

By the Committee on Governmental Oversight and Accountability

585-03024-24

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1 A bill to be entitled
2 An act relating to foreign investments by the State
3 Board of Administration; amending s. 215.47, F.S.;
4 conforming a provision to changes made by the act;
5 creating s. 215.4735, F.S.; defining terms;
6 prohibiting the State Board of Administration from
7 acquiring, on behalf of the Florida Retirement System
8 Trust Fund, direct holdings in Chinese companies;
9 requiring the board to initiate a review of its direct
10 holdings to make a specified determination by a
11 specified date; requiring the board to develop a
12 certain divestment plan for such holdings by a
13 specified date; requiring the board to divest from
14 such holdings according to the required plan by a
15 specified date; providing for an extension under
16 specified conditions; requiring that certain actions
17 be adopted and incorporated into a specified
18 investment policy statement; providing an effective
19 date.

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21 Be It Enacted by the Legislature of the State of Florida:
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23 Section 1. Subsection (10) of section 215.47, Florida
24 Statutes, is amended to read:

25 215.47 Investments; authorized securities; loan of
26 securities.—Subject to the limitations and conditions of the
27 State Constitution or of the trust agreement relating to a trust
28 fund, moneys available for investments under ss. 215.44-215.53
29 may be invested as follows:

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30 (10) (a) As used in this subsection, the term "pecuniary
31 factor" means a factor that the State Board of Administration
32 prudently determines is expected to have a material effect on
33 the risk or returns of an investment based on appropriate
34 investment horizons consistent with applicable investment
35 objectives and funding policy. The term does not include the
36 consideration of the furtherance of any social, political, or
37 ideological interests.

38 (b) Notwithstanding any other law except for ss. 215.471,
39 215.4725, ~~and 215.473,~~ and 215.4735, when deciding whether to
40 invest and when investing the assets of any fund, the State
41 Board of Administration must make decisions based solely on
42 pecuniary factors and may not subordinate the interests of the
43 participants and beneficiaries of the fund to other objectives,
44 including sacrificing investment return or undertaking
45 additional investment risk to promote any nonpecuniary factor.
46 The weight given to any pecuniary factor must appropriately
47 reflect a prudent assessment of its impact on risk or returns.

48 (c) Investments made by the State Board of Administration
49 shall be designed to maximize the financial return to the fund
50 consistent with the risks incumbent in each investment and shall
51 be designed to preserve an appropriate diversification of the
52 portfolio. The board shall discharge its duties with respect to
53 a plan solely in the interest of its participants and
54 beneficiaries. The board in performing the above investment
55 duties shall comply with the fiduciary standards set forth in
56 the Employee Retirement Income Security Act of 1974 at 29 U.S.C.
57 s. 1104(a)(1)(A) through (C). Except as provided in paragraph
58 (b), in case of conflict with other provisions of law

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59 authorizing investments, the investment and fiduciary standards
60 set forth in this paragraph prevail.

61 Section 2. Section 215.4735, Florida Statutes, is created
62 to read:

63 215.4735 Prohibited foreign investments.—

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

65 (a) "Board" means the State Board of Administration.

66 (b) "China" means the government of the People's Republic
67 of China, the Chinese Communist Party, the Chinese military, or
68 any instrumentality thereof, or any combination thereof.

69 (c) "Chinese company" means a company that is publicly
70 known to be majority-owned by China.

71 (d) "Company" means a sole proprietorship, organization,
72 association, corporation, partnership, joint venture, limited
73 partnership, limited liability partnership, limited liability
74 company, or other entity or business association, including all
75 wholly owned subsidiaries, majority-owned subsidiaries, and
76 parent companies, or an affiliate of such entity or business
77 association which exists for the purpose of making a profit.

78 (e) "Direct holdings" in a company means all securities of
79 that company which are held directly by the Florida Retirement
80 System Trust Fund or in an account or fund in which the Florida
81 Retirement System Trust Fund owns all shares or interests. The
82 term does not include indirect holdings in actively managed
83 investment funds, including a private equity fund, or holdings
84 in exchange-traded funds.

85 (f) "Florida Retirement System Trust Fund" means all assets
86 of the Florida Retirement System held by the board in its
87 capacity as a fiduciary pursuant to part I of chapter 121.

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88 (g) "Indirect holdings" in a company means all securities
89 of that company which are held in a commingled fund or other
90 collective investment, such as a mutual fund, in which the
91 Florida Retirement System Trust Fund owns shares or interests,
92 together with other investors not subject to this section.

93 (h) "Majority-owned" means to have ownership of 50.1
94 percent or more of the outstanding equity interests of a
95 company.

96 (2) (a) The board may not acquire, on behalf of the Florida
97 Retirement System Trust Fund, direct holdings in a Chinese
98 company.

99 (b) The board must:

100 1. Initiate, no later than June 1, 2024, a review of all
101 current direct holdings to determine which direct holdings, if
102 any, include securities of a Chinese company.

103 2. Develop, no later than September 1, 2024, a divestment
104 plan for all direct holdings in Chinese companies. The
105 divestment plan must be developed and implemented consistent
106 with the fiduciary standards set forth in s. 215.47(10).

107 3. Complete divestment from direct holdings in Chinese
108 companies included in the divestment plan developed pursuant to
109 subparagraph 2. no later than September 1, 2025, or at such
110 later time if necessary for the board to implement the
111 divestment plan consistent with the fiduciary standards set
112 forth in s. 215.47(10).

113 (3) The board's actions taken in compliance with this
114 section, including all good faith determinations regarding
115 companies as required by this section, must be adopted and
116 incorporated into the investment policy statement as provided in

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117 s. 215.475.

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