

ENROLLED

HB 5C

2023C Legislature

1
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 board to adhere to specified procedures
10 to assemble companies on such list; providing that
11 companies on the Scrutinized Companies with Activities
12 in the Iran Petroleum Energy Sector List as of a
13 specified date are deemed, beginning on a certain
14 date, to be on the Scrutinized Companies with
15 Activities in Iran Terrorism Sectors List until
16 removed pursuant to specified procedures; requiring
17 the State Board of Administration to file a certain
18 report with each member of its Board of Trustees and
19 the Legislature within a specified timeframe after the
20 list is created or updated; requiring the board to no
21 longer scrutinize companies subject to the Scrutinized
22 Companies with Activities in Iran Terrorism Sectors
23 List, to no longer assemble companies on the list, and
24 to cease engagement, investment prohibitions, and
25 divestment actions if two specified actions occur;

ENROLLED

HB 5C

2023C Legislature

26 conforming provisions to changes made by the act;
 27 amending s. 287.135, F.S.; providing that certain
 28 entities are ineligible to, and may not, bid on,
 29 submit a proposal for, or enter into or renew certain
 30 contracts; requiring that certain contracts entered
 31 into or renewed on or after a specified date with an
 32 agency or a local governmental entity contain a
 33 provision allowing for the termination of such
 34 contract under specified circumstances; revising the
 35 exception allowing an agency or a local governmental
 36 entity to contract with a company on specified lists
 37 or engaged in business operations with certain
 38 countries; providing the circumstances under which an
 39 agency or a local governmental entity may contract
 40 with a company on the Scrutinized Companies with
 41 Activities in the Iran Petroleum Energy Sector List or
 42 the Scrutinized Companies with Activities in Iran
 43 Terrorism Sectors List; requiring a company to certify
 44 that it is not on certain lists at the time the
 45 company submits a bid or proposal for a contract or
 46 before the company enters into or renews a contract
 47 with an agency or a local governmental entity;
 48 conforming provisions to changes made by the act;
 49 amending s. 624.449, F.S.; requiring domestic insurers
 50 to annually provide to the Office of Insurance

ENROLLED

HB 5C

2023C Legislature

51 Regulation a list of companies in which they have
 52 investments which are on the Scrutinized Companies
 53 with Activities in Iran Terrorism Sectors List;
 54 reenacting s. 215.47(10)(b), F.S., relating to certain
 55 investment decisions made by the State Board of
 56 Administration, to incorporate the amendments made to
 57 s. 215.473, F.S., in a reference thereto; providing
 58 severability; providing an effective date.

59

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

61

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

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

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

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

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

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

ENROLLED

HB 5C

2023C Legislature

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

83 (e) "Complicit" means taking actions during any preceding
 84 20-month period which have directly supported or promoted the
 85 genocidal campaign in Darfur, including preventing Darfur's
 86 victimized population from communicating with each other;
 87 encouraging Sudanese citizens to speak out against an
 88 internationally approved security force for Darfur; actively
 89 working to deny, cover up, or alter the record on human rights
 90 abuses in Darfur; or other similar actions.

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

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

100 (h) "Energy sector" means those activities involving the

ENROLLED

HB 5C

2023C Legislature

101 exploration, extraction, production, refinement, or liquefaction
 102 of petroleum, natural gas, or petroleum products in Iran.

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

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

125 (k)-(h) "Government of South Sudan" means the Republic of

ENROLLED

HB 5C

2023C Legislature

126 South Sudan, that has its capital in Juba, South Sudan.

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

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

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

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

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

142 (q)~~(m)~~ "Marginalized populations of Sudan" include, but
 143 are not limited to, the portion of the population in the Darfur
 144 region that has been genocidally victimized; the portion of the
 145 population of South Sudan victimized by Sudan's north-south
 146 civil war; the Beja, Rashidiya, and other similarly underserved
 147 groups of eastern Sudan; the Nubian and other similarly
 148 underserved groups in Sudan's Abyei, Southern Blue Nile, and
 149 Nuba Mountain regions; and the Amri, Hamadab, Manasir, and other
 150 similarly underserved groups of northern Sudan.

