

By Senator Avila

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1 A bill to be entitled
2 An act relating to scrutinized companies; amending s.
3 215.473, F.S.; defining terms; revising the definition
4 of the term "scrutinized company"; requiring the State
5 Board of Administration to identify and maintain the
6 Scrutinized Companies with Activities in Iran
7 Terrorism Sectors List; requiring the board to update
8 and quarterly make such list publicly available;
9 requiring the State Board of Administration to adhere
10 to specified procedures to assemble companies on such
11 list; providing that companies on the Scrutinized
12 Companies with Activities in the Iran Petroleum Energy
13 Sector List as of a specified date are deemed,
14 beginning on a certain date, to be on the Scrutinized
15 Companies with Activities in Iran Terrorism Sectors
16 List until removed pursuant to specified procedures;
17 requiring the board to file a certain report with each
18 member of its Board of Trustees and the Legislature
19 within a specified timeframe after the list is created
20 or updated; requiring the board to no longer
21 scrutinize companies subject to the Scrutinized
22 Companies with Activities in Iran Terrorism Sectors
23 List, to no longer assemble the list, and to cease
24 engagement, investment prohibitions, and divestment
25 actions if two specified actions occur; conforming
26 provisions to changes made by the act; amending s.
27 287.135, F.S.; providing that certain entities are
28 ineligible to, and may not, bid on, submit a proposal
29 for, or enter into or renew certain contracts;

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30 requiring that certain contracts entered into or
31 renewed on or after a specified date with an agency or
32 a local governmental entity contain a provision
33 allowing for the termination of such contract under
34 specified circumstances; revising the exception
35 allowing an agency or a local governmental entity to
36 contract with a company on specified lists or engaged
37 in business operations with certain countries;
38 providing the circumstances under which an agency or a
39 local governmental entity may contract with a company
40 on the Scrutinized Companies with Activities in the
41 Iran Petroleum Energy Sector List or the Scrutinized
42 Companies with Activities in Iran Terrorism Sectors
43 List; requiring a company to certify that it is not on
44 certain lists at the time the company submits a bid or
45 proposal for a contract or before the company enters
46 into or renews a contract with an agency or a local
47 governmental entity; conforming provisions to changes
48 made by the act; amending s. 624.449, F.S.; requiring
49 domestic insurers to annually provide to the Office of
50 Insurance Regulation a list of companies in which they
51 have investments which are on the Scrutinized
52 Companies with Activities in Iran Terrorism Sectors
53 List; reenacting s. 215.47(10)(b), F.S., relating to
54 certain investment decisions made by the State Board
55 of Administration, to incorporate the amendments made
56 to s. 215.473, F.S., in a reference thereto; providing
57 severability; providing an effective date.

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59 Be It Enacted by the Legislature of the State of Florida:

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61 Section 1. Section 215.473, Florida Statutes, is amended to
62 read:

63 215.473 Divestiture by the State Board of Administration;
64 Sudan; Iran.—

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

66 (a) "Active business operations" means all business
67 operations that are not inactive business operations.

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

69 (c) "Business operations" means engaging in commerce in any
70 form in Sudan or Iran, including, but not limited to, acquiring,
71 developing, maintaining, owning, selling, possessing, leasing,
72 or operating equipment, facilities, personnel, products,
73 services, personal property, real property, or any other
74 apparatus of business or commerce.

75 (d) "Company" means a sole proprietorship, organization,
76 association, corporation, partnership, joint venture, limited
77 partnership, limited liability partnership, limited liability
78 company, or other entity or business association, including all
79 wholly owned subsidiaries, majority-owned subsidiaries, parent
80 companies, or affiliates of such entities or business
81 associations, that exists for the purpose of making profit.

82 (e) "Complicit" means taking actions during any preceding
83 20-month period which have directly supported or promoted the
84 genocidal campaign in Darfur, including preventing Darfur's
85 victimized population from communicating with each other;
86 encouraging Sudanese citizens to speak out against an
87 internationally approved security force for Darfur; actively

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88 working to deny, cover up, or alter the record on human rights
89 abuses in Darfur; or other similar actions.

90 (f) "Construction sector" means the production,
91 procurement, devising, framing, or arranging in Iran of parts or
92 materials to fabricate, shape, or form buildings or structures,
93 including the onsite development, assembly, or construction of
94 residential, commercial, or institutional buildings in Iran.

95 (g) "Direct holdings" in a company means all securities of
96 that company that are held directly by the public fund or in an
97 account or fund in which the public fund owns all shares or
98 interests.

99 (h) "Energy sector" means those activities involving the
100 exploration, extraction, production, refinement, or liquefaction
101 of petroleum, natural gas, or petroleum products in Iran.

102 (i) "Financial sector" means any entity, including foreign
103 branches wherever located, organized under the laws of Iran or
104 any jurisdiction within Iran, or owned or controlled by the
105 government of Iran, or located in Iran, or owned or controlled
106 by any such entities, which is engaged in the business, as
107 principal or agent, of accepting deposits; making, granting,
108 transferring, holding, or brokering loans or credits; or
109 purchasing or selling foreign exchange, securities, or commodity
110 futures or options, or procuring purchasers and sellers thereof.
111 Entities that operate in the financial sector of the Iranian
112 economy include, but are not limited to, depository
113 institutions, banks, savings banks, money service businesses,
114 trust companies, insurance companies, securities brokers and
115 dealers, commodity futures and options brokers and dealers,
116 forward contract and foreign exchange merchants, securities and

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117 commodities exchanges, clearing corporations, investment
118 companies, employee benefit plans, dealers in precious metals,
119 stones, or jewels, and holding companies, affiliates, or
120 subsidiaries of any such entities.

