52:18A-89.12

LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 2007 **CHAPTER:** 250

NJSA: 52:18A-89.12 (Prohibits investment by State of pension and annuity funds in foreign companies doing business in Iran)

BILL NO: A3043 (Substituted for S2615)

SPONSOR(S) Cohen and Others

DATE INTRODUCED: May 15, 2006

COMMITTEE: **ASSEMBLY:** Budget; State Government

SENATE: Budget and Appropriations

AMENDED DURING PASSAGE: Yes

DATE OF PASSAGE: **ASSEMBLY:** June 21, 2007

SENATE: December 17, 2007

DATE OF APPROVAL: January 4, 2008

FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL (First reprint enacted)

A3043

SPONSOR'S STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: Yes State Government 3-12-07
Budget 6-18-07

SENATE: Yes

(Audio archived recordings of the committee meetings, corresponding to the date of the committee statement, ***may possibly*** be found at www.njleg.state.nj.us)

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

S2615

SPONSOR'S STATEMENT: (Begins on page 3 of original bill) Yes

COMMITTEE STATEMENT: **ASSEMBLY**: No

SENATE: Yes State Government 6-14-07
Budget 12-3-07

FLOOR AMENDMENT STATEMENT: No

LEGISLATIVE FISCAL ESTIMATE: Yes

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: No

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext. 103 or mailto:refdesk@njstatelib.org.

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"New Jersey bans Iran investments," Courier News, 1-5-08, p.__
"New Jersey prohibits state investment in Iran," Asbury Park Press, 1-5-08, p.A2
"N.J. shuns investments tied to Iran," Courier-Post, 1-5-08, p.2B
"For New Jersey pension fund no Iran-linked investments," The New York Times, 1-5-08, p.B2

RWH 5/29/08

§1 - Note to §2
§2 –
C.52:18A-89.12

P.L. 2007, CHAPTER 250, ***approved January 4, 2008***
Assembly, No. 3043 ***(First Reprint)***

AN ACT concerning the investment by the State of pension and annuity funds and supplementing P.L.1950, c.270.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Legislature finds and declares that:

The State of New Jersey is deeply concerned about the situation in the Islamic Republic of Iran. President Mahmoud Ahmadinejad, the President of Iran, has added greatly to the instability of the Middle East by making statements that Israel should be "wiped off the map" and asserting that the Holocaust was a "myth." Iran has done little to promote international cooperation and everything to fan the flames of divisiveness and crisis. Thus, global tension concerning the Middle East is fuelled to dangerous heights by the rhetoric and actions of Iran.

Iran has been committed to the destruction of Israel since the installation of theocratic rule by Ayatollah Ruhollah Khomeini in 1979 and has been cited repeatedly as one of the world's most dangerous sponsors of international terrorism. President Ahmadinejad has also sparked international concern and controversy by refusing to stop Iran's enrichment of nuclear materials—possibly for use in atomic weapons—and refusing to allow the United Nations to check Iran's claim that it seeks to use nuclear power only to generate electricity.

President Ahmadinejad's comments regarding Israel together with his determination to promote Iran's nuclear program leads observers to conclude that the country's resources are directed towards the destruction of Israel by atomic weapons. This State must take action to respond to these calls for the destruction of Israel and threats to world peace and stability. Therefore, it is in the best interest of this State that a statutory prohibition be enacted to prohibit the investment of public employee retirements funds in foreign companies doing business in Iran.

2. a. Notwithstanding any provision of law to the contrary, no assets of any pension or annuity fund under the jurisdiction of the Division of Investment in the Department of the Treasury, or its successor, shall be invested in any foreign company that has an equity tie to the government of Iran or its instrumentalities and is engaged in business [1]<u>operations with entities in the defense sector</u>

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined <u>thus</u> is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
[1]Assembly ABU committee amendments adopted June 18, 2007.

or nuclear sector of Iran, or engaged in business operations with entities involved in the natural gas or petroleum sectors of Iran,[1] in or with that government and its instrumentalities. This prohibition shall not apply to the activities of any foreign company providing humanitarian aid to the Iranian people through either a governmental or non-governmental organization.

