

JAN 25 2023

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# A BILL FOR AN ACT

RELATING TO THE REPEAL OF ACT 192, SESSION LAWS OF HAWAII 2007.

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

1           SECTION 1. The purpose of this Act is to repeal Act 192,  
2 Session Laws of Hawaii 2007, that requires the Employees'  
3 Retirement System of the State of Hawaii, identified as the  
4 "public fund", to divest itself of investments in companies that  
5 provide significant support for genocide in Darfur, Sudan, and  
6 provide to the legislature annual publicly available reports  
7 regarding the status of the divestment and related duties of the  
8 public fund under Act 192.

9           SECTION 2. Under section 8 of Act 192, that Act shall be  
10 repealed upon the occurrence of any of the following:

11           "(1) The Congress or President of the United States  
12           declares that the Darfur genocide has been halted for  
13           at least twelve months:

14           (2) The United States revokes all sanctions imposed  
15           against the government of Sudan;

16           (3) The Congress or President of the United States  
17           declares that the government of Sudan has honored its  
18           commitments to cease attacks on civilians, demobilize

1 and demilitarize the Janjaweed and associated  
2 militias, grant free and unfettered access for  
3 deliveries of humanitarian assistance, and allow for  
4 the safe and voluntary return of refugees and  
5 internally displaced persons; or

6 (4) The Congress or President of the United States,  
7 through legislation or executive order, declares that  
8 mandatory divestment of the type provided for in this  
9 chapter interferes with the conduct of United States  
10 foreign policy."

11 SECTION 3. In 2017, the United States revoked longstanding  
12 economic sanctions against Sudan. In United States Presidential  
13 Executive Order No. 13761, President Barack H. Obama noted  
14 "Sudan's positive actions over the past 6 months. These actions  
15 include a marked reduction in offensive military activity,  
16 culminating in a pledge to maintain a cessation of hostilities  
17 in conflict areas in Sudan, and steps toward the improvement of  
18 humanitarian access throughout Sudan, as well as cooperation  
19 with the United States on addressing regional conflicts and the  
20 threat of terrorism." Executive Order No. 13761 provided for  
21 revocation of the sanctions if the United States Secretary of  
22 State published notice in the Federal Register that Sudan had  
23 sustained the positive actions by a certain date, which was

1 subsequently extended. On October 11, 2017, the Secretary of  
2 State published such notice of sustained positive actions in the  
3 Federal Register. As a result, U.S. persons are generally able  
4 to trade and do business with individuals and entities in Sudan,  
5 according to the U.S. Department of State.

6 In President Donald J. Trump's Memorandum of October 26,  
7 2020, he certified pursuant to section 6(e) of the Comprehensive  
8 Peace in Sudan Act of 2004 (Public Law 108-497, as amended by  
9 the Darfur Peace and Accountability Act of 2006 (Public Law 109-  
10 344) that the Government of Sudan had taken demonstrable steps  
11 as follows to:

- 12 (A) ensure that the armed forces of Sudan and any  
13 associated militias are not committing atrocities or  
14 obstructing human rights monitors or the provision of  
15 humanitarian assistance;
- 16 (B) demobilize and disarm militias supported or created by  
17 the Government of Sudan;
- 18 (C) allow full and unfettered humanitarian assistance to  
19 all regions of Sudan, including the Darfur region;
- 20 (D) allow an international commission of inquiry to  
21 conduct an investigation of atrocities in the Darfur  
22 region, in a manner consistent with United Nations  
23 Security Council Resolution 1564 (September 18, 2004),

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- 1 to investigate reports of violations of international  
2 humanitarian law and human rights law in the Darfur  
3 region by all parties, to determine also whether or  
4 not acts of genocide have occurred and to identify the  
5 perpetrators of such violations with a view to  
6 ensuring that those responsible are held accountable;
- 7 (E) cooperate fully with the African Union, the United  
8 Nations, and all other observer, monitoring, and  
9 protection missions mandated to operate in Sudan;
- 10 (F) permit the safe and voluntary return of displaced  
11 persons and refugees to their homes and rebuild the  
12 communities destroyed in the violence; and
- 13 (G) implement the final agreements reached in the Naivasha  
14 peace process and install a new coalition  
15 government based on the Nairobi Declaration on the  
16 Final Phase of Peace in the Sudan signed on  
17 June 5, 2004."

18 Based on the foregoing certifications of President Donald Trump,  
19 the designation of Sudan as a state Sponsor of terrorism was  
20 rescinded.

21 On October 26, 2020, President Trump in his Certification  
22 of Recission of Sudan's Designation as a State Sponsor of  
23 Terrorism that (i) the Government of Sudan has not provided any

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1 support for acts of international terrorism during the preceding  
2 6-month period, and (ii) the Government of Sudan has provided  
3 assurances that it will not support acts on international  
4 terrorism in the future.

5 Therefore, one or more of the occurrences that shall  
6 trigger repeal of Act 192, Session Laws of Hawaii 2007, have  
7 been satisfied.

8 SECTION 4. Act 192, Session Laws of Hawaii 2007, is  
9 repealed.

10 SECTION 5. This Act shall take effect upon its approval.

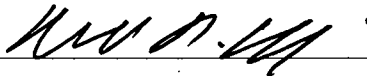
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INTRODUCED BY:

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BY REQUEST

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# S.B. NO. 1311

**Report Title:**

Employees' Retirement System; Repeal; Act 192, Session Laws of Hawaii 2007

**Description:**

Repeals Act 192, Session Laws of Hawaii 2007, which requires the Employees' Retirement System to divest itself of investments in companies that provide support for genocide in Darfur, Sudan, and provide annual reports to the legislature on the status of divestment.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

**SB. NO. 1311**

DEPARTMENT: Budget and Finance

TITLE: A BILL FOR AN ACT RELATING TO THE REPEAL OF ACT 192, SESSION LAWS OF HAWAII 2007.

PURPOSE: To repeal Act 192, Session Laws of Hawaii 2007, which requires the Employees' Retirement System to report annually on, and divest itself of investments in, companies that are complicit with or provide significant support for genocide in Darfur, Sudan.

MEANS: Repeal Act 192, Session Laws of Hawaii 2007.

JUSTIFICATION: The conditions for repeal of Act 192 have been met. Section 8 of Act 192 provides that the Act "shall be repealed" upon the occurrence of any of four events, including "The United States revokes all sanctions imposed against the government of Sudan," or "the congress or president declares" that Sudan has honored its commitments to specified commitments to advance human rights.

In 2017, the United States revoked longstanding economic sanctions against Sudan. As a result, U.S. persons are generally able to trade and do business with individuals and entities in Sudan, according to the U.S. Department of State. Sudan's civilian-led transitional government had taken numerous steps to advance human rights, as certified by President Donald Trump in his October 26, 2020, certification Pursuant to Section 6(e) of the Comprehensive Peace in Sudan Act of 2004 (Public Law 108-497), as amended by the Darfur Peace and Accountability Act of 2006 (Public Law 109-344), leading to Sudan's removal from the U.S. list of "Countries of Particular Concern" for International Religious Freedom in December 2020.

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Impact on the public: None.

Impact on the department and other agencies:

Repeal would relieve ERS of a significant monitoring and reporting burden and associated expenses.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM  
DESIGNATION: BUF-141/Retirement.

OTHER AFFECTED  
AGENCIES: None.

EFFECTIVE DATE: Upon approval.