121 (j)~~(g)~~ "Government of Iran" means the government of Iran,
122 its instrumentalities, and companies owned or controlled by the
123 government of Iran.

124 (k)~~(h)~~ "Government of South Sudan" means the Republic of
125 South Sudan, that has its capital in Juba, South Sudan.

126 (l)~~(i)~~ "Government of Sudan" means the Republic of the
127 Sudan that has its capital in Khartoum, Sudan.

128 (m)~~(j)~~ "Inactive business operations" means the mere
129 continued holding or renewal of rights to property previously
130 operated for the purpose of generating revenues but not
131 presently deployed for such purpose.

132 (n)~~(k)~~ "Indirect holdings" in a company means all
133 securities of that company that are held in a commingled fund or
134 other collective investment, such as a mutual fund, in which the
135 public fund owns shares or interests together with other
136 investors not subject to this section.

137 (o)~~(l)~~ "Iran" means the Islamic Republic of Iran.

138 (p) "Manufacturing sector" means the creation of goods in
139 Iran by manual labor or machinery which are for export from Iran
140 or for sale within Iran.

141 (q)~~(m)~~ "Marginalized populations of Sudan" include, but are
142 not limited to, the portion of the population in the Darfur
143 region that has been genocidally victimized; the portion of the
144 population of South Sudan victimized by Sudan's north-south
145 civil war; the Beja, Rashidiya, and other similarly underserved

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146 groups of eastern Sudan; the Nubian and other similarly
147 underserved groups in Sudan's Abyei, Southern Blue Nile, and
148 Nuba Mountain regions; and the Amri, Hamadab, Manasir, and other
149 similarly underserved groups of northern Sudan.

150 (r) "Metals sector" means the sale, supply, or transfer,
151 directly or indirectly, to or from Iran of raw or semifinished
152 metals, including, but not limited to, the following types of
153 such materials and all alloys or compounds containing such
154 materials: aluminum, americium, antimony, barium, beryllium,
155 bismuth, boron, cadmium, calcium, cerium, cesium, chromium,
156 cobalt, copper, dysprosium, erbium, europium, gadolinium,
157 gallium, germanium, gold, hafnium, hastelloy, inconel, indium,
158 iridium, iron, lanthanum, lead, lithium, lutetium, magnesium,
159 manganese, mercury, molybdenum, monel, neodymium, neptunium,
160 nickel, niobium, osmium, palladium, platinum, plutonium,
161 polonium, potassium, praseodymium, promethium, radium, rhenium,
162 rhodium, ruthenium, samarium, scandium, silicon, silver, sodium,
163 steels, strontium, tantalum, technetium, tellurium, terbium,
164 thallium, thorium, tin, titanium, tungsten, uranium, vanadium,
165 ytterbium, yttrium, zinc, and zirconium.

166 (s)~~(n)~~ "Military equipment" means weapons, arms, military
167 supplies, and equipment that may readily be used for military
168 purposes, including, but not limited to, radar systems,
169 military-grade transport vehicles, or supplies or services sold
170 or provided directly or indirectly to any force actively
171 participating in armed conflict in Sudan.

172 (t)~~(e)~~ "Mineral-extraction activities" include the
173 exploring, extracting, processing, transporting, or wholesale
174 selling or trading of elemental minerals or associated metal

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175 alloys or oxides (ore), including gold, copper, chromium,
176 chromite, diamonds, iron, iron ore, silver, tungsten, uranium,
177 and zinc, as well as facilitating such activities, including
178 providing supplies or services in support of such activities.

179 (u) "Mining sector" means any act, process, or industry of
180 extracting, at the surface or underground, ores, coal, precious
181 stones, or any other minerals or geological materials from the
182 earth in Iran.

183 (v)~~(p)~~ "Oil-related activities" include, but are not
184 limited to, owning rights to oil blocks; exporting, extracting,
185 producing, refining, processing, exploring for, transporting,
186 selling, or trading of oil; constructing, maintaining, or
187 operating a pipeline, refinery, or other oil-field
188 infrastructure; and facilitating such activities, including
189 providing supplies or services in support of such activities,
190 except that the mere retail sale of gasoline and related
191 consumer products is not considered an oil-related activity.

192 (w) "Petrochemical sector" means those activities involving
193 any aromatic, olefin, or synthesis gas, or any of their
194 derivatives, including ethylene, propylene, butadiene, benzene,
195 toluene, xylene, ammonia, methanol, and urea.

196 (x)~~(q)~~ "Petroleum resources" means petroleum, petroleum
197 byproducts, or natural gas.

198 (y) "Port sector" means those activities involving the
199 loading and unloading of cargo and passengers or the
200 transporting of goods and raw materials.

201 (z)~~(r)~~ "Power-production activities" means a business
202 operation that involves a project commissioned by the National
203 Electricity Corporation (NEC) of Sudan or other similar entity

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204 of the government of Sudan whose purpose is to facilitate power
205 generation and delivery, including, but not limited to,
206 establishing power-generating plants or hydroelectric dams,
207 selling or installing components for the project, providing
208 service contracts related to the installation or maintenance of
209 the project, as well as facilitating such activities, including
210 providing supplies or services in support of such activities.

