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1
2 An act relating to the State Board of Administration;
3 creating s. 215.4702, F.S.; defining terms;
4 encouraging the State Board of Administration to
5 determine which publicly traded companies in which the
6 Florida Retirement System Trust Fund is invested
7 operate in Northern Ireland; encouraging the state
8 board to take certain action upon making a
9 determination; authorizing the state board to rely on
10 public information in making a determination;
11 providing that the state board is not liable or
12 subject to a cause of action under the act; amending
13 s. 215.473, F.S.; redefining the term "public fund";
14 defining the term "board"; requiring the board, rather
15 than the public fund, to maintain a list of certain
16 scrutinized companies rather than assembling the list
17 by a certain time; clarifying provisions; deleting a
18 condition that may no longer be used by the board in
19 scrutinizing companies, relating to a specified
20 declaration; requiring the board to monitor certain
21 events and make specified reports at certain meetings
22 of trustees; conforming provisions to changes made by
23 the act; providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 215.4702, Florida Statutes, is created
28 to read:

29 215.4702 Investments in publicly traded companies operating

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30 in Northern Ireland.—

31 (1) As used in this section, the term:

32 (a) "MacBride Principles" means the objectives for
33 companies operating in Northern Ireland to:

34 1. Increase the representation of individuals from
35 underrepresented religious groups in the workforce, including
36 managerial, supervisory, administrative, clerical, and technical
37 jobs.

38 2. Provide adequate security for the protection of minority
39 employees both at the workplace and while traveling to and from
40 work.

41 3. Ban provocative religious or political emblems from the
42 workplace.

43 4. Publicly advertise all job openings and make special
44 recruitment efforts to attract applicants from underrepresented
45 religious groups.

46 5. Provide that layoff, recall, and termination procedures
47 should not in practice favor particular religious groups.

48 6. Abolish job reservations, apprenticeship restrictions,
49 and differential employment criteria that discriminate on the
50 basis of religion or ethnic origin.

51 7. Develop training programs that will prepare substantial
52 numbers of current minority employees for skilled jobs,
53 including the expansion of existing programs and the creation of
54 new programs to train, upgrade, and improve the skills of
55 minority employees.

56 8. Establish procedures to assess, identify, and actively
57 recruit minority employees with potential for further
58 advancement.

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59 9. Appoint senior management staff members to oversee
60 affirmative action efforts and to set up timetables to carry out
61 affirmative action principles.

62 (b) "Operating" means actively engaging in commerce
63 geographically in Northern Ireland through the acquisition,
64 development, maintenance, ownership, sale, possession, lease, or
65 operation of equipment, facilities, personnel, products,
66 services, or personal property.

67 (c) "Publicly traded company" means any business
68 organization having equity securities listed on a national or an
69 international exchange that is regulated by a national or an
70 international regulatory authority.

71 (d) "State board" means the State Board of Administration.

72 (2) The state board is encouraged to determine which
73 publicly traded companies in which the Florida Retirement System
74 Trust Fund is invested operate in Northern Ireland. If the state
75 board determines that a publicly traded company meets such
76 criteria, the state board is encouraged to:

77 (a) Notify the publicly traded company that the state board
78 supports the MacBride Principles;

79 (b) Inquire regarding the actions that the publicly traded
80 company has taken in support of or furtherance of the MacBride
81 Principles;

82 (c) Encourage a publicly traded company that has not
83 adopted the MacBride Principles to make all lawful efforts to
84 implement the fair employment practices embodied in the MacBride
85 Principles; and

86 (d) Support the adoption of the MacBride Principles in
87 exercising its proxy voting authority. For these purposes, the

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88 state board may not be a fiduciary under this section in
89 exercising its proxy voting authority.

90 (3) In making the determination specified in subsection
91 (2), the state board may, to the extent it deems appropriate,
92 rely on available public information, including information
93 provided by nonprofit organizations, research firms,
94 international organizations, and government entities.