ENROLLED

HB 5C

2023C Legislature

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

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

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

ENROLLED

HB 5C

2023C Legislature

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

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

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

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

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

199 (y) "Port sector" means those activities involving the
 200 loading and unloading of cargo and passengers or the

ENROLLED

HB 5C

2023C Legislature

201 transporting of goods and raw materials.

202 (z)~~(r)~~ "Power-production activities" means a business
 203 operation that involves a project commissioned by the National
 204 Electricity Corporation (NEC) of Sudan or other similar entity
 205 of the government of Sudan whose purpose is to facilitate power
 206 generation and delivery, including, but not limited to,
 207 establishing power-generating plants or hydroelectric dams,
 208 selling or installing components for the project, providing
 209 service contracts related to the installation or maintenance of
 210 the project, as well as facilitating such activities, including
 211 providing supplies or services in support of such activities.

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

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

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

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

- 223 1. The company has business operations that involve
 224 contracts with or provision of supplies or services to the
 225 government of Sudan, companies in which the government of Sudan

ENROLLED

HB 5C

2023C Legislature

226 | has a direct or indirect equity share, consortiums or projects
227 | commissioned by the government of Sudan, or companies involved
228 | in consortiums or projects commissioned by the government of
229 | Sudan, and:

230 | a. More than 10 percent of the company's revenues or
231 | assets linked to Sudan involve oil-related activities or
232 | mineral-extraction activities; less than 75 percent of the
233 | company's revenues or assets linked to Sudan involve contracts
234 | with or provision of oil-related or mineral-extracting products
235 | or services to the government of South Sudan; and the company
236 | has failed to take substantial action; or

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

243 | 2. The company is complicit in the Darfur genocide.

244 | 3. The company supplies military equipment within Sudan,
245 | unless it clearly shows that the military equipment cannot be
246 | used to facilitate offensive military actions in Sudan or the
247 | company implements rigorous and verifiable safeguards to prevent
248 | use of that equipment by forces actively participating in armed
249 | conflict. Examples of safeguards include post-sale tracking of
250 | such equipment by the company, certification from a reputable

ENROLLED

HB 5C

2023C Legislature

251 and objective third party that such equipment is not being used
252 by a party participating in armed conflict in Sudan, or sale of
253 such equipment solely to the government of South Sudan or any
254 internationally recognized peacekeeping force or humanitarian
255 organization.

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

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

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

273 ~~c.~~ The company has, with actual knowledge, on or after
274 August 5, 1996, made an investment of \$20 million or more, or
275 any combination of investments of at least \$10 million each,

ENROLLED

HB 5C

2023C Legislature

276 | which in the aggregate equals or exceeds \$20 million in any 12-
 277 | month period, and which directly or significantly contributes to
 278 | the enhancement of Iran's ability to develop the petroleum
 279 | resources of Iran; or

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

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

291 | (ff) "Shipping sector" means those activities involving
 292 | the transportation of goods by seagoing vessels, including oil
 293 | tankers and cargo vessels, flying the flag of Iran or owned,
 294 | controlled, chartered, or operated directly or indirectly by the
 295 | government of Iran.

296 | (gg)~~(w)~~ "Social-development company" means a company whose
 297 | primary purpose in Sudan is to provide humanitarian goods or
 298 | services, including medicine or medical equipment; agricultural
 299 | supplies or infrastructure; educational opportunities;
 300 | journalism-related activities; information or information

ENROLLED

HB 5C

2023C Legislature

301 materials; spiritual-related activities; services of a purely
 302 clerical or reporting nature; food, clothing, or general
 303 consumer goods that are unrelated to oil-related activities;
 304 mineral-extraction activities; or power-production activities.

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

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

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

325 (2) IDENTIFICATION OF COMPANIES.—

ENROLLED

HB 5C

2023C Legislature

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

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

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

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

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

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

ENROLLED

HB 5C

2023C Legislature

351 ~~Petroleum Energy Sector List.~~"

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

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

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

368 (a) *Engagement.*—

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

ENROLLED

HB 5C

2023C Legislature

376 Companies with Activities in Iran Terrorism Sectors List,
 377 effective November 10, 2023, until the company is subsequently
 378 removed pursuant to this section.