As used in this section, "equity tie" means manufacturing or mining plants, employees or advisors, facilities, or an investment, fiduciary, monetary or physical presence of any kind [1], including an ownership stake in one or more subsidiary or joint venture with one or more companies in the country[1]; [1]**[**and**]**[1] "humanitarian aid" means the provision of goods and services intended to relieve human suffering or to promote general welfare and health [1]; "defense sector" means every industry or company, be it private or owned in whole or in part by the government of Iran or its instrumentalities, that is involved in the purchase, sale, manufacturing, testing or deployment of military supplies and weapons, including every company that provides military advisors and non-military personnel or that sells strategic information or services to companies that purchase, sell, manufacture, test or deploy military supplies and weapons, or the government of Iran or its instrumentalities; "nuclear sector" means every industry or company, be it private or owned in whole or in part by the government of Iran or its instrumentalities, that is involved in the purchase, sale, development, testing or deployment of nuclear technology of any kind or that provides advisors, researchers, scientists or technicians who are involved in the purchase, sale, development, testing or deployment of nuclear technology of any kind; and "natural gas or petroleum sectors" means those industries and companies that have as their business the owning rights to oil blocks, exporting, extracting, producing, refining, processing, exploring for, transporting, selling or trading of oil or natural gas, constructing, maintaining or operating a pipeline, refinery or other infrastructure and facilitating such activities, including supplies or services in support of such activities[1] .

b. The State Investment Council and the Director of the Division of Investment, after reviewing the recommendations of and consulting with an independent research firm that specializes in global security risk for portfolio determinations selected by the State Treasurer, shall take appropriate action to sell, redeem, divest or withdraw any investment held in violation of subsection a. of this section. This section 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 not later than three years following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

c. Within 60 days after the effective date of of P.L. , c. (C.) (pending before the Legislature as this bill), the Director of the Division of Investment shall file with the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report of all investments held as of the effective date that are in violation of subsection a. of this section. Every year thereafter, the director shall report on all investments sold, redeemed, divested or withdrawn in compliance with subsection b. of this section.

Each report after the initial report shall provide a description of the progress that the division has made since the previous report and since the enactment of P.L. , c. (C.) (pending before the Legislature as this bill) in implementing subsection b. of this section.

[1]d. Notwithstanding the other provisions of this section to the contrary, this act shall be of no effect if:

(1) the Congress or the President of the United States, affirmatively and unambiguously, declares by means including, but not limited to, legislation, executive order, or written certification from the President to Congress that the government of Iran has ceased to acquire or develop weapons of mass destruction and, to support international terrorism; or

(2) the United States revokes all sanctions imposed against the government of Iran.

e. State Investment Council members, jointly and individually, and State officers and employees involved therewith, shall be indemnified and held harmless by the State of New Jersey from all claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including court costs and attorney’s fees, and against all liability, losses and damages of any nature whatsoever that these State Investment Council members, and State officers and employees, shall or may at any time sustain by reason of any decision to restrict, reduce or eliminate investments pursuant to this act.[1]

3. This act shall take effect immediately.

Prohibits investment by State of pension and annuity funds in foreign companies doing business in Iran.

ASSEMBLY, No. 3043

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED MAY 15, 2006

Sponsored by:
Assemblyman NEIL M. COHEN
District 20 (Union)
Assemblyman MICHAEL J. PANTER
District 12 (Mercer and Monmouth)
Assemblywoman LINDA STENDER
District 22 (Middlesex, Somerset and Union)

Co-Sponsored by:
Assemblymen Epps, Diegnan and Vas

SYNOPSIS

Prohibits investment by State of pension and annuity funds in foreign companies doing business in Iran.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/19/2007)

AN ACT concerning the investment by the State of pension and annuity funds and supplementing P.L.1950, c.270.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. The Legislature finds and declares that:

The State of New Jersey is deeply concerned about the situation in the Islamic Republic of Iran. President Mahmoud Ahmadinejad, the President of Iran, has added greatly to the instability of the Middle East by making statements that Israel should be "wiped off the map" and asserting that the Holocaust was a "myth." Iran has done little to promote international cooperation and everything to fan the flames of divisiveness and crisis. Thus, global tension concerning the Middle East is fuelled to dangerous heights by the rhetoric and actions of Iran.

Iran has been committed to the destruction of Israel since the installation of theocratic rule by Ayatollah Ruhollah Khomeini in 1979 and has been cited repeatedly as one of the world's most dangerous sponsors of international terrorism. President Ahmadinejad has also sparked international concern and controversy by refusing to stop Iran's enrichment of nuclear materials—possibly for use in atomic weapons—and refusing to allow the United Nations to check Iran's claim that it seeks to use nuclear power only to generate electricity.

President Ahmadinejad's comments regarding Israel together with his determination to promote Iran's nuclear program leads observers to conclude that the country's resources are directed towards the destruction of Israel by atomic weapons. This State must take action to respond to these calls for the destruction of Israel and threats to world peace and stability. Therefore, it is in the best interest of this State that a statutory prohibition be enacted to prohibit the investment of public employee retirements funds in foreign companies doing business in Iran.

