

HOUSE BILL No. 4903

June 12, 2007, Introduced by Reps. Knollenberg, Alma Smith, Young, Cushingberry, Vagnozzi, David Law, Hildenbrand, LaJoy, Pearce, Pastor, Hune, Moss, Miller, Ward, Marleau, Calley, Green, DeRoche, Elsenheimer, Pavlov, Meltzer, Hoogendyk, Amos, Moore, Agema, Palsrok, Melton, Horn, Dean, Schuitmaker, Rick Jones, Moolenaar, Stahl, Opsommer, Brandenburg, Stakoe, Booher, Meisner, Wojno, Leland, Tobocman, Hansen, Ball, Nitz, Garfield, Johnson, Huizenga, Brown, Kathleen Law, Warren, Donigan, Meadows, Espinoza, Bennett, Jackson, Shaffer, Byrnes, Clack, Corriveau, LeBlanc, Hammel, Condino, Emmons and Casperson and referred to the Committee on Government Operations.

A bill to amend 1965 PA 314, entitled
"Public employee retirement system investment act,"
(MCL 38.1132 to 38.1140m) by adding section 13c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 **SEC. 13C. (1) AS USED IN THIS SECTION:**

2 **(A) "COMPANY" MEANS A UNION OR ASSOCIATION OF PERSONS FOR**
3 **CARRYING ON A COMMERCIAL OR INDUSTRIAL ENTERPRISE. COMPANY**
4 **INCLUDES, BUT IS NOT LIMITED TO, A PARTNERSHIP, ASSOCIATION,**
5 **CORPORATION, LIMITED LIABILITY COMPANY, OR JOINT STOCK COMPANY.**

6 **(B) "FRANCHISE" MEANS AN AGREEMENT UNDER WHICH THE FRANCHISEE**
7 **UNDERTAKES TO CONDUCT A BUSINESS OR SELL A PRODUCT OR SERVICE IN**
8 **ACCORDANCE WITH THE METHODS OR PROCEDURES PRESCRIBED BY THE**
9 **FRANCHISOR AND UNDER WHICH THE FRANCHISOR UNDERTAKES TO ASSIST THE**

1 FRANCHISEE THROUGH ADVERTISING, PROMOTION, AND OTHER ADVISORY
2 SERVICES.

3 (C) "IRAN" MEANS THE ISLAMIC REPUBLIC OF IRAN.

4 (D) NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION 12C,
5 "INVESTMENT" MEANS UTILIZATION OF MONEY IN THE EXPECTATION OF
6 FUTURE RETURNS IN THE FORM OF INCOME OR CAPITAL GAIN. INVESTMENT
7 DOES NOT INCLUDE THE IMPORTATION OR EXPORTATION OF GOODS.

8 (E) "LICENSING AGREEMENT" MEANS A CONTRACT WITH AN INDIVIDUAL
9 OR COMPANY FOR THE SALE OR LEASE OF A LICENSE THAT PERMITS THE USE
10 OF A PATENT, TRADEMARK, OR OTHER TECHNOLOGY BY ANOTHER INDIVIDUAL
11 OR COMPANY.

12 (F) "MANAGEMENT AGREEMENT" MEANS A CONTRACT IN WHICH AN
13 INDIVIDUAL OR COMPANY IS CHOSEN OR APPOINTED TO MANAGE, DIRECT, OR
14 ADMINISTER THE AFFAIRS OF ANOTHER INDIVIDUAL OR COMPANY.

15 (G) "NORTH KOREA" MEANS THE DEMOCRATIC PEOPLE'S REPUBLIC OF
16 KOREA.

17 (H) "RETIREMENT SYSTEM" MEANS THE MICHIGAN LEGISLATIVE
18 RETIREMENT SYSTEM CREATED BY THE MICHIGAN LEGISLATIVE RETIREMENT
19 SYSTEM ACT, 1957 PA 261, MCL 38.1001 TO 38.1080, THE RETIREMENT
20 SYSTEM CREATED UNDER THE FIRE FIGHTERS AND POLICE OFFICERS
21 RETIREMENT ACT, 1937 PA 345, MCL 38.551 TO 38.562, THE RETIREMENT
22 SYSTEM CREATED UNDER THE JUDGES RETIREMENT ACT OF 1992, 1992 PA
23 234, MCL 38.2101 TO 38.2670, THE RETIREMENT SYSTEM CREATED UNDER
24 THE STATE EMPLOYEES RETIREMENT ACT, 1943 PA 240, MCL 38.1 TO 38.61,
25 AND THE RETIREMENT SYSTEM CREATED UNDER THE PUBLIC SCHOOL EMPLOYEES
26 RETIREMENT ACT OF 1979, 1980 PA 300, MCL 38.1301 TO 38.1408.