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

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

396 4. If, within 90 days after the board's first engagement
 397 with a company pursuant to this paragraph, that company ceases
 398 scrutinized business operations, the company shall be removed
 399 from the Scrutinized Companies with Activities in Sudan List and
 400 the Scrutinized Companies with Activities in ~~the~~ Iran Terrorism

ENROLLED

HB 5C

2023C Legislature

401 Sectors ~~Petroleum Energy Sector~~ List, and the provisions of this
402 act shall cease to apply to that company unless that company
403 resumes scrutinized business operations. If, within 90 days
404 after the board's first engagement, the company converts its
405 scrutinized active business operations to inactive business
406 operations, the company is subject to all provisions relating to
407 inactive business operations. A company may be removed from one
408 list but remain on the other list, in which case the company
409 shall be subject to the provisions applicable to the list on
410 which the company remains.

411 (b) *Divestment.*—

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

423 2. If a company that ceased scrutinized active business
424 operations following engagement pursuant to paragraph (a)
425 resumes such operations, this paragraph immediately applies, and

ENROLLED

HB 5C

2023C Legislature

426 | the board shall send a written notice to the company. The
 427 | company shall also be immediately reintroduced onto the
 428 | Scrutinized Companies with Activities in Sudan List or on the
 429 | Scrutinized Companies with Activities in ~~the~~ Iran Terrorism
 430 | Sectors ~~Petroleum Energy Sector~~ List, as applicable.

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

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

442 | (e) *Excluded securities.*—

443 | 1. Notwithstanding this section, paragraphs (b) and (c) do
 444 | not apply to indirect holdings in actively managed investment
 445 | funds. However, the board shall submit letters to the managers
 446 | of such investment funds containing companies that have
 447 | scrutinized active business operations requesting that they
 448 | consider removing such companies from the fund or create a
 449 | similar actively managed fund having indirect holdings devoid of
 450 | such companies. If the manager creates a similar fund, the

ENROLLED

HB 5C

2023C Legislature

451 board, on behalf of the public fund, shall replace all
 452 applicable investments with investments in the similar fund in
 453 an expedited timeframe consistent with prudent investing
 454 standards. For the purposes of this section, a private equity
 455 fund is deemed to be an actively managed investment fund.

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

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

469 (4) REPORTING.—

470 (a) The board shall file a report with each member of its
 471 Board of Trustees, the President of the Senate, and the Speaker
 472 of the House of Representatives which includes the Scrutinized
 473 Companies with Activities in Sudan List and the Scrutinized
 474 Companies with Activities in the Iran Terrorism Sectors
 475 ~~Petroleum Energy Sector~~ List within 30 days after the list is

ENROLLED

HB 5C

2023C Legislature

476 | created or updated. This report must ~~shall~~ be made available to
 477 | the public.

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

487 | 1. A summary of correspondence with companies engaged by
 488 | the board on behalf of the public fund under subparagraphs
 489 | (3) (a) 2. and 3.;

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

492 | 3. All prohibited investments under paragraph (3) (c);

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

494 | 5. A list of all publicly traded securities held directly
 495 | by the public fund.

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

498 | (a) If any of the following occurs, the board may no
 499 | longer scrutinize companies according to subparagraphs

500 | (1) (dd) 1., 2., and 3. ~~(1) (v) 1., 2., and 3.~~ and may no longer

ENROLLED

HB 5C

2023C Legislature

501 assemble the Scrutinized Companies with Activities in Sudan
 502 List, shall cease engagement and divestment of such companies,
 503 and may reinvest in such companies if such companies do not
 504 satisfy the criteria for inclusion in the Scrutinized Companies
 505 with Activities in ~~the~~ Iran Terrorism Sectors ~~Petroleum Energy~~
 506 ~~Sector~~ List:

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

512 2. The United States revokes all sanctions imposed against
 513 the government of Sudan;

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

524 4. The Congress or President of the United States
 525 affirmatively and unambiguously states, by means including, but

ENROLLED

HB 5C

2023C Legislature

526 | not limited to, legislation, executive order, or written
 527 | certification from the President to Congress, that mandatory
 528 | divestment of the type provided for in this section interferes
 529 | with the conduct of United States foreign policy.