95 (4) The state board may not be held liable for, and a cause
96 of action does not arise from, any action or inaction by the
97 state board in the administration of this section.

98 Section 2. Present paragraphs (b) through (x) of subsection
99 (1) of section 215.473, Florida Statutes, are redesignated as
100 paragraphs (c) through (y), respectively, present paragraph (r)
101 of that subsection is amended, a new paragraph (b) is added to
102 that subsection, and subsections (2) through (7) of that section
103 are amended, to read:

104 215.473 Divestiture by the State Board of Administration;
105 Sudan; Iran.—

106 (1) DEFINITIONS.—As used in this section, the term:

107 (b) "Board" means the State Board of Administration.

108 (s)~~(r)~~ "Public fund" means all funds, assets of the Florida
109 Retirement System held by, trustee, and other designates under
110 the State Board of Administration in its capacity as a fiduciary
111 pursuant to chapter 121.

112 (2) IDENTIFICATION OF COMPANIES.—

113 ~~(a) Within 90 days after June 8, 2007, The board public~~
114 ~~fund~~ shall make its best efforts to identify all scrutinized
115 companies in which the public fund has direct or indirect
116 holdings or could possibly have such holdings in the future.

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117 Such efforts include:

118 1. Reviewing and relying, as appropriate in the board's
119 ~~public fund's~~ judgment, on publicly available information
120 regarding companies having business operations in Sudan,
121 including information provided by nonprofit organizations,
122 research firms, international organizations, and government
123 entities;

124 2. Contacting asset managers contracted by the board ~~public~~
125 ~~fund~~ which invest in companies having business operations in
126 Sudan;

127 3. Contacting other institutional investors that have
128 divested from or engaged with companies that have business
129 operations in Sudan; or

130 4. Reviewing the laws of the United States regarding the
131 levels of business activity that would cause application of
132 sanctions for companies conducting business or investing in
133 countries that are designated state sponsors of terror.

134 (b) ~~By the first meeting of the public fund following the~~
135 ~~90-day period described in paragraph (a),~~ The board ~~public fund~~
136 shall maintain a list of ~~assemble~~ all scrutinized companies that
137 fit criteria specified in subparagraphs (1)(v)1., 2., and 3.
138 ~~labeled the (1)(u)1., 2., and 3. into a~~ "Scrutinized Companies
139 with Activities in Sudan List" and a list of all scrutinized
140 companies that fit criteria specified in subparagraph (1)(v)4.
141 ~~labeled the (1)(u)4. into a~~ "Scrutinized Companies with
142 Activities in the Iran Petroleum Energy Sector List."

143 (c) The board ~~public fund~~ shall update and make publicly
144 available quarterly the Scrutinized Companies with Activities in
145 Sudan List and the Scrutinized Companies with Activities in the

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146 Iran Petroleum Energy Sector List based on evolving information
147 from, among other sources, those listed in paragraph (a).

148 (d) Notwithstanding ~~the provisions of~~ this section, a
149 social-development company that is not complicit in the Darfur
150 genocide is not considered a scrutinized company under
151 subparagraph (1) (v) 1. ~~(1) (u) 1.~~, subparagraph (1) (v) 2. ~~(1) (u) 2.~~,
152 or subparagraph (1) (v) 3. ~~(1) (u) 3.~~

153 (3) REQUIRED ACTIONS.—The board ~~public fund~~ shall adhere to
154 the following procedure for assembling companies on the
155 Scrutinized Companies with Activities in Sudan List and the
156 Scrutinized Companies with Activities in the Iran Petroleum
157 Energy Sector List:

158 (a) *Engagement.*—

159 1. The board ~~public fund~~ shall immediately determine the
160 companies on the Scrutinized Companies with Activities in Sudan
161 List and the Scrutinized Companies with Activities in the Iran
162 Petroleum Energy Sector List in which the public fund owns
163 direct or indirect holdings.