2. a. Notwithstanding any provision of law to the contrary, no assets of any pension or annuity fund under the jurisdiction of the Division of Investment in the Department of the Treasury, or its successor, shall be invested in any foreign company that has an equity tie to the government of Iran or its instrumentalities and is engaged in business in or with that government and its instrumentalities. This prohibition shall not apply to the activities of any foreign company providing humanitarian aid to the Iranian people through either a governmental or non-governmental organization.

As used in this section, "equity tie" means manufacturing or mining plants, employees or advisors, facilities, or an investment, fiduciary, monetary or physical presence of any kind; and "humanitarian aid" means the provision of goods and services intended to relieve human suffering or to promote general welfare and health.

b. The State Investment Council and the Director of the Division of Investment, after reviewing the recommendations of and consulting with an independent research firm that specializes in global security risk for portfolio determinations selected by the State Treasurer, shall take appropriate action to sell, redeem, divest or withdraw any investment held in violation of subsection a. of this section. This section 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 not later than three years following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

c. Within 60 days after the effective date of of P.L. , c. (C.) (pending before the Legislature as this bill), the Director of the Division of Investment shall file with the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report of all investments held as of the effective date that are in violation of subsection a. of this section. Every year thereafter, the director shall report on all investments sold, redeemed, divested or withdrawn in compliance with subsection b. of this section.

Each report after the initial report shall provide a description of the progress that the division has made since the previous report and since the enactment of P.L. , c. (C.) (pending before the Legislature as this bill) in implementing subsection b. of this section.

3. This act shall take effect immediately.

STATEMENT

This bill prohibits the investment of New Jersey public employee retirement funds in any foreign company that has an equity tie to the government of Iran or its instrumentalities and is engaged in business in or with that government because of that country's call for the destruction of Israel and its development of nuclear technology leading to the eventual development of nuclear weapons. The bill does not apply to the activities of any foreign company providing humanitarian aid to the Iranian people through either a governmental or non-governmental organization.

The bill requires the State Investment Council and the Director of the Division of Investment to take appropriate action to divest any investments held in violation of the prohibition after reviewing the recommendations of, and consulting with, an independent research firm that specializes in global security risk for portfolio determinations selected by the State Treasurer. Periodic progress reports by the division are required.

The United States Department of State includes Iran on the list of countries that sponsor terrorism. Iran has been on the list since 1984. As a result, strict sanctions are imposed including prohibitions on arms-related exports, controls over dual-use exports, and restrictions on economic assistance and financial matters.

ASSEMBLY STATE GOVERNMENT COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3043

STATE OF NEW JERSEY

DATED: MARCH 12, 2007

The Assembly State Government Committee reports favorably Assembly Bill No. 3043.

This bill prohibits the investment of New Jersey public employee retirement system funds in any foreign company that has an equity tie to the government of Iran or its instrumentalities and is engaged in business in or with that government. The bill defines "equity tie" to mean manufacturing or mining plants, employees or advisors, facilities, or an investment, fiduciary, monetary or physical presence of any kind. The bill does not apply to the activities of any foreign company providing humanitarian aid to the Iranian people through either a governmental or non-governmental organization.

The bill requires the State Investment Council and the Director of the Division of Investment to take appropriate action to divest any investments held in violation of the prohibition after reviewing the recommendations of, and consulting with, an independent research firm that specializes in global security risk for portfolio determinations selected by the State Treasurer. Periodic progress reports by the division are required.

ASSEMBLY BUDGET COMMITTEE

STATEMENT TO

ASSEMBLY, No. 3043

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: JUNE 18, 2007

The Assembly Budget Committee reports favorably Assembly Bill No. 3043, with committee amendments.

As amended, the bill prohibits the investment of New Jersey public employee retirement system funds in any foreign company that has an equity tie to the government of Iran, or its instrumentalities, and is engaged in business operations with entities in the defense sector or nuclear sector of Iran, or engaged in business operations with entities involved in the natural gas or petroleum sectors of Iran, or with that government. The bill defines "equity tie" to mean manufacturing or mining plants, employees or advisors, facilities, or an investment, fiduciary, monetary or physical presence of any kind, including an ownership stake in one or more subsidiary or joint venture with one or more companies in the country. The bill does not apply to the activities of any foreign company providing humanitarian aid to the Iranian people through either a governmental or non-governmental organization.