27 (I) "STATE SPONSOR OF TERRORISM" MEANS IRAN, NORTH KOREA,

1 SUDAN, OR SYRIA.

2 (J) "SUDAN" MEANS THE GOVERNMENT IN KHARTOUM, SUDAN WHICH IS
3 LED BY THE NATIONAL CONGRESS PARTY OR A SUCCESSOR GOVERNMENT FORMED
4 ON OR AFTER OCTOBER 13, 2006 AND DOES NOT INCLUDE THE REGIONAL
5 GOVERNMENT OF SOUTHERN SUDAN.

6 (K) "SYRIA" MEANS THE SYRIAN ARAB REPUBLIC.

7 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, AN
8 INVESTMENT FIDUCIARY FOR A RETIREMENT SYSTEM SHALL NOT ENCOURAGE OR
9 CONDONE GOVERNMENTS THAT SUPPORT TERRORISM AND HUMAN RIGHTS ABUSES
10 BY DOING EITHER OF THE FOLLOWING:

11 (A) MAKING A NEW INVESTMENT OF RETIREMENT SYSTEM ASSETS IN
12 STOCK, SECURITIES, OR OTHER OBLIGATIONS OF A FRANCHISE, COMPANY, OR
13 OTHER BUSINESS LOCATED IN A STATE SPONSOR OF TERRORISM.

14 (B) EXCEPT AS PROVIDED IN SUBSECTION (3), FAILING TO DIVEST
15 RETIREMENT SYSTEM ASSETS IN STOCKS, SECURITIES, OR OTHER
16 OBLIGATIONS OF A NATIONAL CORPORATION OF A STATE SPONSOR OF
17 TERRORISM OR A UNITED STATES COMPANY LISTED IN THE REGISTER
18 DESCRIBED IN SUBSECTION (4), AS FOLLOWS:

19 (i) NOT LESS THAN 40% OF THE RETIREMENT SYSTEM ASSETS SHALL BE
20 DIVESTED NOT LATER THAN 2 YEARS AFTER THE EFFECTIVE DATE OF THE
21 AMENDATORY ACT THAT ADDED THIS SECTION.

22 (ii) NOT LESS THAN 60% OF THE RETIREMENT SYSTEM ASSETS SHALL BE
23 DIVESTED NOT LATER THAN 3 YEARS AFTER THE EFFECTIVE DATE OF THE
24 AMENDATORY ACT THAT ADDED THIS SECTION.

25 (iii) NOT LESS THAN 80% OF THE RETIREMENT SYSTEM ASSETS SHALL BE
26 DIVESTED NOT LATER THAN 4 YEARS AFTER THE EFFECTIVE DATE OF THE
27 AMENDATORY ACT THAT ADDED THIS SECTION.

1 (iv) NOT LESS THAN 100% OF THE RETIREMENT SYSTEM ASSETS SHALL
2 BE DIVESTED NOT LATER THAN 5 YEARS AFTER THE EFFECTIVE DATE OF THE
3 AMENDATORY ACT THAT ADDED THIS SECTION.

4 (3) IF THE STATE TREASURER DETERMINES THAT DIVESTMENT WOULD
5 JEOPARDIZE THE FISCAL INTEGRITY OF A RETIREMENT SYSTEM, THE STATE
6 TREASURER MAY EXTEND FOR NOT MORE THAN 1 YEAR THE DEADLINES UNDER
7 SUBSECTION (2) (B) FOR DIVESTMENT OF THE ASSETS OF THAT RETIREMENT
8 SYSTEM.

9 (4) THE STATE TREASURER SHALL DEVELOP AND MAINTAIN A REGISTER
10 OF UNITED STATES COMPANIES THAT HAVE 1 OR MORE OF THE FOLLOWING:

11 (A) AN INVESTMENT IN A STATE SPONSOR OF TERRORISM.

12 (B) A FRANCHISE WITH AN INDIVIDUAL OR COMPANY LOCATED IN A
13 STATE SPONSOR OF TERRORISM.

14 (C) A LICENSING AGREEMENT WITH AN INDIVIDUAL OR COMPANY
15 LOCATED IN A STATE SPONSOR OF TERRORISM.

16 (D) A MANAGEMENT AGREEMENT WITH AN INDIVIDUAL OR COMPANY
17 LOCATED IN A STATE SPONSOR OF TERRORISM.

18 (5) THE STATE TREASURER SHALL PROVIDE THE REGISTER DESCRIBED
19 IN SUBSECTION (4) TO EACH BOARD OF A RETIREMENT SYSTEM. THE
20 REGISTER SHALL BE PROVIDED AT LEAST ANNUALLY AND WHENEVER A CHANGE
21 IS MADE IN THE REGISTER. THE STATE TREASURER SHALL ALSO NOTIFY A
22 BOARD OF A SYSTEM OF THOSE INVESTMENTS THAT THE RETIREMENT SYSTEM
23 HAS IN A COMPANY INCLUDED IN THE REGISTER.