211 (aa) ~~(s)~~ "Public fund" means all assets of the Florida
212 Retirement System held by the State Board of Administration in
213 its capacity as a fiduciary pursuant to chapter 121.

214 (bb) ~~(t)~~ "Scrutinized active business operations" means
215 active business operations that result in a company becoming a
216 scrutinized company.

217 (cc) ~~(u)~~ "Scrutinized business operations" means business
218 operations that result in a company becoming a scrutinized
219 company.

220 (dd) ~~(v)~~ "Scrutinized company" means a company that meets
221 any of the following criteria:

222 1. The company has business operations that involve
223 contracts with or provision of supplies or services to the
224 government of Sudan, companies in which the government of Sudan
225 has a direct or indirect equity share, consortiums or projects
226 commissioned by the government of Sudan, or companies involved
227 in consortiums or projects commissioned by the government of
228 Sudan, and:

229 a. More than 10 percent of the company's revenues or assets
230 linked to Sudan involve oil-related activities or mineral-
231 extraction activities; less than 75 percent of the company's
232 revenues or assets linked to Sudan involve contracts with or

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233 provision of oil-related or mineral-extracting products or
234 services to the government of South Sudan; and the company has
235 failed to take substantial action; or

236 b. More than 10 percent of the company's revenues or assets
237 linked to Sudan involve power-production activities; less than
238 75 percent of the company's power-production activities include
239 projects whose intent is to provide power or electricity to the
240 marginalized populations of Sudan; and the company has failed to
241 take substantial action.

242 2. The company is complicit in the Darfur genocide.

243 3. The company supplies military equipment within Sudan,
244 unless it clearly shows that the military equipment cannot be
245 used to facilitate offensive military actions in Sudan or the
246 company implements rigorous and verifiable safeguards to prevent
247 use of that equipment by forces actively participating in armed
248 conflict. Examples of safeguards include post-sale tracking of
249 such equipment by the company, certification from a reputable
250 and objective third party that such equipment is not being used
251 by a party participating in armed conflict in Sudan, or sale of
252 such equipment solely to the government of South Sudan or any
253 internationally recognized peacekeeping force or humanitarian
254 organization.

255 4. The company has business operations that involve
256 contracts with or provision of supplies or services to the
257 government of Iran, companies in which the government of Iran
258 has any direct or indirect equity share, consortiums, or
259 projects commissioned by the government of Iran, or companies
260 involved in consortiums or projects commissioned by the
261 government of Iran and:

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262 a. More than 10 percent of the company's total revenues or
263 assets are linked to Iran and involve oil-related activities or
264 mineral-extraction activities, and the company has failed to
265 take substantial action; ~~or~~

266 b. On or after January 10, 2024, more than 10 percent of
267 the company's total revenues or assets are linked to Iran and
268 involve the energy, petrochemical, financial, construction,
269 manufacturing, textile, mining, metals, shipping, shipbuilding,
270 or port sectors of Iran, and the company has failed to take
271 substantial action;

272 c. The company has, with actual knowledge, on or after
273 August 5, 1996, made an investment of \$20 million or more, or
274 any combination of investments of at least \$10 million each,
275 which in the aggregate equals or exceeds \$20 million in any 12-
276 month period, and which directly or significantly contributes to
277 the enhancement of Iran's ability to develop the petroleum
278 resources of Iran; or

279 d. The company has, with actual knowledge, on or after
280 January 10, 2024, an investment of \$20 million or more, or any
281 combination of investments of at least \$10 million each, which
282 in the aggregate equals or exceeds \$20 million in any 12-month
283 period and involves oil-related activities in Iran, mineral-
284 extraction activities in Iran, or the energy, petrochemical,
285 financial, construction, manufacturing, textile, mining, metals,
286 shipping, shipbuilding, or port sectors of Iran.

287 (ee) "Shipbuilding sector" means those activities involving
288 the construction of seagoing vessels, including oil tankers and
289 cargo vessels, in Iran.

290 (ff) "Shipping sector" means those activities involving the

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291 transportation of goods by seagoing vessels, including oil
292 tankers and cargo vessels, flying the flag of Iran or owned,
293 controlled, chartered, or operated directly or indirectly by the
294 government of Iran.

295 (gg)~~(w)~~ "Social-development company" means a company whose
296 primary purpose in Sudan is to provide humanitarian goods or
297 services, including medicine or medical equipment; agricultural
298 supplies or infrastructure; educational opportunities;
299 journalism-related activities; information or information
300 materials; spiritual-related activities; services of a purely
301 clerical or reporting nature; food, clothing, or general
302 consumer goods that are unrelated to oil-related activities;
303 mineral-extraction activities; or power-production activities.

304 (hh)~~(x)~~ "Substantial action specific to Iran" means
305 adopting, publicizing, and implementing a formal plan to cease
306 scrutinized business operations within 1 year and to refrain
307 from such new business operations.

308 (ii)~~(y)~~ "Substantial action specific to Sudan" means
309 adopting, publicizing, and implementing a formal plan to cease
310 scrutinized business operations within 1 year and to refrain
311 from such new business operations; undertaking humanitarian
312 efforts in conjunction with an international organization, the
313 government of Sudan, the government of South Sudan, or a
314 nonprofit entity evaluated and certified by an independent third
315 party to be substantially in a relationship to the company's
316 Sudan business operations and of benefit to one or more
317 marginalized populations of Sudan; or, through engagement with
318 the government of Sudan, materially improving conditions for the
319 genocidally victimized population in Darfur.