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

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

542 | 2. The United States revokes all sanctions imposed against
 543 | the government of Iran.

544 |
 545 | The board, on behalf of the public fund, may reinvest in such
 546 | companies if such companies do not satisfy the criteria for
 547 | inclusion in the Scrutinized Companies with Activities in Sudan
 548 | List. The board, acting as a fiduciary in accordance with s.
 549 | 215.47(10), shall monitor events relating to subparagraphs 1.
 550 | and 2., and, upon finding that the conditions in subparagraph 1.

ENROLLED

HB 5C

2023C Legislature

551 or subparagraph 2. have occurred, the board shall report such
 552 finding at a quarterly meeting of its trustees. At each
 553 quarterly meeting of the trustees, the board shall report on the
 554 status of events relating to subparagraphs 1. and 2.

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

560 (7) REINVESTMENT IN CERTAIN COMPANIES HAVING SCRUTINIZED
 561 ACTIVE BUSINESS OPERATIONS.—Notwithstanding any other provision
 562 of this act to the contrary, the public fund may cease divesting
 563 from certain scrutinized companies pursuant to paragraph (3) (b)
 564 or reinvest in certain scrutinized companies from which it
 565 divested pursuant to paragraph (3) (b) if clear and convincing
 566 evidence shows that the value of all assets of the public fund
 567 becomes equal to or less than 99.50 percent, or 50 basis points,
 568 of the hypothetical value of all assets of the public fund
 569 assuming no divestment for any company had occurred under
 570 paragraph (3) (b). Cessation of divestment, reinvestment, or any
 571 subsequent ongoing investment authorized by this act is limited
 572 to the minimum steps necessary to avoid the contingency set
 573 forth in this subsection or that no divestment of any company is
 574 required for less than fair value. For any cessation of
 575 divestment, reinvestment, or subsequent ongoing investment

ENROLLED

HB 5C

2023C Legislature

576 authorized by this act, the board shall provide a written report
 577 to each member of its Board of Trustees, the President of the
 578 Senate, and the Speaker of the House of Representatives in
 579 advance of initial reinvestment, updated semiannually thereafter
 580 as applicable, setting forth the reasons and justification,
 581 supported by clear and convincing evidence, for its decisions to
 582 cease divestment, reinvest, or remain invested in companies
 583 having scrutinized active business operations. This act does not
 584 apply to reinvestment in companies on the grounds that they have
 585 ceased to have scrutinized active business operations.

586 Section 2. Section 287.135, Florida Statutes, is amended
 587 to read:

588 287.135 Prohibition against contracting with scrutinized
 589 companies.—

590 (1) In addition to the terms defined in ss. 287.012 and
 591 215.473, as used in this section, the term:

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

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

598 (c) "Business operations" means, for purposes specifically
 599 related to Cuba or Syria, engaging in commerce in any form in
 600 Cuba or Syria, including, but not limited to, acquiring,

ENROLLED

HB 5C

2023C Legislature

601 developing, maintaining, owning, selling, possessing, leasing,
 602 or operating equipment, facilities, personnel, products,
 603 services, personal property, real property, military equipment,
 604 or any other apparatus of business or commerce.

605 (d) "Local governmental entity" means a county,
 606 municipality, special district, or other political subdivision
 607 of the state.

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

611 (a) Any amount if, at the time of bidding on, submitting a
 612 proposal for, or entering into or renewing such contract, the
 613 company is on the Scrutinized Companies that Boycott Israel
 614 List, created pursuant to s. 215.4725, or is engaged in a
 615 boycott of Israel; or

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

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

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

624 (3) (a) Any contract with an agency or local governmental
 625 entity for goods or services of \$1 million or more entered into

ENROLLED

HB 5C

2023C Legislature

626 | or renewed on or after:

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

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

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

645 | a. Is found to have submitted a false certification as
 646 | provided under subsection (5);

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

649 | c. Has been placed on the Scrutinized Companies with
 650 | Activities in Sudan List or the Scrutinized Companies with

ENROLLED

HB 5C

2023C Legislature

651 Activities in the Iran Petroleum Energy Sector List; or
 652 d. Has been engaged in business operations in Cuba or
 653 Syria.