164 2. For each company identified in this paragraph that has
165 only inactive business operations, the board ~~public fund~~ shall
166 send a written notice informing the company of this act and
167 encouraging it to continue to refrain from initiating active
168 business operations in Sudan or Iran until it is able to avoid
169 scrutinized business operations. The board ~~public fund~~ shall
170 continue such correspondence semiannually.

171 3. For each company newly identified under this paragraph
172 which ~~that~~ has active business operations, the board ~~public fund~~
173 shall send a written notice informing the company of its
174 scrutinized company status and that it may become subject to

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175 divestment by the public fund. The notice must inform the
176 company of the opportunity to clarify its Sudan-related or Iran-
177 related activities and encourage the company, ~~within 90 days,~~ to
178 cease its scrutinized business operations or convert such
179 operations to inactive business operations within 90 days in
180 order to avoid qualifying for divestment by the public fund.

181 4. If, within 90 days after the board's ~~public fund's~~ first
182 engagement with a company pursuant to this paragraph, that
183 company ceases scrutinized business operations, the company
184 shall be removed from the Scrutinized Companies with Activities
185 in Sudan List and the Scrutinized Companies with Activities in
186 the Iran Petroleum Energy Sector List, and the provisions of
187 this act shall cease to apply to that company unless that
188 company resumes scrutinized business operations. If, within 90
189 days after the board's ~~public fund's~~ first engagement, the
190 company converts its scrutinized active business operations to
191 inactive business operations, the company is subject to all
192 provisions relating to inactive business operations. A company
193 may be removed from one list but remain on the other list, in
194 which case the company shall be subject to the provisions
195 applicable to the list on which the company remains.

196 (b) *Divestment.*—

197 1. If, after 90 days following the board's ~~public fund's~~
198 first engagement with a company pursuant to paragraph (a), the
199 company continues to have scrutinized active business
200 operations, and only while such company continues to have
201 scrutinized active business operations, the board ~~public fund~~
202 shall sell, redeem, divest, or withdraw all publicly traded
203 securities of the company, except as provided in paragraph (d),

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204 from the public fund ~~fund's assets under management~~ within 12
205 months after the company's most recent appearance on the
206 Scrutinized Companies with Activities in Sudan List or on the
207 Scrutinized Companies with Activities in the Iran Petroleum
208 Energy Sector List.

209 2. If a company that ceased scrutinized active business
210 operations following engagement pursuant to paragraph (a)
211 resumes such operations, this paragraph immediately applies, and
212 the board ~~public fund~~ shall send a written notice to the
213 company. The company shall also be immediately reintroduced onto
214 the Scrutinized Companies with Activities in Sudan List or on
215 the Scrutinized Companies with Activities in the Iran Petroleum
216 Energy Sector List, as applicable.

217 (c) *Prohibition.*—The board ~~public fund~~ may not acquire, on
218 behalf of the public fund, securities of companies on the
219 Scrutinized Companies with Activities in Sudan List or the
220 Scrutinized Companies with Activities in the Iran Petroleum
221 Energy Sector List that have active business operations, except
222 as provided in paragraph (d).

223 (d) *Exemption.*—A company that the United States Government
224 affirmatively declares to be excluded from its present or any
225 future federal sanctions regime relating to Sudan or Iran is not
226 subject to divestment or the investment prohibition pursuant to
227 paragraphs (b) and (c).

228 (e) *Excluded securities.*—

229 1. Notwithstanding ~~the provisions of~~ this section,
230 paragraphs (b) and (c) do not apply to indirect holdings in
231 actively managed investment funds. However, the board ~~public~~
232 ~~fund~~ shall submit letters to the managers of such investment

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233 funds containing companies that have scrutinized active business
234 operations requesting that they consider removing such companies
235 from the fund or create a similar actively managed fund having
236 indirect holdings devoid of such companies. If the manager
237 creates a similar fund, the board, on behalf of the public fund,
238 shall replace all applicable investments with investments in the
239 similar fund in an expedited timeframe consistent with prudent
240 investing standards. For the purposes of this section, a private
241 equity fund is deemed to be an actively managed investment fund.