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320 (jj) "Textile sector" means the fiber synthesis, dyeing,
321 weaving, knitting, or felting in Iran of textiles, including
322 apparel, carpets, cloths, fabric, or related goods, which are
323 for export from Iran.

324 (2) IDENTIFICATION OF COMPANIES.—

325 (a) The board shall make its best efforts to identify all
326 scrutinized companies in which the public fund has direct or
327 indirect holdings or could possibly have such holdings in the
328 future. Such efforts include:

329 1. Reviewing and relying, as appropriate in the board's
330 judgment, on publicly available information regarding companies
331 having business operations in Sudan, including information
332 provided by nonprofit organizations, research firms,
333 international organizations, and government entities;

334 2. Contacting asset managers contracted by the board which
335 invest in companies having business operations in Sudan;

336 3. Contacting other institutional investors that have
337 divested from or engaged with companies that have business
338 operations in Sudan; or

339 4. Reviewing the laws of the United States regarding the
340 levels of business activity that would cause application of
341 sanctions for companies conducting business or investing in
342 countries that are designated state sponsors of terror.

343 (b) The board shall maintain a list of all scrutinized
344 companies that fit criteria specified in subparagraphs
345 (1) (dd) 1., 2., and 3. ~~(1) (v) 1., 2., and 3.~~ labeled the
346 "Scrutinized Companies with Activities in Sudan List" and a list
347 of all scrutinized companies that fit criteria specified in
348 subparagraph (1) (dd) 4. ~~(1) (v) 4.~~ labeled the "Scrutinized

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349 Companies with Activities in ~~the~~ Iran Terrorism Sectors
350 Petroleum Energy Sector List."

351 (c) The board shall update and make publicly available
352 quarterly the Scrutinized Companies with Activities in Sudan
353 List and the Scrutinized Companies with Activities in ~~the~~ Iran
354 Terrorism Sectors ~~Petroleum Energy Sector~~ List based on evolving
355 information from, among other sources, those listed in paragraph
356 (a).

357 (d) Notwithstanding this section, a social-development
358 company that is not complicit in the Darfur genocide is not
359 considered a scrutinized company under subparagraph (1) (dd) 1.
360 ~~(1) (v) 1.~~, subparagraph (1) (dd) 2. ~~(1) (v) 2.~~, or subparagraph
361 (1) (dd) 3. ~~(1) (v) 3.~~

362 (3) REQUIRED ACTIONS.—The board shall adhere to the
363 following procedure for assembling companies on the Scrutinized
364 Companies with Activities in Sudan List and the Scrutinized
365 Companies with Activities in ~~the~~ Iran Terrorism Sectors
366 Petroleum Energy Sector List:

367 (a) *Engagement.*—

368 1. The board shall immediately determine the companies on
369 the Scrutinized Companies with Activities in Sudan List and the
370 Scrutinized Companies with Activities in ~~the~~ Iran Terrorism
371 Sectors ~~Petroleum Energy Sector~~ List in which the public fund
372 owns direct or indirect holdings. Any company on the Scrutinized
373 Companies with Activities in the Iran Petroleum Energy Sector
374 List as of November 6, 2023, is deemed to be on the Scrutinized
375 Companies with Activities in Iran Terrorism Sectors List,
376 effective November 10, 2023, until the company is subsequently
377 removed pursuant to this section.

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378 2. For each company identified in this paragraph that has
379 only inactive business operations, the board shall send a
380 written notice informing the company of this act and encouraging
381 it to continue to refrain from initiating active business
382 operations in Sudan or Iran until it is able to avoid
383 scrutinized business operations. The board shall continue such
384 correspondence semiannually.

385 3. For each company newly identified under this paragraph
386 which has active business operations, the board shall send a
387 written notice informing the company of its scrutinized company
388 status and that it may become subject to divestment by the
389 public fund. The notice must inform the company of the
390 opportunity to clarify its Sudan-related or Iran-related
391 activities and encourage the company to cease its scrutinized
392 business operations or convert such operations to inactive
393 business operations within 90 days in order to avoid qualifying
394 for divestment by the public fund.

395 4. If, within 90 days after the board's first engagement
396 with a company pursuant to this paragraph, that company ceases
397 scrutinized business operations, the company shall be removed
398 from the Scrutinized Companies with Activities in Sudan List and
399 the Scrutinized Companies with Activities in ~~the~~ Iran Terrorism
400 Sectors ~~Petroleum Energy Sector~~ List, and the provisions of this
401 act shall cease to apply to that company unless that company
402 resumes scrutinized business operations. If, within 90 days
403 after the board's first engagement, the company converts its
404 scrutinized active business operations to inactive business
405 operations, the company is subject to all provisions relating to
406 inactive business operations. A company may be removed from one

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407 list but remain on the other list, in which case the company
408 shall be subject to the provisions applicable to the list on
409 which the company remains.

410 (b) *Divestment.*—

411 1. If, after 90 days following the board's first engagement
412 with a company pursuant to paragraph (a), the company continues
413 to have scrutinized active business operations, and only while
414 such company continues to have scrutinized active business
415 operations, the board shall sell, redeem, divest, or withdraw
416 all publicly traded securities of the company, except as
417 provided in paragraph (d), from the public fund within 12 months
418 after the company's most recent appearance on the Scrutinized
419 Companies with Activities in Sudan List or on the Scrutinized
420 Companies with Activities in ~~the~~ Iran Terrorism Sectors
421 ~~Petroleum Energy Sector~~ List.

