from, having distribution agreements with, issuance of credit or
7 loans to, purchasing bonds or commercial paper issued by,
8 investing or having equity ties to or with Iran, North Korea,
9 Sudan, Syria or any company domiciled in Iran, North Korea,
10 Syria, Sudan or their affiliates thereof.

11 "Company" means a corporation, limited liability company,
12 business trust, general or limited partnership, association,
13 sole proprietorship, mutual benefit society, health maintenance
14 organization, nonprofit corporation, or similar organization.

15 "Global security risk prohibitive company" means any
16 foreign company that has active or current business ties in
17 Iran, North Korea, Sudan and Syria as determined by an
18 independent, third-party research firm that specializes in
19 global security risk.

20 "Independent third-party research firm" means a private
21 U.S. company that has submitted an affidavit to the board of
22 trustees of the employee retirement system averring that: (1) it



1 specializes in identifying and assessing companies that are
2 exposed to global security risk; (2) it offers credible research
3 on corporate ties to Iran, Syria, Sudan and/or North Korea that
4 has been maintained and provided to the market for a minimum of
5 one calendar year; and (3) does not have the potential for
6 conflicts of interest stemming from investment banking and
7 corporate finance activities.

8 "Iran" means the Islamic Republic of Iran.

9 "North Korea" means the Democratic People's Republic of
10 North Korea.

11 "Public investor" or "Public investors" means the state
12 treasurer, the board of trustees of the employee retirement
13 system and employees of the employee retirement system.

14 "Sudan" means the Islamic Republic of Sudan.

15 "Syria" means the Syrian Arab Republic.

16 SECTION 3. Within one year of the effective date of this
17 Act, all international equity holdings within the employee
18 retirement system shall exclude global security risk prohibitive
19 companies as defined in this Act. Companies that are certified
20 as nongovernmental organizations by the United Nations, or that,
21 according to an independent researching firm that specializes in
22 global security risk, engage solely in the provision of goods



1 and services that relieve human suffering or promote health or
2 religious, spiritual, educational, humanitarian, or journalistic
3 activities, are exempt from divestment and exclusion; and
4 further provided, that the provisions of this Act shall expire
5 relative to each specific country individually at such time as
6 the President of the United States affirmatively and
7 unambiguously states, by means including, but not limited to,
8 enacted legislation, executive order or written certification
9 from the President to Congress, that the United States
10 Department of State no longer recognizes Iran, North Korea,
11 Sudan and Syria as state sponsors of terrorism.

12 SECTION 4. A public investor is not liable for breach of
13 the public investor's fiduciary duty to the employee retirement
14 system for which that public investor has the authority to
15 invest assets by reason of any decision to restrict, reduce, or
16 eliminate investments in companies doing business in Iran, North
17 Korea, Sudan, or Syria in accordance with the requirements of
18 this Act.

19 SECTION 5. The board of trustees of the employee
20 retirement system shall prepare a report on the progress in
21 implementing the provisions of this Act and shall submit this



1 report to the legislature no later than twenty days prior to the
2 convening of the 2009 regular session.

3 SECTION 6. This Act shall take effect on July 1, 2008.

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JAN 18 2008



Report Title:
Employee Retirement System

Description:

Mandates the Employee Retirement System to divest itself from companies that operate in countries that support terrorist activities.