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

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

668 (b) Any contract with an agency or local governmental
 669 entity for goods or services of any amount entered into or
 670 renewed on or after July 1, 2018, must contain a provision that
 671 allows for the termination of such contract at the option of the
 672 awarding body if the company is found to have been placed on the
 673 Scrutinized Companies that Boycott Israel List or is engaged in
 674 a boycott of Israel.

675 (4) Notwithstanding subsection (2) or subsection (3), an

ENROLLED

HB 5C

2023C Legislature

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

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

694 a. The scrutinized business operations were made before
 695 July 1, 2011.

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

698 c. The agency or local governmental entity determines that
 699 it is in the best interest of the state or local community to
 700 contract with the company.

ENROLLED

HB 5C

2023C Legislature

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

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

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

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

710 c. The agency or local governmental entity determines that
 711 it is in the best interest of the state or local community to
 712 contract with the company.

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

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

718 a. The boycott of Israel was initiated before October 1,
 719 2016.

720 b. The company certifies in writing that it has ceased its
 721 boycott of Israel.

722 c. The agency or local governmental entity determines that
 723 it is in the best interest of the state or local community to
 724 contract with the company.

725 d. The company has adopted, has publicized, and is

ENROLLED

HB 5C

2023C Legislature

726 implementing a formal plan to cease scrutinized business
727 operations and to refrain from engaging in any new scrutinized
728 business operations.

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

732 a. The scrutinized business operations were made before
733 July 1, 2011.

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

736 c. The agency or local governmental entity determines that
737 it is in the best interest of the state or local community to
738 contract with the company.

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

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

748 a. The scrutinized business operations were made before
749 January 10, 2024.

750 b. The scrutinized business operations have not been

ENROLLED

HB 5C

2023C Legislature

751 expanded or renewed on or after January 10, 2024.

752 c. The agency or local governmental entity determines that
753 it is in the best interest of the state or local community to
754 contract with the company.

755 d. The company has adopted, has publicized, and is
756 implementing a formal plan to cease those scrutinized business
757 operations and to refrain from engaging in any new scrutinized
758 business operations.

759 (b) One of the following occurs:

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

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

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

773 (5) At the time a company submits a bid or proposal for a
774 contract or before the company enters into or renews a contract
775 with an agency or local governmental entity for goods or

ENROLLED

HB 5C

2023C Legislature

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

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

ENROLLED

HB 5C

2023C Legislature

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

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

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

811 (6) Only the agency or local governmental entity that is a
812 party to the contract may cause a civil action to be brought
813 under this section. This section does not create or authorize a
814 private right of action or enforcement of the penalties provided
815 in this section. An unsuccessful bidder, or any other person
816 other than the agency or local governmental entity, may not
817 protest the award of a contract or contract renewal on the basis
818 of a false certification.

819 (7) This section preempts any ordinance or rule of any
820 agency or local governmental entity involving public contracts
821 for goods or services of:

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

824 (b) Any amount with a company that has been placed on the
825 Scrutinized Companies that Boycott Israel List or is engaged in

ENROLLED

HB 5C

2023C Legislature

826 | a boycott of Israel.

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

835 | Section 3. Section 624.449, Florida Statutes, is amended
 836 | to read:

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

846 | Section 4. For the purpose of incorporating the amendments
 847 | made by this act to section 215.473, Florida Statutes, in a
 848 | reference thereto, paragraph (b) of subsection (10) of section
 849 | 215.47, Florida Statutes, is reenacted to read:

850 | 215.47 Investments; authorized securities; loan of

ENROLLED

HB 5C

2023C Legislature

851 securities.—Subject to the limitations and conditions of the
852 State Constitution or of the trust agreement relating to a trust
853 fund, moneys available for investments under ss. 215.44-215.53
854 may be invested as follows:

855 (10)

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

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

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