The bill requires the State Investment Council and the Director of the Division of Investment to take appropriate action to divest any investments held in violation of the prohibition after reviewing the recommendations of, and consulting with, an independent research firm that specializes in global security risk for portfolio determinations selected by the State Treasurer. Periodic progress reports by the division are required.

As amended, the bill provides that the act would be void if: 1) the Congress or the President of the United States declares that the government of Iran has ceased to acquire or develop weapons of mass destruction and to support international terrorism; or 2) the United States revokes all sanctions imposed against the government of Iran.

The amended bill also provides that State Investment Council members, and State officers and employees involved therewith, would be indemnified and held harmless by the State of New Jersey from all liabilities and losses that these individuals may sustain or cause by reason of any decision to restrict or eliminate investments pursuant to the bill.

As amended and reported, this bill is identical to Senate Bill No. 2615(1R).

FISCAL IMPACT:

No fiscal information has been provided by the Executive Branch. However, periodic progress reports are to be provided by the Division of Investments.

COMMITTEE AMENDMENTS

The committee amended the bill to: 1) limit its scope to include companies with an equity tie to the government of Iran that are engaged in business operations with entities in the defense sector or nuclear sector of Iran, or engaged in business operations with entities involved in the natural gas or petroleum sectors of Iran; 2) define the terms “defense sector,” “nuclear sector,” and “natural gas or petroleum sectors”; 3) expand the definition of the term “equity tie” to include a company that has an ownership stake in one or more subsidiary or joint venture in one or more companies in the country; 4) provide that the act is to become void if the Congress or the President of the United States declares that the government of Iran has ceased to acquire or develop weapons of mass destruction and to support international terrorism or the United States revokes all sanctions imposed against the government of Iran; and 5) provide that State Investment Council members, and State officers and employees involved therewith, are to be indemnified and held harmless against all liabilities and losses that these individuals may sustain or cause because of any decision to restrict or eliminate any investment pursuant to the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]

ASSEMBLY, No. 3043

STATE OF NEW JERSEY

DATED: DECEMBER 3, 2007

The Senate Budget and Appropriations Committee reports favorably Assembly Bill No. 3043 (1R).

Assembly Bill No. 3043 (1R) prohibits the investment of New Jersey public employee retirement system funds in any foreign company that has an equity tie to the government of Iran, or its instrumentalities, and is engaged in business operations with entities in the defense sector or nuclear sector of Iran, or engaged in business operations with entities involved in the natural gas or petroleum sectors of Iran, or with that government. The bill does not apply to the activities of any foreign company providing humanitarian aid to the Iranian people through either a governmental or non-governmental organization.

The bill requires the State Investment Council and the Director of the Division of Investment to divest any investments held in violation of the prohibition after consulting with an independent research firm that specializes in global security risk for portfolio determinations selected by the State Treasurer. Periodic progress reports by the division are required.

The bill provides that the act would be void if: 1) the Congress or the President of the United States declares that the government of Iran has ceased to acquire or develop weapons of mass destruction and to support international terrorism; or 2) the United States revokes all sanctions imposed against the government of Iran.

The bill also provides that State Investment Council members, and State officers and employees involved therewith, would be indemnified and held harmless by the State of New Jersey from all liabilities and losses that these individuals may sustain or cause by reason of any decision to restrict or eliminate investments pursuant to the bill.

As reported, this bill is identical to Senate Bill No. 2615(1R), as also reported by the committee.

FISCAL IMPACT:

In the Legislative Fiscal Estimate the Office of Legislative Services (OLS) anticipates this bill will increase administrative costs to the seven State-administered public employee pension funds with unspecified divestment costs for three years following enactment and ongoing research expenses to determine whether existing and potential investments have prohibited business relations with Iran.

The OLS also notes that there is a potential for lower investment returns to the pension funds. However, the OLS cannot quantify the fiscal impact.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY, No. 3043

STATE OF NEW JERSEY

212th LEGISLATURE

DATED: JULY 9, 2007

SUMMARY

Synopsis: Prohibits investment by State of pension and annuity funds in foreign companies doing business in Iran.

Type of Impact: Increased administrative expenses and potential lower investment returns to seven State-administered public employee pension funds.

Agencies Affected: Department of the Treasury;
Potentially Local Subdivisions of State Government.

Office of Legislative Services Estimate

Fiscal Impact	Fiscal Year 2008	Fiscal Year 2009	Fiscal Year 2010
State Cost		Indeterminate - See Comments Below	
Local Cost		Indeterminate - See Comments Below	

- The Office of Legislative Services (OLS) anticipates this bill to increase the administrative costs to New Jersey's public employee retirement funds and to likely depress the funds' investment returns. But without information on the extent to which the funds are holding investments prohibited by this bill, the agency cannot quantify the resultant fiscal impact. It points out, however, that higher employer contributions by State and local governments might eventually have to make up for costs created by this bill.

