

1 the board to request that the managers of such
2 investment funds consider removing scrutinized
3 companies from the fund or create a similar
4 fund that excludes such companies; requiring
5 the board to file a report to the Board of
6 Trustees of the State Board of Administration
7 and the Legislature within a specified period
8 after creation of the Scrutinized Company List;
9 requiring the annual filing of an updated
10 report; requiring that all such reports be made
11 available to the public; requiring that the
12 report include certain information; providing
13 for the expiration of the act; exempting the
14 board from certain statutory or common law
15 obligations; authorizing the board to cease
16 divesting or to reinvest in certain scrutinized
17 companies if the value of all assets under
18 management by the board becomes equal to or
19 less than a specified amount; requiring the
20 board to file a written report to the Board of
21 Trustees of the State Board of Administration
22 and the Legislature before such reinvestment;
23 requiring that the report contain certain
24 information; requiring semiannual updates to
25 such reports when applicable; providing for
26 severability; providing an effective date.

27
28 WHEREAS, a resolution of the United Nations Security
29 Council imposes sanctions on Iran for its failure to suspend
30 its uranium-enrichment activities, and
31

1 WHEREAS, the United Nations Security Council voted
2 unanimously for an additional embargo on Iranian arms exports
3 which is a freeze on assets abroad of an expanded list of
4 individuals and companies involved in Iran's nuclear and
5 ballistic missile programs and calls for nations and
6 institutions to bar new grants or loans to Iran except for
7 humanitarian and developmental purposes, and

8 WHEREAS, Iran's financial ability to pay its debts to
9 foreign entities involved in the petroleum-energy sector
10 amounting to more than \$20 million is put at risk by the Iran
11 and Libya Sanctions Act embargo and sanctions, and

12 WHEREAS, foreign entities have invested in Iran's
13 petroleum-energy sector despite United States and United
14 Nations sanctions against Iran, and

15 WHEREAS, all United States and foreign entities that
16 have invested more than \$20 million in Iran's energy sector
17 since August 5, 1996, are subject to sanctions under United
18 States law pursuant to the Iran and Libya Sanctions Act of
19 1996, and

20 WHEREAS, United States renewed the Iran and Libya
21 Sanctions Act of 1996 in 2001 and 2006, and

22 WHEREAS, while divestiture should be considered with
23 the intent to improve investment performance and, by the rules
24 of prudence, fiduciaries must take into account all relevant
25 substantive factors in arriving at an investment decision, and

26 WHEREAS, divestiture from markets that are vulnerable
27 to embargo, loan restrictions, and sanctions from the United
28 States and the international community, including the United
29 Nations Security Council, is in accordance with the rules of
30 prudence, and
31

1 WHEREAS, the State of Florida is deeply concerned about
2 investments in publicly traded companies that have business
3 activities in and ties to Iran's petroleum-energy sector as a
4 financial risk to the shareholders, and

5 WHEREAS, by investing in publicly traded companies
6 having ties to Iran's petroleum-energy sector, the Florida
7 State Board of Administration is putting the funds it oversees
8 at substantial financial risk, and

9 WHEREAS, to protect Florida's assets, it is in the best
10 interest of the state to enact a statutory prohibition
11 regarding the investments managed by the State Board of
12 Administration doing business in or with Iran's
13 petroleum-energy sector, NOW, THEREFORE,

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. (1) DEFINITIONS.--As used in this act, the
18 term:

19 (a) "Active business operations" means all business
20 operations that are not inactive business operations.

21 (b) "Business operations" means engaging in commerce
22 in any form in Iran, including, but not limited to,
23 acquiring, developing, maintaining, owning, selling,
24 possessing, leasing, or operating equipment, facilities,
25 personnel, products, services, personal property, real
26 property, or any other apparatus of business or commerce.

27 (c) "Company" means any sole proprietorship,
28 organization, association, corporation, partnership, joint
29 venture, limited partnership, limited liability partnership,
30 limited liability company, or other entity or business
31 association, including all wholly owned subsidiaries,

1 majority-owned subsidiaries, parent companies, or affiliates
2 of such entities or business associations, which exists for
3 the purpose of making profit.

4 (d) "Complicit" means taking actions during any
5 preceding 20-month period which have directly invested in the
6 petroleum energy sector of Iran.