242 2. Notwithstanding ~~the provisions of~~ this section,
243 paragraphs (b) and (c) do not apply to exchange-traded funds.

244 (f) *Further exclusions.*—Notwithstanding any other provision
245 of this act, the board ~~public fund~~, when discharging its
246 responsibility for operation of a defined contribution plan,
247 shall engage the manager of the investment offerings in such
248 plans requesting that they consider removing scrutinized
249 companies from the investment offerings or create an alternative
250 investment offering devoid of scrutinized companies. If the
251 manager creates an alternative investment offering and the
252 offering is deemed by the board ~~public fund~~ to be consistent
253 with prudent investor standards, the board ~~public fund~~ shall
254 consider including such investment offering in the plan.

255 (4) REPORTING.—

256 (a) The board ~~public fund~~ shall file a report with each
257 member of its ~~the~~ Board of Trustees ~~of the State Board of~~
258 ~~Administration~~, the President of the Senate, and the Speaker of
259 the House of Representatives which ~~that~~ includes the Scrutinized
260 Companies with Activities in Sudan List and the Scrutinized
261 Companies with Activities in the Iran Petroleum Energy Sector

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262 List within 30 days after the list is created. This report shall
263 be made available to the public.

264 (b) At each quarterly meeting of the Board of Trustees
265 thereafter, the board ~~public fund~~ shall file a report regarding
266 the public fund, which shall be made available to the public and
267 to each member of its ~~the~~ Board of Trustees of ~~the State Board~~
268 ~~of Administration~~, the President of the Senate, and the Speaker
269 of the House of Representatives, and send a copy of that report
270 to the United States Presidential Special Envoy to Sudan and the
271 United States Presidential Special Envoy to Iran, or an
272 appropriate designee or successor, which includes:

273 1. A summary of correspondence with companies engaged by
274 the board on behalf of the public fund under subparagraphs
275 (3) (a) 2. and 3.;

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

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

279 4. Any progress made under paragraph (3) (e); and

280 5. A list of all publicly traded securities held directly
281 by the public fund ~~this state~~.

282 (5) EXPIRATION.—This section expires upon the occurrence of
283 all of the following:

284 (a) If any of the following occurs ~~occur~~, the board may
285 ~~public fund shall~~ no longer scrutinize companies according to
286 subparagraphs (1) (v) 1. ~~(1) (u) 1.~~, 2., and 3. and may ~~shall~~ no
287 longer assemble the Scrutinized Companies with Activities in
288 Sudan List, shall cease engagement and divestment of such
289 companies, and may reinvest in such companies if such companies
290 do not satisfy the criteria for inclusion in the Scrutinized

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291 Companies with Activities in the Iran Petroleum Energy Sector
292 List:

293 1. The Congress or President of the United States,
294 affirmatively and unambiguously states, by means including, but
295 not limited to, legislation, executive order, or written
296 certification from the President to Congress, that the Darfur
297 genocide has been halted for at least 12 months;

298 2. The United States revokes all sanctions imposed against
299 the government of Sudan;

300 3. The Congress or President of the United States
301 affirmatively and unambiguously states, by means including, but
302 not limited to, legislation, executive order, or written
303 certification from the President to Congress, that the
304 government of Sudan has honored its commitments to cease attacks
305 on civilians, demobilize and demilitarize the Janjaweed and
306 associated militias, grant free and unfettered access for
307 deliveries of humanitarian assistance, and allow for the safe
308 and voluntary return of refugees and internally displaced
309 persons; or

310 4. The Congress or President of the United States
311 affirmatively and unambiguously states, by means including, but
312 not limited to, legislation, executive order, or written
313 certification from the President to Congress, that mandatory
314 divestment of the type provided for in this section interferes
315 with the conduct of United States foreign policy.