- Analyses by California, Florida, and Ohio pension officials suggest that the act of replacing $1 billion in equities from companies having business ties to Iran with other securities might cost between $6.7 million to $11.8 million.

BILL DESCRIPTION

Assembly Bill No. 3043 (1R) of 2006 would prohibit the investment of New Jersey public employee retirement system funds in any company that has an equity tie to the government of Iran or is engaged in business operations with entities involved in Iran's defense, nuclear, natural gas or petroleum sectors. The Treasury would have three years following enactment to divest existing holdings that violate the prohibition. The legislation would expire upon the United States revoking all sanctions imposed against the government of Iran or declaring that Iran has ceased to develop weapons of mass destruction and ceased to support international terrorism.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates this bill to increase the administrative costs to New Jersey public employee retirement funds and to likely depress the funds' investment returns. But without information on the extent to which New Jersey pension funds are currently holding investments prohibited by this bill, the agency cannot quantify the fiscal impact of the legislation. It points out, however, that higher employer contributions by State and local governments might eventually have to make up for costs created by this bill.

Seven funds compose New Jersey's public employee retirement system: the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund, the Police and Firemen's Retirement System, the State Police Retirement System, the Judicial Retirement System, the Prison Officers' Pension Fund, and the Consolidated Police and Firemen's Pension Fund.

Administrative Expenses:

This bill would result in unspecified divestment costs for three years following enactment and ongoing research expenses.

Divestment Expenses: Analyses by California, Florida, and Ohio pension officials suggest that replacing $1 billion in equities from companies having business ties to Iran with other securities may cost between $6.7 million to $11.8 million.

In a May 14, 2007 memo by California Public Employees' Retirement System's (CalPERS) Office of Governmental Affairs to the members of the CalPERS Investment Committee on California Assembly Bill 221, CalPERS estimated that divesting $8.5 billion from 50 companies identified as entertaining prohibited ties to Iran could cost the system $100 million. The amount includes commissions to sell the securities, local country taxes, the commissions to redeploy the capital as well as the commissions and taxes to reinvest the capital once the divestment period will be over. The *Florida Senate Professional Staff Analysis and Economic Impact Statement for Senate Bill 2142*, the "Protecting Florida's Investment Act", on the other hand, reckons that Florida would have to divest $6 billion from 130 companies at a $45 million transitioning cost. Ohio pension funds officials in their turn project that divesting $9 billion from 170 companies would add $60 million in expenses, according to the June 14, 2007 Wall Street Journal article "Should States Sell Stocks to Protest Links to Iran?".

Research Expenses: The bill would also produce ongoing administrative expenses by requiring the Department of the Treasury to continually research whether existing and potential investments have prohibited business relations with Iran. The CalPERS pegs these expenses at $350,000 over a two-year period, of which $50,000 would reflect initial research cost.

Investment Returns:

The OLS cannot ascertain the bill's effect on investment returns of New Jersey's public pension funds but the agency cautions that limiting investment opportunities is likely to push down long-run returns. The CalPERS identified about 50 holdings in its portfolio that are conducting business in Iran, Florida 130, and Ohio 170. After mandating Iran divestment in June 2007, Florida will have to shed investments in some of the giants in the oil and natural gas industries such as Royal Dutch Shell, Total, Lukoil, and Gazprom.

The CalPERS estimates that had it, over the last five years, substituted its investments in the 50 companies that meet Iran divestment criteria with holdings at the annualized rate of return absent divestment, the system's five-year annualized rate of return would have been 9.73 percent in lieu of 9.84 percent—a loss in fund value of $725 million over five years.

Section:	*Revenue, Finance and Appropriations*
Analyst:	*Thomas Koenig* *Associate Fiscal Analyst*
Approved:	*David J. Rosen* *Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L. 1980, c.67.

SENATE, No. 2615

STATE OF NEW JERSEY

212th LEGISLATURE

INTRODUCED MARCH 15, 2007

Sponsored by:
Senator ROBERT W. SINGER
District 30 (Burlington, Mercer, Monmouth and Ocean)
Senator JOSEPH F. VITALE
District 19 (Middlesex)

Co-Sponsored by:
Senators Buono and Asselta

SYNOPSIS

Prohibits investment by State of pension and annuity funds in foreign companies doing business in Iran.

