



SPONSOR: Sen. McDowell & Rep. Keeley & Rep. Spence
Sen. Henry Johnson
Plant Williams
& Kowalko

DELAWARE STATE SENATE
144th GENERAL ASSEMBLY

SENATE BILL NO. 9

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO INVESTMENTS IN STATE PENSION AND ANNUITY FUNDS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. This Act shall be called the “Sudan Genocide Divestment Act.”

Section 2. Amend Title 29, Delaware Code by adding a new section to read as follows:

“§5124. Sudanese Investment Divestment

(a) Findings- the legislature finds that:

- (1) The government of Sudan has engaged in a policy of genocide against its own non-Arab population in Darfur through use of its military and through sponsorship of attacks by armed Arab militias known as the janjaweed.
- (2) The janjaweed and military of the Sudanese government are responsible for razing 90 percent of Darfur’s villages, gang-raping civilians, slaughtering as many as 450,000 victims, displacing two million more, using forced starvation as a weapon of war, and impeding access of humanitarian aid.
- (3) The Sudanese government and janjaweed militias have continued their attacks despite the Darfur Peace Agreement brokered, in part, by the United States in May of 2006.
- (4) International companies operating in Sudan bring significant revenue, cover and arms to the Sudanese government while providing little benefit to the majority of Sudan’s citizens.
- (5) Responding to the genocide, nearly 100 universities, cities, states, and private pension plans have divested from companies that do business with the Sudanese government.
- (6) Investment in companies intimately linked to genocide is not only immoral, it presents a material risk for investors.

(b) Purpose- This law is enacted to prevent the state from giving indirect financial support to genocide and to protect the state from undue risk as an investor.

(c) Definitions- In this section, 'Government of Sudan' does not include the government of South Sudan.

(d) Rules of Divestment.

(1) The assets of a pension or annuity fund under the jurisdiction of the State shall not be invested in the stocks, securities or other obligations of a company which directly or through a subsidiary is engaged in business in the nation of or with the government of Sudan or its instrumentalities. This prohibition shall not apply to any company whose primary activity in Sudan is to provide products or services clearly intended for the social development of those outside the government of Sudan or its instrumentalities, including the provision of medicine or medical equipment, agricultural infrastructure, educational opportunities, journalism-related activities, or spiritual-related activities.

(2) The Board of Pension Trustees shall take appropriate action to sell, redeem, divest or withdraw any investment holding in violation of paragraph (1) of this subsection. However, paragraph (1) of this subsection shall not be construed to require the premature or otherwise imprudent sale, redemption, divestment or withdrawal of an investment, but such sale, redemption, divestment or withdrawal shall be completed within the following guidelines:

a. At least 30 percent of the retirement system's assets in such companies shall be divested within four months after the effective date of this Act.

b. At least 60 percent of the retirement system's assets in such companies shall be divested within eight months after the effective of this Act.

c. One hundred percent of the retirement system's assets in such companies shall be divested within 12 months after the effective date of this Act.

(3) Within 60 days of the effective date of this Act, the Board of Pension Trustees shall report to the General Assembly a list of all investments held as of the effective date of this Act which are in violation of paragraph (1) of this subsection. Annually thereafter, the Board shall report on all investments sold, redeemed, divested or withdrawn in compliance with this section.

(4) If it is determined by the Board of Pension Trustees that a company, which had previously been considered to have been engaged in business directly or through a subsidiary in or with Sudan or its instrumentalities, has ceased business operations with Sudan or its instrumentalities, then the divestiture requirements shall no longer apply to that company.

49 (5) Nothing in this Act shall alter or diminish existing fiduciary or statutory obligations and other terms,
50 conditions, and limitations on the investment of retirement system assets for the exclusive interest
51 and benefit of participants and beneficiaries of a retirement system.

52 (e) Expiration of Divestment- In the event that the government of Sudan halts the genocide in Darfur for at least
53 12 months and the United States federal government revokes all sanctions imposed against Sudan, the provisions
54 of the Act shall expire.”

55 Section 4. Effective Date. This Act shall take effect on January 1, 2008, except for the provisions of §5124 (d) (3), Title 29,
56 Delaware Code which shall be effective immediately.

SYNOPSIS

This bill requires that the Board of Pension Trustees divest state-administered pension fund investments from companies, banks and financial institution that have ties to, or activities in Sudan or its instrumentalities.

The General Assembly and the state are deeply concerned over the poor human rights situation in Sudan. The General Assembly concurs with the official United States Policy that has declared that genocide is ongoing in the Sudan and calls for stepped-up international efforts to end the crisis.

The government of Sudan is an authoritarian regime that took power in 1989. A large number of human rights abuses perpetrated by the government have been catalogued by the United States Department of State. These human rights abuses include severe restriction on freedoms of assembly, association, movement, and speech. The most sobering violation of human rights in Sudan is the existence of Slavery. The pro-government militia continues to engage in abduction and slavery with impunity. The government has routinely violated its pledges to end the 20-year civil war. This war has taken the lives of more than two million people and displaced four million others.

Author: Senator McDowell