422 2. If a company that ceased scrutinized active business
423 operations following engagement pursuant to paragraph (a)
424 resumes such operations, this paragraph immediately applies, and
425 the board shall send a written notice to the company. The
426 company shall also be immediately reintroduced onto the
427 Scrutinized Companies with Activities in Sudan List or on the
428 Scrutinized Companies with Activities in ~~the~~ Iran Terrorism
429 Sectors ~~Petroleum Energy Sector~~ List, as applicable.

430 (c) *Prohibition.*—The board may not acquire, on behalf of
431 the public fund, securities of companies on the Scrutinized
432 Companies with Activities in Sudan List or the Scrutinized
433 Companies with Activities in ~~the~~ Iran Terrorism Sectors
434 ~~Petroleum Energy Sector~~ List that have active business
435 operations, except as provided in paragraph (d).

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

441 (e) *Excluded securities.*—

442 1. Notwithstanding this section, paragraphs (b) and (c) do
443 not apply to indirect holdings in actively managed investment
444 funds. However, the board shall submit letters to the managers
445 of such investment funds containing companies that have
446 scrutinized active business operations requesting that they
447 consider removing such companies from the fund or create a
448 similar actively managed fund having indirect holdings devoid of
449 such companies. If the manager creates a similar fund, the
450 board, on behalf of the public fund, shall replace all
451 applicable investments with investments in the similar fund in
452 an expedited timeframe consistent with prudent investing
453 standards. For the purposes of this section, a private equity
454 fund is deemed to be an actively managed investment fund.

455 2. Notwithstanding this section, paragraphs (b) and (c) do
456 not apply to exchange-traded funds.

457 (f) *Further exclusions.*—Notwithstanding any other provision
458 of this act, the board, when discharging its responsibility for
459 operation of a defined contribution plan, shall engage the
460 manager of the investment offerings in such plans requesting
461 that they consider removing scrutinized companies from the
462 investment offerings or create an alternative investment
463 offering devoid of scrutinized companies. If the manager creates
464 an alternative investment offering and the offering is deemed by

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465 the board to be consistent with prudent investor standards, the
466 board shall consider including such investment offering in the
467 plan.

468 (4) REPORTING.—

469 (a) The board shall file a report with each member of its
470 Board of Trustees, the President of the Senate, and the Speaker
471 of the House of Representatives which includes the Scrutinized
472 Companies with Activities in Sudan List and the Scrutinized
473 Companies with Activities in ~~the~~ Iran Terrorism Sectors
474 ~~Petroleum Energy Sector~~ List within 30 days after the list is
475 created or updated. This report must ~~shall~~ be made available to
476 the public.

477 (b) At each quarterly meeting of the Board of Trustees
478 thereafter, the board shall file a report regarding the public
479 fund, which must ~~shall~~ be made available to the public and to
480 each member of its Board of Trustees, the President of the
481 Senate, and the Speaker of the House of Representatives, and
482 shall send a copy of that report to the United States
483 Presidential Special Envoy to Sudan and the United States
484 Presidential Special Envoy to Iran, or an appropriate designee
485 or successor, which includes:

486 1. A summary of correspondence with companies engaged by
487 the board on behalf of the public fund under subparagraphs

488 (3) (a) 2. and 3.;

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

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

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

493 5. A list of all publicly traded securities held directly

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494 by the public fund.

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

497 (a) If any of the following occurs, the board may no longer
498 scrutinize companies according to subparagraphs (1) (dd) 1., 2.,
499 and 3. ~~(1) (v) 1., 2., and 3.~~ and may no longer assemble the
500 Scrutinized Companies with Activities in Sudan List, shall cease
501 engagement and divestment of such companies, and may reinvest in
502 such companies if such companies do not satisfy the criteria for
503 inclusion in the Scrutinized Companies with Activities in ~~the~~
504 Iran Terrorism Sectors ~~Petroleum Energy Sector~~ List:

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

510 2. The United States revokes all sanctions imposed against
511 the government of Sudan;

512 3. The Congress or President of the United States
513 affirmatively and unambiguously states, by means including, but
514 not limited to, legislation, executive order, or written
515 certification from the President to Congress, that the
516 government of Sudan has honored its commitments to cease attacks
517 on civilians, demobilize and demilitarize the Janjaweed and
518 associated militias, grant free and unfettered access for
519 deliveries of humanitarian assistance, and allow for the safe
520 and voluntary return of refugees and internally displaced
521 persons; or

522 4. The Congress or President of the United States

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523 affirmatively and unambiguously states, by means including, but
524 not limited to, legislation, executive order, or written
525 certification from the President to Congress, that mandatory
526 divestment of the type provided for in this section interferes
527 with the conduct of United States foreign policy.

528 (b) If both ~~either~~ of the following occur ~~occurs~~, the board
529 may no longer scrutinize companies according to subparagraph
530 (1) (dd) 4. ~~(1) (v) 4.~~, may no longer assemble the Scrutinized
531 Companies with Activities in ~~the~~ Iran Terrorism Sectors
532 ~~Petroleum Energy Sector~~ List, and shall cease engagement,
533 investment prohibitions, and divestment:

534 1. The Congress and ~~or~~ President of the United States
535 affirmatively and unambiguously state ~~states~~, by means
536 including, but not limited to, legislation, executive order, or
537 written certification from the President to Congress, that the
538 government of Iran has ceased to acquire weapons of mass
539 destruction and support international terrorism; and ~~or~~

540 2. The United States revokes all sanctions imposed against
541 the government of Iran.