CURRENT VERSION OF TEXT

As introduced.

(Sponsorship Updated As Of: 6/15/2007)

AN ACT concerning the investment by the State of pension and annuity funds and supplementing P.L.1950, c.270.

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1. The Legislature finds and declares that:

The State of New Jersey is deeply concerned about the situation in the Islamic Republic of Iran. President Mahmoud Ahmadinejad, the President of Iran, has added greatly to the instability of the Middle East by making statements that Israel should be "wiped off the map" and asserting that the Holocaust was a "myth." Iran has done little to promote international cooperation and everything to fan the flames of divisiveness and crisis. Thus, global tension concerning the Middle East is fuelled to dangerous heights by the rhetoric and actions of Iran.

Iran has been committed to the destruction of Israel since the installation of theocratic rule by Ayatollah Ruhollah Khomeini in 1979 and has been cited repeatedly as one of the world's most dangerous sponsors of international terrorism. President Ahmadinejad has also sparked international concern and controversy by refusing to stop Iran's enrichment of nuclear materials—possibly for use in atomic weapons—and refusing to allow the United Nations to check Iran's claim that it seeks to use nuclear power only to generate electricity.

President Ahmadinejad's comments regarding Israel together with his determination to promote Iran's nuclear program leads observers to conclude that the country's resources are directed towards the destruction of Israel by atomic weapons. This State must take action to respond to these calls for the destruction of Israel and threats to world peace and stability. Therefore, it is in the best interest of this State that a statutory prohibition be enacted to prohibit the investment of public employee retirements funds in foreign companies doing business in Iran.

2. a. Notwithstanding any provision of law to the contrary, no assets of any pension or annuity fund under the jurisdiction of the Division of Investment in the Department of the Treasury, or its successor, shall be invested in any foreign company that has an equity tie to the government of Iran or its instrumentalities and is engaged in business in or with that government and its instrumentalities. This prohibition shall not apply to the activities of any foreign company providing humanitarian aid to the Iranian people through either a governmental or non-governmental organization.

As used in this section, "equity tie" means manufacturing or mining plants, employees or advisors, facilities, or an investment, fiduciary, monetary or physical presence of any kind; and "humanitarian aid" means the provision of goods and services intended to relieve human suffering or to promote general welfare and health.

b. The State Investment Council and the Director of the Division of Investment, after reviewing the recommendations of and consulting with an independent research firm that specializes in global security risk for portfolio determinations selected by the State Treasurer, shall take appropriate action to sell, redeem, divest or withdraw any investment held in violation of subsection a. of this section. This section 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 not later than three years following the effective date of P.L. , c. (C.) (pending before the Legislature as this bill).

c. Within 60 days after the effective date of of P.L. , c. (C.) (pending before the Legislature as this bill), the Director of the Division of Investment shall file with the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report of all investments held as of the effective date that are in violation of subsection a. of this section. Every year thereafter, the director shall report on all investments sold, redeemed, divested or withdrawn in compliance with subsection b. of this section.

Each report after the initial report shall provide a description of the progress that the division has made since the previous report and since the enactment of P.L. , c. (C.) (pending before the Legislature as this bill) in implementing subsection b. of this section.

3. This act shall take effect immediately.

STATEMENT

This bill prohibits the investment of New Jersey public employee retirement funds in any foreign company that has an equity tie to the government of Iran or its instrumentalities and is engaged in business in or with that government because of that country's call for the destruction of Israel and its development of nuclear technology leading to the eventual development of nuclear weapons. The bill does not apply to the activities of any foreign company providing humanitarian aid to the Iranian people through either a governmental or non-governmental organization.

The bill requires the State Investment Council and the Director of the Division of Investment to take appropriate action to divest any investments held in violation of the prohibition after reviewing the recommendations of, and consulting with, an independent research firm that specializes in global security risk for portfolio determinations selected by the State Treasurer. Periodic progress reports by the division are required.

The United States Department of State includes Iran on the list of countries that sponsor terrorism. Iran has been on the list since 1984. As a result, strict sanctions are imposed including prohibitions on arms-related exports, controls over dual-use exports, and restrictions on economic assistance and financial matters.

SENATE STATE GOVERNMENT COMMITTEE

STATEMENT TO

SENATE, No. 2615

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 14, 2007

The Senate State Government Committee reports favorably and with committee amendments Senate, No. 2615.