7 (e) "Direct holdings" in a company means all
8 securities of that company which are held directly by the
9 Public Fund or in an account or fund in which the Public Fund
10 owns all shares or interests.

11 (f) "Inactive business operations" means the mere
12 continued holding or renewal of rights to property previously
13 operated for the purpose of generating revenues but not
14 presently deployed for such purpose.

15 (g) "Indirect holdings" in a company means all
16 securities of that company which are held in an account or
17 fund, such as a mutual fund, managed by one or more persons
18 not employed by the Public Fund, in which the Public Fund owns
19 shares or interests together with other investors not subject
20 to the provisions of this act.

21 (h) "Military equipment" means weapons, arms, military
22 supplies, and equipment that readily may be used for military
23 purposes, including, but not limited to, radar systems,
24 military-grade transport vehicles, or supplies or services
25 sold or provided directly or indirectly to any force actively
26 participating in international terrorism.

27 (i) "Mineral-extraction activities" include exploring,
28 extracting, processing, transporting, or wholesale selling or
29 trading of elemental minerals or associated metal alloys or
30 oxides (ore), including gold, copper, chromium, chromite,
31 diamonds, iron, iron ore, silver, tungsten, uranium, and zinc,

1 as well as facilitating such activities, including, providing
2 supplies or services in support of such activities.

3 (j) "Oil-related activities" include, but are not
4 limited to, owning rights to oil blocks; exporting,
5 extracting, producing, refining, processing, exploring for,
6 transporting, selling, or trading of oil; constructing,
7 maintaining, or operating a pipeline, refinery, or other
8 oil-field infrastructure; and facilitating such activities,
9 including providing supplies or services in support of such
10 activities, except that the mere retail sale of gasoline and
11 related consumer products is not considered an oil-related
12 activity.

13 (k) "Petroleum resources" means petroleum, petroleum
14 by-products, or natural gas.

15 (l) "Public Fund" means all funds, assets, trustees,
16 and other designates under the State Board of Administration
17 according to part I of chapter 121, Florida Statutes.

18 (m) "Scrutinized company" means the company has
19 business operations that involve contracts with or provision
20 of supplies or services to the Government of Iran, companies
21 in which the Government of Iran has any direct or indirect
22 equity share, consortiums or projects commissioned by the
23 Government of Iran, or companies involved in consortiums or
24 projects commissioned by the Government of Iran and:

25 1. More than 10 percent of the company's total
26 revenues or assets linked to Iran involve oil-related
27 activities or mineral-extraction activities and the company
28 has failed to take substantial action; or

29 2. The company has, with actual knowledge, on or after
30 August 5, 1996, made an investment of \$20 million or more, or
31 any combination of investments of at least \$10 million each

1 which in the aggregate equals or exceeds \$20 million in any
2 12-month period, which directly or significantly contributes
3 to the enhancement of Iran's ability to develop petroleum
4 resources of Iran.

5 (n) "Substantial action" means adopting, publicizing,
6 and implementing a formal plan to cease scrutinized business
7 operations within 1 year and to refrain from any such new
8 business operations.

9 (o) "Iran" means the Islamic Republic of Iran.

10 (p) "Government of Iran" means the government of Iran,
11 its instrumentalities, and companies owned or controlled by
12 the government of Iran.

13 (q) "Scrutinized business operations" means business
14 operations that have resulted in a company becoming a
15 scrutinized company.

16 (r) "Scrutinized active business operations" means
17 active business operations that have resulted in a company
18 becoming a scrutinized company.

19 (2) IDENTIFICATION OF COMPANIES.--

20 (a) Within 90 days after the effective date of this
21 act, the Public Fund shall make its best efforts to identify
22 all scrutinized companies in which the Public Fund has direct
23 or indirect holdings or could possibly have such holdings in
24 the future. Such efforts include:

25 1. Reviewing and relying, as appropriate in the Public
26 Fund's judgment, on publicly available information regarding
27 companies having business operations in Iran, including
28 information provided by nonprofit organizations, research
29 firms, international organizations, and government entities;
30
31

1 2. Contacting asset managers contracted by the Public
2 Fund which invest in companies having business operations in
3 Iran;

4 3. Contacting other institutional investors that have
5 divested from or engaged with companies that have business
6 operations in Iran; or

7 4. Identifying laws of the United States regarding the
8 levels of business activity that would cause application of
9 sanctions for companies conducting business in or investing in
10 countries that are designated state sponsors of terror.

