

State of Alaska

Department of Revenue

Commissioner's Office



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The Honorable Bob Lynn
Alaska State Legislature
State Capitol
Room 104
Juneau, AK 99801

Dear Representative Lynn:

I am requesting that the Senate World Trade Committee hear HB92. This bill relates to certain investments of the Alaska permanent fund, the state's retirement systems, the State of Alaska Supplemental Annuity Plan, and the deferred compensation program for state employees in companies that do business in Sudan, and restricting those investments. This bill requires the fiduciaries of state investment funds to divest of investments in publicly traded companies that conduct business operations or have direct investments in business operations in Sudan, as defined by the federal Sudan Divestment and Accountability Act of 2007, P.L. 110-174.

Section 1 of the bill enumerates a number of legislative findings and intent related to the genocide in the Darfur region of Sudan and the need for divestment to address this issue.

Sections 2 – 4 of the bill require the commissioner of revenue, the Alaska Retirement Management Board of Trustees, and the Alaska Permanent Fund Board of Trustees to divest of investments in publicly traded companies that conduct business operations or have direct investments in business operations in Sudan. These sections are drafted to comply with the federal Sudan Divestment and Accountability Act of 2007, P.L. 110-174. Section 2 of the bill also provides for immunity and indemnification for the state's investment fund fiduciaries in connection with the implementation of a Sudan divestment policy. There is authority for the notion that divestment policies are not consistent with the prudent investor standard (see, e.g., 1998 Inf. Op. Att'y Gen. at 198 (663-98-0297; Aug. 12); Alaska State Senate, Rural Research Agency, Alaska's Permanent Fund: Legislative History, Intent and Operations at 39-40 (Jan. 1986)). Accordingly, these provisions are important to protect the fiduciaries of the state's investment funds from any challenge or liability that may result from implementation of this bill.

Section 5 of the bill provides for sunset of the divestment provisions of this bill upon the earlier of three occurrences: (1) if the sunset provisions in sec. 12 of the Sudan Divestment and Accountability Act of 2007 are satisfied, (2) if Congress or the President declares that Sudan divestment policies interfere with United States foreign policy; or (3) if the Sudan Divestment and Accountability Act of 2007 is repealed.

Section 6 of the bill requires notice of the enactment of this measure to the United States Attorney General. This provision is required by sec. 3(c) of the Sudan Divestment and Accountability Act of 2007, P.L. 110-174.

Section 7 provides for an immediate effective date for the bill

I urge your prompt and favorable action on this measure.

Sincerely,

Patrick Galvin, Commissioner