This bill prohibits the investment of New Jersey public employee retirement system funds in any foreign company that has an equity tie to the government of Iran, or its instrumentalities, and is engaged in business operations with entities in the defense sector or nuclear sector of Iran, or engaged in business operations with entities involved in the natural gas or petroleum sectors of Iran, or with that government. The bill defines "equity tie" to mean manufacturing or mining plants, employees or advisors, facilities, or an investment, fiduciary, monetary or physical presence of any kind, including an ownership stake in one or more subsidiary or joint venture with one or more companies in the country. The bill does not apply to the activities of any foreign company providing humanitarian aid to the Iranian people through either a governmental or non-governmental organization.

The bill requires the State Investment Council and the Director of the Division of Investment to take appropriate action to divest any investments held in violation of the prohibition after reviewing the recommendations of, and consulting with, an independent research firm that specializes in global security risk for portfolio determinations selected by the State Treasurer. Periodic progress reports by the division are required.

As amended, the bill provides that the act would be void if: 1) the Congress or the President of the United States declares that the government of Iran has ceased to acquire or develop weapons of mass destruction and to support international terrorism; or 2) the United States revokes all sanctions imposed against the government of Iran.

The amended bill also provides that State Investment Council members, and State officers and employees involved therewith, would be indemnified and held harmless by the State of New Jersey from all liabilities and losses that these individuals may sustain or cause by reason of any decision to restrict or eliminate investments pursuant to the bill.

COMMITTEE AMENDMENTS

The committee amended the bill to: 1) limit its scope to include companies with an equity tie to the government of Iran that are engaged in business operations with entities in the defense sector or nuclear sector of Iran, or engaged in business operations with entities involved in the natural gas or petroleum sectors of Iran; 2) define the terms “defense sector,” “nuclear sector,” and “natural gas or petroleum sectors”; 3) expand the definition of the term “equity tie” to include a company that has an ownership stake in one or more subsidiary or joint venture in one or more companies in the country; 4) provide that the act is to become void if the Congress or the President of the United States declares that the government of Iran has ceased to acquire or develop weapons of mass destruction and to support international terrorism or the United States revokes all sanctions imposed against the government of Iran; and 5) provide that State Investment Council members, and State officers and employees involved therewith, are to be indemnified and held harmless against all liabilities and losses that these individuals may sustain or cause because of any decision to restrict or eliminate any investment pursuant to the bill.

SENATE BUDGET AND APPROPRIATIONS COMMITTEE

STATEMENT TO

[First Reprint]
SENATE, No. 2615

STATE OF NEW JERSEY

DATED: DECEMBER 3, 2007

The Senate Budget and Appropriations Committee reports favorably Senate Bill No. 2615 (1R).

Senate Bill No. 2615 (1R) prohibits the investment of New Jersey public employee retirement system funds in any foreign company that has an equity tie to the government of Iran, or its instrumentalities, and is engaged in business operations with entities in the defense sector or nuclear sector of Iran, or engaged in business operations with entities involved in the natural gas or petroleum sectors of Iran, or with that government. The bill does not apply to the activities of any foreign company providing humanitarian aid to the Iranian people through either a governmental or non-governmental organization.

The bill requires the State Investment Council and the Director of the Division of Investment to divest any investments held in violation of the prohibition after consulting with an independent research firm that specializes in global security risk for portfolio determinations selected by the State Treasurer. Periodic progress reports by the division are required.

The bill provides that the act would be void if: 1) the Congress or the President of the United States declares that the government of Iran has ceased to acquire or develop weapons of mass destruction and to support international terrorism; or 2) the United States revokes all sanctions imposed against the government of Iran.

The bill also provides that State Investment Council members, and State officers and employees involved therewith, would be indemnified and held harmless by the State of New Jersey from all liabilities and losses that these individuals may sustain or cause by reason of any decision to restrict or eliminate investments pursuant to the bill.

As reported, this bill is identical to Assembly Bill No. 3043(1R), as also reported by the committee.

FISCAL IMPACT:

In the Legislative Fiscal Estimate the Office of Legislative Services (OLS) anticipates this bill will increase administrative costs to the seven State-administered public employee pension funds with unspecified divestment costs for three years following enactment and ongoing research expenses to determine whether existing and potential investments have prohibited business relations with Iran.

The OLS also notes that there is a potential for lower investment returns to the pension funds. However, the OLS cannot quantify the fiscal impact.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 2615

STATE OF NEW JERSEY
212th LEGISLATURE

DATED: JULY 9, 2007

SUMMARY

Synopsis:	Prohibits investment by State of pension and annuity funds in foreign companies doing business in Iran.
Type of Impact:	Increased administrative expenses and potential lower investment returns to seven State-administered public employee pension funds.
Agencies Affected:	Department of the Treasury; Potentially Local Subdivisions of State Government.