11 (b) By the first meeting of the Public Fund following
12 the 90-day period described in paragraph (a), the Public Fund
13 shall assemble all scrutinized companies identified into a
14 "Scrutinized Companies List."

15 (c) The Public Fund shall update the Scrutinized
16 Companies List quarterly based on evolving information from,
17 among other sources, those listed in paragraph (a).

18 (3) REQUIRED ACTIONS.--The Public Fund shall adhere to
19 the following procedure for companies on the Scrutinized
20 Companies List:

21 (a) Engagement.--

22 1. The Public Fund shall immediately determine the
23 companies on the Scrutinized Companies List in which the
24 Public Fund owns direct or indirect holdings.

25 2. For each company identified in this paragraph which
26 has only inactive business operations, the Public Fund shall
27 send a written notice informing the company of this act and
28 encouraging it to continue to refrain from initiating active
29 business operations in Iran until it is able to avoid
30 scrutinized business operations. The Public Fund shall
31 continue such correspondence semiannually.

1 3. For each company newly identified under this
2 paragraph which has active business operations, the Public
3 Fund shall send a written notice informing the company of its
4 scrutinized company status and that it may become subject to
5 divestment by the Public Fund. The notice must inform the
6 company of the opportunity to clarify its Iran-related
7 activities and encourage the company, within 90 days, to cease
8 its scrutinized business operations or convert such operations
9 to inactive business operations in order to avoid qualifying
10 for divestment by the Public Fund.

11 4. If, within 90 days after the Public Fund's first
12 engagement with a company pursuant to this paragraph, that
13 company ceases scrutinized business operations, the company
14 shall be removed from the Scrutinized Companies List and the
15 provisions of this act shall cease to apply to it unless it
16 resumes scrutinized business operations. If, within 90 days
17 after the Public Fund's first engagement, the company converts
18 its scrutinized active business operations to inactive
19 business operations, the company is subject to all provisions
20 relating thereto.

21 (b) Divestment.--

22 1. If, after 90 days following the Public Fund's first
23 engagement with a company pursuant to paragraph (a), the
24 company continues to have scrutinized active business
25 operations, and only while such company continues to have
26 scrutinized active business operations, the Public Fund shall
27 sell, redeem, divest, or withdraw all publicly traded
28 securities of the company, except as provided in paragraph
29 (d), from the Public Fund's assets under management within 12
30 months after the company's most recent appearance on the
31 Scrutinized Companies List.

1 2. If a company that ceased scrutinized active
2 business operations following engagement pursuant to paragraph
3 (a) resumes such operations, this paragraph immediately
4 applies, and the Public Fund shall send a written notice to
5 the company. The company shall also be immediately
6 reintroduced onto the Scrutinized Companies List.

7 (c) Prohibition.--The Public Fund may not acquire
8 securities of companies on the Scrutinized Companies List
9 which have active business operations, except as provided in
10 paragraph (d).

11 (d) Exemption.--A company that the United States
12 Government affirmatively declares to be excluded from its
13 present or any future federal sanctions regime relating to
14 Iran is not subject to divestment or the investment
15 prohibition pursuant to paragraphs (b) and (c).

16 (e) Excluded securities.--Notwithstanding the
17 provisions of this act, paragraphs (b) and (c) do not apply to
18 indirect holdings in actively managed investment funds.
19 However, the Public Fund shall submit letters to the managers
20 of such investment funds containing companies that have
21 scrutinized active business operations requesting that they
22 consider removing such companies from the fund or create a
23 similar actively managed fund having indirect holdings devoid
24 of such companies. If the manager creates a similar fund, the
25 Public Fund shall replace all applicable investments with
26 investments in the similar fund in an expedited timeframe
27 consistent with prudent investing standards. For the purposes
28 of this section, a private equity fund is deemed to be an
29 actively managed investment fund.

30 (4) REPORTING.--
31

1 (a) The Public Fund shall file a report to each member
2 of the Board of Trustees of the State Board of Administration,
3 the President of the Senate, and the Speaker of the House of
4 Representatives which includes the Scrutinized Companies List
5 within 30 days after the list is created. This report shall be
6 made available to the public.