542
543 The board, on behalf of the public fund, may reinvest in such
544 companies if such companies do not satisfy the criteria for
545 inclusion in the Scrutinized Companies with Activities in Sudan
546 List. The board, acting as a fiduciary in accordance with s.
547 215.47(10), shall monitor events relating to subparagraphs 1.
548 and 2., and, upon finding that the conditions in subparagraph 1.
549 or subparagraph 2. have occurred, the board shall report such
550 finding at a quarterly meeting of its trustees. At each
551 quarterly meeting of the trustees, the board shall report on the

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

553 (6) INVESTMENT POLICY STATEMENT OBLIGATIONS.—The board's
554 actions taken in compliance with this act, including all good
555 faith determinations regarding companies as required by this
556 act, shall be adopted and incorporated into the public fund's
557 investment policy statement as provided in s. 215.475.

558 (7) REINVESTMENT IN CERTAIN COMPANIES HAVING SCRUTINIZED
559 ACTIVE BUSINESS OPERATIONS.—Notwithstanding any other provision
560 of this act to the contrary, the public fund may cease divesting
561 from certain scrutinized companies pursuant to paragraph (3) (b)
562 or reinvest in certain scrutinized companies from which it
563 divested pursuant to paragraph (3) (b) if clear and convincing
564 evidence shows that the value of all assets of the public fund
565 becomes equal to or less than 99.50 percent, or 50 basis points,
566 of the hypothetical value of all assets of the public fund
567 assuming no divestment for any company had occurred under
568 paragraph (3) (b). Cessation of divestment, reinvestment, or any
569 subsequent ongoing investment authorized by this act is limited
570 to the minimum steps necessary to avoid the contingency set
571 forth in this subsection or that no divestment of any company is
572 required for less than fair value. For any cessation of
573 divestment, reinvestment, or subsequent ongoing investment
574 authorized by this act, the board shall provide a written report
575 to each member of its Board of Trustees, the President of the
576 Senate, and the Speaker of the House of Representatives in
577 advance of initial reinvestment, updated semiannually thereafter
578 as applicable, setting forth the reasons and justification,
579 supported by clear and convincing evidence, for its decisions to
580 cease divestment, reinvest, or remain invested in companies

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581 having scrutinized active business operations. This act does not
582 apply to reinvestment in companies on the grounds that they have
583 ceased to have scrutinized active business operations.

584 Section 2. Section 287.135, Florida Statutes, is amended to
585 read:

586 287.135 Prohibition against contracting with scrutinized
587 companies.—

588 (1) In addition to the terms defined in ss. 287.012 and
589 215.473, as used in this section, the term:

590 (a) "Awarding body" means, for purposes of state contracts,
591 an agency or the department, and for purposes of local
592 contracts, the governing body of the local governmental entity.

593 (b) "Boycott of Israel" has the same meaning as defined in
594 s. 215.4725.

595 (c) "Business operations" means, for purposes specifically
596 related to Cuba or Syria, engaging in commerce in any form in
597 Cuba or Syria, including, but not limited to, acquiring,
598 developing, maintaining, owning, selling, possessing, leasing,
599 or operating equipment, facilities, personnel, products,
600 services, personal property, real property, military equipment,
601 or any other apparatus of business or commerce.

602 (d) "Local governmental entity" means a county,
603 municipality, special district, or other political subdivision
604 of the state.

605 (2) A company is ineligible to, and may not, bid on, submit
606 a proposal for, or enter into or renew a contract with an agency
607 or local governmental entity for goods or services of:

608 (a) Any amount if, at the time of bidding on, submitting a
609 proposal for, or entering into or renewing such contract, the

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610 company is on the Scrutinized Companies that Boycott Israel
611 List, created pursuant to s. 215.4725, or is engaged in a
612 boycott of Israel; or

613 (b) One million dollars or more if, at the time of bidding
614 on, submitting a proposal for, or entering into or renewing such
615 contract, the company:

616 1. Is on the Scrutinized Companies with Activities in Sudan
617 List or the Scrutinized Companies with Activities in ~~the~~ Iran
618 Terrorism Sectors ~~Petroleum Energy Sector~~ List, created pursuant
619 to s. 215.473; or

620 2. Is engaged in business operations in Cuba or Syria.

621 (3) (a) Any contract with an agency or local governmental
622 entity for goods or services of \$1 million or more entered into
623 or renewed on or after:

624 1. July 1, 2011, through June 30, 2012, must contain a
625 provision that allows for the termination of such contract at
626 the option of the awarding body if the company is found to have
627 submitted a false certification as provided under subsection (5)
628 or been placed on the Scrutinized Companies with Activities in
629 Sudan List or the Scrutinized Companies with Activities in the
630 Iran Petroleum Energy Sector List.

631 2. July 1, 2012, through September 30, 2016, must contain a
632 provision that allows for the termination of such contract at
633 the option of the awarding body if the company is found to have
634 submitted a false certification as provided under subsection
635 (5), been placed on the Scrutinized Companies with Activities in
636 Sudan List or the Scrutinized Companies with Activities in the
637 Iran Petroleum Energy Sector List, or been engaged in business
638 operations in Cuba or Syria.