Office of Legislative Services Estimate

Fiscal Impact	**Fiscal Year 2008**	**Fiscal Year 2009**	**Fiscal Year 2010**
State Cost	Indeterminate - See Comments Below		
Local Cost	Indeterminate - See Comments Below		

- The Office of Legislative Services (OLS) anticipates this bill to increase the administrative costs to New Jersey's public employee retirement funds and to likely depress the funds' investment returns. But without information on the extent to which the funds are holding investments prohibited by this bill, the agency cannot quantify the resultant fiscal impact. It points out, however, that higher employer contributions by State and local governments might eventually have to make up for costs created by this bill.

- Analyses by California, Florida, and Ohio pension officials suggest that the act of replacing $1 billion in equities from companies having business ties to Iran with other securities might cost between $6.7 million to $11.8 million.

BILL DESCRIPTION

Senate Bill No. 2615 (1R) of 2007 would prohibit the investment of New Jersey public employee retirement system funds in any company that has an equity tie to the government of Iran or is engaged in business operations with entities involved in Iran's defense, nuclear, natural gas or petroleum sectors. The Treasury would have three years following enactment to divest existing holdings that violate the prohibition. The legislation would expire upon the United States revoking all sanctions imposed against the government of Iran or declaring that Iran has ceased to develop weapons of mass destruction and ceased to support international terrorism.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS anticipates this bill to increase the administrative costs to New Jersey public employee retirement funds and to likely depress the funds' investment returns. But without information on the extent to which New Jersey pension funds are currently holding investments prohibited by this bill, the agency cannot quantify the fiscal impact of the legislation. It points out, however, that higher employer contributions by State and local governments might eventually have to make up for costs created by this bill.

Seven funds compose New Jersey's public employee retirement system: the Public Employees' Retirement System, the Teachers' Pension and Annuity Fund, the Police and Firemen's Retirement System, the State Police Retirement System, the Judicial Retirement System, the Prison Officers' Pension Fund, and the Consolidated Police and Firemen's Pension Fund.

Administrative Expenses:

This bill would result in unspecified divestment costs for three years following enactment and ongoing research expenses.

Divestment Expenses: Analyses by California, Florida, and Ohio pension officials suggest that replacing $1 billion in equities from companies having business ties to Iran with other securities may cost between $6.7 million to $11.8 million.

In a May 14, 2007 memo by California Public Employees' Retirement System's (CalPERS) Office of Governmental Affairs to the members of the CalPERS Investment Committee on California Assembly Bill 221, CalPERS estimated that divesting $8.5 billion from 50 companies identified as entertaining prohibited ties to Iran could cost the system $100 million. The amount includes commissions to sell the securities, local country taxes, the commissions to redeploy the capital as well as the commissions and taxes to reinvest the capital once the divestment period will be over. The *Florida Senate Professional Staff Analysis and Economic Impact Statement for Senate Bill 2142*, the "Protecting Florida's Investment Act", on the other hand, reckons that Florida would have to divest $6 billion from 130 companies at a $45 million transitioning cost. Ohio pension funds officials in their turn project that divesting $9 billion from 170 companies would add $60 million in expenses, according to the June 14, 2007 Wall Street Journal article "Should States Sell Stocks to Protest Links to Iran?".

Research Expenses: The bill would also produce ongoing administrative expenses by requiring the Department of the Treasury to continually research whether existing and potential investments have prohibited business relations with Iran. The CalPERS pegs these expenses at $350,000 over a two-year period, of which $50,000 would reflect initial research cost.

Investment Returns:

The OLS cannot ascertain the bill's effect on investment returns of New Jersey's public pension funds but the agency cautions that limiting investment opportunities is likely to push down long-run returns. The CalPERS identified about 50 holdings in its portfolio that are conducting business in Iran, Florida 130, and Ohio 170. After mandating Iran divestment in June 2007, Florida will have to shed investments in some of the giants in the oil and natural gas industries such as Royal Dutch Shell, Total, Lukoil, and Gazprom.

The CalPERS estimates that had it, over the last five years, substituted its investments in the 50 companies that meet Iran divestment criteria with holdings at the annualized rate of return absent divestment, the system's five-year annualized rate of return would have been 9.73 percent in lieu of 9.84 percent—a loss in fund value of $725 million over five years.

Section:	*Revenue, Finance and Appropriations*
Analyst:	*Thomas Koenig* *Associate Fiscal Analyst*
Approved:	*David J. Rosen* *Legislative Budget and Finance Officer*

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.