316 (b) If either ~~any~~ of the following occurs ~~occur~~, the board
317 may ~~public fund shall~~ no longer scrutinize companies according
318 to subparagraph (1)(v)4., ~~may (1)(u)4. and shall~~ no longer
319 assemble the Scrutinized Companies with Activities in the Iran

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320 Petroleum Energy Sector List, and shall cease engagement,
321 investment prohibitions, and divestment: ~~The public fund may~~
322 ~~reinvest in such companies if such companies do not satisfy the~~
323 ~~criteria for inclusion in the Scrutinized Companies with~~
324 ~~Activities in Sudan List:~~

325 1. The Congress or President of the United States
326 affirmatively and unambiguously states, by means including, but
327 not limited to, legislation, executive order, or written
328 certification from the President to Congress, that the
329 government of Iran has ceased to acquire weapons of mass
330 destruction and support international terrorism; or

331 2. The United States revokes all sanctions imposed against
332 the government of Iran; ~~or~~

333 ~~3. The Congress or President of the United States~~
334 ~~affirmatively and unambiguously declares, by means including,~~
335 ~~but not limited to, legislation, executive order, or written~~
336 ~~certification from the President to Congress, that mandatory~~
337 ~~divestment of the type provided for in this section interferes~~
338 ~~with the conduct of United States foreign policy.~~

339
340 The board, on behalf of the public fund, may reinvest in such
341 companies if such companies do not satisfy the criteria for
342 inclusion in the Scrutinized Companies with Activities in Sudan
343 List. The board, acting as a fiduciary in accordance with s.
344 215.47(10), shall monitor events relating to subparagraphs 1.
345 and 2., and, upon finding that the conditions in subparagraph 1.
346 or subparagraph 2. have occurred, the board shall report such
347 finding at a quarterly meeting of its trustees. At each
348 quarterly meeting of the trustees, the board shall report on the

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349 status of events relating to subparagraphs 1. and 2.

350 (6) INVESTMENT POLICY STATEMENT OBLIGATIONS.—The board's
351 ~~public fund's~~ actions taken in compliance with this act,
352 including all good faith determinations regarding companies as
353 required by this act, shall be adopted and incorporated into the
354 public fund's investment policy statement ~~(the IPS)~~ as provided
355 ~~set forth~~ in s. 215.475.

356 (7) REINVESTMENT IN CERTAIN COMPANIES HAVING SCRUTINIZED
357 ACTIVE BUSINESS OPERATIONS.—Notwithstanding any other provision
358 of this act to the contrary, the public fund may cease divesting
359 from certain scrutinized companies pursuant to paragraph (3) (b)
360 or reinvest in certain scrutinized companies from which it
361 divested pursuant to paragraph (3) (b) if clear and convincing
362 evidence shows that the value of all assets of ~~under management~~
363 ~~by~~ the public fund becomes equal to or less than 99.50 percent,
364 or 50 basis points, of the hypothetical value of all assets of
365 ~~under management by~~ the public fund assuming no divestment for
366 any company had occurred under paragraph (3) (b). Cessation of
367 divestment, reinvestment, or any subsequent ongoing investment
368 authorized by this act is limited to the minimum steps necessary
369 to avoid the contingency set forth in this subsection or that no
370 divestment of any company is required for less than fair value.
371 For any cessation of divestment, reinvestment, or subsequent
372 ongoing investment authorized by this act, the board ~~public fund~~
373 shall provide a written report to each member of its ~~the~~ Board
374 of Trustees ~~of the State Board of Administration~~, the President
375 of the Senate, and the Speaker of the House of Representatives
376 in advance of initial reinvestment, updated semiannually
377 thereafter as applicable, setting forth the reasons and

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378 justification, supported by clear and convincing evidence, for
379 its decisions to cease divestment, reinvest, or remain invested
380 in companies having scrutinized active business operations. This
381 act does not apply to reinvestment in companies on the grounds
382 that they have ceased to have scrutinized active business
383 operations.

384 Section 3. This act shall take effect July 1, 2016.