7 (b) Annually thereafter, the Public Fund shall file a
8 report, which shall be made available to the public, to each
9 member of the Board of Trustees of the State Board of
10 Administration, the President of the Senate, and the Speaker
11 of the House of Representatives and send a copy of that report
12 to the United States Presidential Special Envoy to Iran, or an
13 appropriate designee or successor, which includes:

14 1. A summary of correspondence with companies engaged
15 by the Public Fund under subparagraphs (3)(a)2. and 3.;

16 2. All investments sold, redeemed, divested, or
17 withdrawn in compliance with paragraph (3)(b);

18 3. All prohibited investments under paragraph (3)(c);

19 and

20 4. Any progress made under paragraph (3)(e).

21 (5) EXPIRATION.--This act expires upon the occurrence
22 of any of the following:

23 (a) The United States revokes all sanctions imposed
24 against the Government of Iran;

25 (b) The Congress or President of the United States
26 affirmatively and unambiguously states, through law or
27 regulation, including but not limited to, legislation,
28 executive order, or written certification, that the Government
29 of Iran has ceased to acquire weapons of mass destruction and
30 support international terrorism; or

31

1 (c) The Congress or President of the United States
2 affirmatively and unambiguously declares through law or
3 regulation, including but not limited to, legislation,
4 executive order, or written certification, that mandatory
5 divestment of the type provided for in this act interferes
6 with the conduct of United States foreign policy.

7 (6) OTHER LEGAL OBLIGATIONS.--With respect to actions
8 taken in compliance with this act, including all good faith
9 determinations regarding companies as required by this act,
10 the Public Fund is exempt from any conflicting statutory or
11 common law obligations, including any such obligations with
12 respect to choice of asset managers, investment funds, or
13 investments for the Public Fund's securities portfolios.

14 (7) REINVESTMENT IN CERTAIN COMPANIES HAVING
15 SCRUTINIZED ACTIVE BUSINESS OPERATIONS.--Notwithstanding any
16 other provision of this act to the contrary, the Public Fund
17 may cease divesting from certain scrutinized companies
18 pursuant to paragraph (3)(b) or reinvest in certain
19 scrutinized companies from which it divested pursuant to
20 paragraph (3)(b) if clear and convincing evidence shows that
21 the value of all assets under management by the Public Fund
22 becomes equal to or less than 99.50 percent, or 50 basis
23 points, of the hypothetical value of all assets under
24 management by the Public Fund assuming no divestment for any
25 company had occurred under paragraph (3)(b). Cessation of
26 divestment, reinvestment, or any subsequent ongoing investment
27 authorized by this act is limited to the minimum steps
28 necessary to avoid the contingency set forth in this
29 subsection or avoid divestment of any company for less than
30 fair value. For any cessation of divestment, reinvestment, or
31 subsequent ongoing investment authorized by this act, the

1 Public Fund shall provide a written report to each member of
2 the Board of Trustees of the State Board of Administration,
3 the President of the Senate, and the Speaker of the House of
4 Representatives in advance of initial reinvestment, updated
5 semiannually thereafter as applicable, setting forth the
6 reasons and justification, supported by clear and convincing
7 evidence, for its decisions to cease divestment, reinvest, or
8 remain invested in companies having scrutinized active
9 business operations. This act does not apply to reinvestment
10 in companies on the grounds that they have ceased to have
11 scrutinized active business operations.

12 Section 2. If any provision of this act or its
13 application to any person or circumstance is held invalid, the
14 invalidity does not affect other provisions or applications of
15 the act which can be given effect without the invalid
16 provision or application, and to this end the provisions of
17 this act are severable.

18 Section 3. This act shall take effect upon becoming a
19 law.

20
21 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
22 COMMITTEE SUBSTITUTE FOR
23 CS/SB 2250

24 CS/CS/SB 2250 provides recognition of more specific actions by
25 federal authorities for a determination of the expiration of
26 the act. It exempts all funds managed by the Board of
27 Administration other than those involving the defined benefit
28 plan of the Florida Retirement System, and it restricts
29 divestment actions to only directly-owned securities, thus
30 exempting private equity funds, and other indirect holdings.
31