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639 3. October 1, 2016, through June 30, 2018, must contain a
640 provision that allows for the termination of such contract at
641 the option of the awarding body if the company:

642 a. Is found to have submitted a false certification as
643 provided under subsection (5);

644 b. Has been placed on the Scrutinized Companies that
645 Boycott Israel List, or is engaged in a boycott of Israel;

646 c. Has been placed on the Scrutinized Companies with
647 Activities in Sudan List or the Scrutinized Companies with
648 Activities in the Iran Petroleum Energy Sector List; or

649 d. Has been engaged in business operations in Cuba or
650 Syria.

651 4. July 1, 2018, must contain a provision that allows for
652 the termination of such contract at the option of the awarding
653 body if the company is found to have submitted a false
654 certification as provided under subsection (5), been placed on
655 the Scrutinized Companies with Activities in Sudan List ~~or the~~
656 ~~Scrutinized Companies with Activities in the Iran Petroleum~~
657 ~~Energy Sector List~~, or been engaged in business operations in
658 Cuba or Syria.

659 5. July 1, 2018, must contain a provision that allows for
660 the termination of such contract at the option of the awarding
661 body if the company is found to have submitted a false
662 certification as provided under subsection (5) or has been
663 placed on a list created pursuant to s. 215.473, relating to
664 scrutinized active business operations in Iran.

665 (b) Any contract with an agency or local governmental
666 entity for goods or services of any amount entered into or
667 renewed on or after July 1, 2018, must contain a provision that

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668 allows for the termination of such contract at the option of the
669 awarding body if the company is found to have been placed on the
670 Scrutinized Companies that Boycott Israel List or is engaged in
671 a boycott of Israel.

672 (4) Notwithstanding subsection (2) or subsection (3), an
673 agency or local governmental entity, on a case-by-case basis,
674 may allow ~~permit~~ a company on the Scrutinized Companies with
675 Activities in Sudan List, ~~or~~ the Scrutinized Companies with
676 Activities in the Iran Petroleum Energy Sector List, or the
677 Scrutinized Companies with Activities in Iran Terrorism Sectors
678 List, or a company engaged in business operations in Cuba or
679 Syria, to be eligible for, bid on, submit a proposal for, or
680 enter into or renew a contract for goods or services of \$1
681 million or more, or may allow ~~permit~~ a company on the
682 Scrutinized Companies that Boycott Israel List to be eligible
683 for, bid on, submit a proposal for, or enter into or renew a
684 contract for goods or services of any amount, under the
685 conditions set forth in paragraph (a) or the conditions set
686 forth in paragraph (b):

687 (a)1. With respect to a company on the Scrutinized
688 Companies with Activities in Sudan List ~~or the Scrutinized~~
689 ~~Companies with Activities in the Iran Petroleum Energy Sector~~
690 ~~List~~, all of the following occur:

691 a. The scrutinized business operations were made before
692 July 1, 2011.

693 b. The scrutinized business operations have not been
694 expanded or renewed after July 1, 2011.

695 c. The agency or local governmental entity determines that
696 it is in the best interest of the state or local community to

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697 contract with the company.

698 d. The company has adopted, has publicized, and is
699 implementing a formal plan to cease scrutinized business
700 operations and to refrain from engaging in any new scrutinized
701 business operations.

702 2. With respect to a company engaged in business operations
703 in Cuba or Syria, all of the following occur:

704 a. The business operations were made before July 1, 2012.

705 b. The business operations have not been expanded or
706 renewed after July 1, 2012.

707 c. The agency or local governmental entity determines that
708 it is in the best interest of the state or local community to
709 contract with the company.

710 d. The company has adopted, has publicized, and is
711 implementing a formal plan to cease business operations and to
712 refrain from engaging in any new business operations.

713 3. With respect to a company on the Scrutinized Companies
714 that Boycott Israel List, all of the following occur:

715 a. The boycott of Israel was initiated before October 1,
716 2016.

717 b. The company certifies in writing that it has ceased its
718 boycott of Israel.

719 c. The agency or local governmental entity determines that
720 it is in the best interest of the state or local community to
721 contract with the company.

722 d. The company has adopted, has publicized, and is
723 implementing a formal plan to cease scrutinized business
724 operations and to refrain from engaging in any new scrutinized
725 business operations.

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726 4. With respect to a company on the Scrutinized Companies
727 with Activities in the Iran Petroleum Energy Sector List as of
728 November 6, 2023, all of the following occur:

729 a. The scrutinized business operations were made before
730 July 1, 2011.

731 b. The scrutinized business operations have not been
732 expanded or renewed after July 1, 2011.

733 c. The agency or local governmental entity determines that
734 it is in the best interest of the state or local community to
735 contract with the company.

736 d. The company has adopted, has publicized, and is
737 implementing a formal plan to cease scrutinized business
738 operations and to refrain from engaging in any new scrutinized
739 business operations.

740 5. With respect to a company on the Scrutinized Companies
741 with Activities in Iran Terrorism Sectors List other than those
742 companies included on the Scrutinized Companies with Activities
743 in the Iran Petroleum Energy Sector List as of November 6, 2023,
744 all of the following occur:

745 a. The scrutinized business operations were made before
746 January 10, 2024.

747 b. The scrutinized business operations have not been
748 expanded or renewed on or after January 10, 2024.

749 c. The agency or local governmental entity determines that
750 it is in the best interest of the state or local community to
751 contract with the company.

752 d. The company has adopted, has publicized, and is
753 implementing a formal plan to cease those scrutinized business
754 operations and to refrain from engaging in any new scrutinized

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755 business operations.