24 (6) NOT LESS THAN 90 DAYS BEFORE THE REGISTER IS PROVIDED TO
25 THE BOARDS OF RETIREMENT SYSTEMS AS REQUIRED BY SUBSECTION (5), THE
26 STATE TREASURER SHALL PROVIDE THE CHIEF EXECUTIVE OFFICER OF EACH
27 UNITED STATES COMPANY THAT IS PLACED ON THE REGISTER AND THE

1 LEGISLATURE WITH ALL OF THE FOLLOWING INFORMATION:

2 (A) NOTICE THAT THE COMPANY IS BEING PLACED ON THE REGISTER.

3 (B) THE REASON WHY THE COMPANY IS BEING PLACED ON THE
4 REGISTER.

5 (C) THE CURRENT VALUE OF SYSTEM ASSETS INVESTED IN THE
6 COMPANY.

7 (D) ANY OTHER INFORMATION THAT THE STATE TREASURER CONSIDERS
8 NECESSARY AND APPROPRIATE.

9 (7) THE STATE TREASURER SHALL ANNUALLY REPORT TO THE SENATE
10 MAJORITY LEADER, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE
11 SENATE MINORITY LEADER, AND THE MINORITY LEADER OF THE HOUSE OF
12 REPRESENTATIVES ON DIVESTMENT UNDER THIS SECTION. THE REPORT SHALL
13 INCLUDE, BUT IS NOT LIMITED TO, ALL OF THE FOLLOWING INFORMATION:

14 (A) THE PROGRESS OF RETIREMENT SYSTEMS IN IMPLEMENTING THE
15 DIVESTMENT OF ASSETS UNDER THIS SECTION.

16 (B) THE REGISTER DESCRIBED IN SUBSECTION (4).

17 (C) THE REASON COMPANIES HAVE BEEN ADDED TO THE REGISTER.

18 (D) THE NAMES OF COMPANIES THE STATE TREASURER IS CONSIDERING
19 ADDING TO THE REGISTER.

20 (E) THE AMOUNT OF RETIREMENT SYSTEM ASSETS INVESTED IN
21 COMPANIES INCLUDED IN THE REGISTER.

22 (F) THE FINANCIAL COST TO THE STATE OF DIVESTMENT UNDER THIS
23 SECTION.

24 (G) ANY OTHER INFORMATION THAT THE STATE TREASURER CONSIDERS
25 NECESSARY OR APPROPRIATE.

26 (8) THE INVESTMENT FIDUCIARY OF EACH RETIREMENT SYSTEM SHALL
27 REPORT ANNUALLY TO THE GOVERNOR AND THE SENATE MAJORITY LEADER, THE

1 SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE SENATE MINORITY
2 LEADER, AND THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES ANY
3 GAINS OR LOSSES IN THE VALUE OF THE INVESTMENT PORTFOLIO OF THE
4 RETIREMENT SYSTEM AND IN THE PORTFOLIO'S INVESTMENT PERFORMANCE
5 ATTRIBUTABLE TO THE IMPLEMENTATION OF SUBSECTION (2). IF THERE IS
6 ANY GAIN IN THE VALUE OF THE INVESTMENT PORTFOLIO OF THE RETIREMENT
7 SYSTEM OR THE PORTFOLIO'S INVESTMENT PERFORMANCE THAT IS
8 ATTRIBUTABLE TO THE IMPLEMENTATION OF SUBSECTION (2), THEN THESE
9 GAINS SHALL BE RECORDED ANNUALLY AND SHALL BE USED TO COMPENSATE
10 FOR ANY LOSSES OR DIMINUTION OF VALUE ATTRIBUTABLE TO THE
11 IMPLEMENTATION OF SUBSECTION (2) IN SUBSEQUENT YEARS.

12 (9) THIS SECTION SHALL ONLY APPLY UNTIL THE STATE TREASURER
13 DETERMINES AND NOTIFIES THE INVESTMENT FIDUCIARIES OF THE
14 RETIREMENT SYSTEM THAT THE FORMER STATE SPONSOR OF TERRORISM NO
15 LONGER SUPPORTS TERRORIST ACTIVITY AND NO REASONABLE LIKELIHOOD
16 EXISTS THAT THE FORMER STATE SPONSOR OF TERRORISM WILL SUPPORT
17 TERRORIST ACTIVITY IN THE FUTURE. THE STATE TREASURER MAY CONSULT
18 WITH OTHER DEPARTMENTS AND AGENCIES, INCLUDING, BUT NOT LIMITED TO,
19 THE UNITED STATES DEPARTMENT OF STATE, IN MAKING THIS
20 DETERMINATION.

21 (10) THIS SECTION DOES NOT ALTER OR DIMINISH THE EXISTING
22 FIDUCIARY OR STATUTORY OBLIGATIONS AND OTHER TERMS, CONDITIONS, AND
23 LIMITATIONS ON THE INVESTMENT OF RETIREMENT SYSTEM ASSETS FOR THE
24 EXCLUSIVE INTEREST AND BENEFIT OF PARTICIPANTS AND BENEFICIARIES OF
25 THE RETIREMENT SYSTEM.