756 (b) One of the following occurs:

757 1. The local governmental entity makes a public finding
758 that, absent such an exemption, the local governmental entity
759 would be unable to obtain the goods or services for which the
760 contract is offered.

761 2. For a contract with an executive agency, the Governor
762 makes a public finding that, absent such an exemption, the
763 agency would be unable to obtain the goods or services for which
764 the contract is offered.

765 3. For a contract with an office of a state constitutional
766 officer other than the Governor, the state constitutional
767 officer makes a public finding that, absent such an exemption,
768 the office would be unable to obtain the goods or services for
769 which the contract is offered.

770 (5) At the time a company submits a bid or proposal for a
771 contract or before the company enters into or renews a contract
772 with an agency or local governmental entity for goods or
773 services of \$1 million or more, the company must certify that
774 the company is not on the Scrutinized Companies with Activities
775 in Sudan List or the Scrutinized Companies with Activities in
776 ~~the Iran Terrorism Sectors Petroleum Energy Sector~~ List and that
777 it does not have business operations in Cuba or Syria. At the
778 time a company submits a bid or proposal for a contract or
779 before the company enters into or renews a contract with an
780 agency or local governmental entity for goods or services of any
781 amount, the company must certify that the company is not
782 participating in a boycott of Israel.

783 (a) If, after the agency or the local governmental entity

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784 determines, using credible information available to the public,
785 that the company has submitted a false certification, the agency
786 or local governmental entity shall provide the company with
787 written notice of its determination. The company shall have 90
788 days following receipt of the notice to respond in writing and
789 to demonstrate that the determination of false certification was
790 made in error. If the company does not make such demonstration
791 within 90 days after receipt of the notice, the agency or the
792 local governmental entity shall bring a civil action against the
793 company. If a civil action is brought and the court determines
794 that the company submitted a false certification, the company
795 shall pay the penalty described in subparagraph 1. and all
796 reasonable attorney fees and costs, including any costs for
797 investigations that led to the finding of false certification.

798 1. A civil penalty equal to the greater of \$2 million or
799 twice the amount of the contract for which the false
800 certification was submitted shall be imposed.

801 2. The company is ineligible to bid on any contract with an
802 agency or local governmental entity for 3 years after the date
803 the agency or local governmental entity determined that the
804 company submitted a false certification.

805 (b) A civil action to collect the penalties described in
806 paragraph (a) must commence within 3 years after the date the
807 false certification is submitted.

808 (6) Only the agency or local governmental entity that is a
809 party to the contract may cause a civil action to be brought
810 under this section. This section does not create or authorize a
811 private right of action or enforcement of the penalties provided
812 in this section. An unsuccessful bidder, or any other person

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813 other than the agency or local governmental entity, may not
814 protest the award of a contract or contract renewal on the basis
815 of a false certification.

816 (7) This section preempts any ordinance or rule of any
817 agency or local governmental entity involving public contracts
818 for goods or services of:

819 (a) One million dollars or more with a company engaged in
820 scrutinized business operations.

821 (b) Any amount with a company that has been placed on the
822 Scrutinized Companies that Boycott Israel List or is engaged in
823 a boycott of Israel.

824 (8) The contracting prohibitions in this section applicable
825 to companies on the Scrutinized Companies with Activities in
826 Sudan List or the Scrutinized Companies with Activities in ~~the~~
827 Iran Terrorism Sectors Petroleum Energy Sector List or to
828 companies engaged in business operations in Cuba or Syria become
829 inoperative on the date that federal law ceases to authorize the
830 states to adopt and enforce such contracting prohibitions.

831 Section 3. Section 624.449, Florida Statutes, is amended to
832 read:

833 624.449 Insurer investment in foreign companies.—A domestic
834 insurer shall provide to the office on an annual basis a list of
835 investments that the insurer has in companies included on the
836 “Scrutinized Companies with Activities in Sudan List” and the
837 “Scrutinized Companies with Activities in ~~the~~ Iran Terrorism
838 Sectors Petroleum Energy Sector List” compiled by the State
839 Board of Administration pursuant to s. 215.473(2). The insurer’s
840 list must include the name of the issuer and the stock, bond,
841 security, and other evidence of indebtedness.

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842 Section 4. For the purpose of incorporating the amendments
843 made by this act to section 215.473, Florida Statutes, in a
844 reference thereto, paragraph (b) of subsection (10) of section
845 215.47, Florida Statutes, is reenacted to read:

846 215.47 Investments; authorized securities; loan of
847 securities.—Subject to the limitations and conditions of the
848 State Constitution or of the trust agreement relating to a trust
849 fund, moneys available for investments under ss. 215.44-215.53
850 may be invested as follows:

851 (10)

852 (b) Notwithstanding any other law except for ss. 215.471,
853 215.4725, and 215.473, when deciding whether to invest and when
854 investing the assets of any fund, the State Board of
855 Administration must make decisions based solely on pecuniary
856 factors and may not subordinate the interests of the
857 participants and beneficiaries of the fund to other objectives,
858 including sacrificing investment return or undertaking
859 additional investment risk to promote any nonpecuniary factor.
860 The weight given to any pecuniary factor must appropriately
861 reflect a prudent assessment of its impact on risk or returns.

862 Section 5. If any provision of this act or its application
863 to any person or circumstance is held invalid, the invalidity
864 does not affect other provisions or applications of this act
865 which can be given effect without the invalid provision or
866 application, and to this end the provisions of this act are
867 severable.

868 Section 6. This act shall take effect upon becoming a law.