

HB 3333-1
(LC 3299)
4/14/11 (TR/ps)

**PROPOSED AMENDMENTS TO
HOUSE BILL 3333**

1 Delete lines 4 through 24 of the printed bill and insert:

2 **“SECTION 1. Sections 2 and 3 of this 2011 Act are added to and**
3 **made a part of ORS 293.701 to 293.820.**

4 **“SECTION 2. As used in this section and section 3 of this 2011 Act:**

5 **“(1) ‘Active business operations’ means all business operations that**
6 **are not inactive business operations.**

7 **“(2) ‘Business operations’ means engaging in commerce in any form**
8 **in Iran, including, but not limited to, acquiring, developing, main-**
9 **taining, owning, selling, possessing, leasing or operating equipment,**
10 **facilities, personnel, products, services, personal property, real prop-**
11 **erty or any other apparatus of business or commerce.**

12 **“(3) ‘Company’ means any sole proprietorship, organization, asso-**
13 **ciation, corporation, partnership, joint venture, limited partnership,**
14 **limited liability partnership, limited liability company or other entity**
15 **or business association, including all wholly owned subsidiaries,**
16 **majority-owned subsidiaries, parent companies or affiliates of those**
17 **entities or business associations, that exists for the purpose of making**
18 **profit.**

19 **“(4) ‘Direct holdings’ means securities of a company that are held**
20 **directly by this state, or an account or fund in which this state owns**
21 **all shares or interests.**

22 **“(5) ‘Inactive business operations’ means the mere continued hold-**

1 ing or renewal of rights to property previously operated for the pur-
2 pose of generating revenues, but not presently deployed for that
3 purpose.

4 “(6) ‘Indirect holdings’ means securities of a company that are held
5 in an account or fund, such as a mutual fund, managed by one or
6 more persons not employed by this state, in which this state owns
7 shares or interests together with other investors that are not subject
8 to the provisions of section 3 of this 2011 Act.

9 “(7) ‘Iran’ means the Islamic Republic of Iran.

10 “(8) ‘Mineral-extraction activities’ means:

11 “(a) Exploring, extracting, processing, transporting or wholesale
12 selling or trading of elemental minerals or associated metal alloys or
13 oxides, including, but not limited to, gold, copper, chromium,
14 chromite, diamonds, iron, iron ore, silver, tungsten, uranium and zinc;
15 and

16 “(b) Facilitating or otherwise providing supplies or services in sup-
17 port of the activities described in paragraph (a) of this subsection.

18 “(9)(a) ‘Oil-related activities’ means:

19 “(A) Owning rights to oil blocks;

20 “(B) Exporting, extracting, producing, refining, processing, explor-
21 ing for, transporting, selling or trading of oil;

22 “(C) Constructing, maintaining or operating a pipeline, refinery or
23 other oil field infrastructure; and

24 “(D) Facilitating or otherwise providing supplies or services in
25 support of the activities described in this paragraph.

26 “(b) ‘Oil-related activities’ does not include the mere retail sale of
27 gasoline and related consumer products.

28 “(10) ‘Petroleum resources’ means petroleum, petroleum by-
29 products or natural gas.

30 “(11) ‘Private market fund’ means any private equity fund, private

1 equity fund of funds, venture capital fund, hedge fund, hedge fund of
2 funds, real estate fund or other investment vehicle that is not publicly
3 traded.

4 “(12) ‘Scrutinized company’ means a company:

5 “(a)(A) That has business operations involving contracts with or
6 provision of supplies or services to the Government of Iran, a consor-
7 tium or project commissioned by the Government of Iran, or a com-
8 pany involved in a consortium or project commissioned by the
9 Government of Iran; and

10 “(B) In which more than 10 percent of the company’s revenues or
11 assets linked to Iran involve oil-related activities or mineral-extraction
12 activities, less than 75 percent of the company’s revenues or assets
13 linked to Iran involve contracts with or provision of oil-related or
14 mineral-extraction products or services to the Government of Iran or
15 a project or consortium created exclusively by that government; and

16 “(b)(A) That has failed to take substantial action; or

17 “(B) That has, with actual knowledge, on or after August 5, 1996,
18 made an investment of \$20 million or more, or any combination of
19 investments of at least \$10 million each that in the aggregate equals
20 or exceeds \$20 million in any 12-month period, that directly or signif-
21 icantly contributes to the enhancement of Iran’s ability to develop the
22 petroleum resources of Iran.

23 “(13) ‘Substantial action’ means adopting, publicizing and imple-
24 menting a formal plan to cease engaging in business operations as a
25 scrutinized company within one year and to refrain from any such new
26 business operations.

27 **“SECTION 3.** (1) The Oregon Investment Council and the State
28 Treasurer, in the State Treasurer’s role as investment officer for the
29 council, shall make efforts to identify all scrutinized companies in
30 which the council or treasurer has direct or indirect holdings of in-

1 vestment funds. These efforts shall include the following:

2 “(a) Reviewing and relying, as appropriate in the judgment of the
3 council and treasurer, on publicly available information regarding
4 companies having business operations in Iran, including information
5 provided by nonprofit organizations, research firms, international or-
6 ganizations and government entities;

7 “(b) Contacting asset managers contracted by the council or treas-
8 urer; and

9 “(c) Contacting other institutional investors that have divested
10 from or engaged with companies that have business operations in Iran.

11 “(2) The council or treasurer may retain an independent research
12 firm to identify scrutinized companies in which the council or treas-
13 urer has direct or indirect holdings. The council or treasurer shall
14 maintain a list of all scrutinized companies.

15 “(3) The council or treasurer shall develop an engagement policy
16 under which the council or treasurer notifies and requests information
17 from scrutinized companies in which the council or treasurer has di-
18 rect or indirect holdings. In adopting and implementing the policy, the
19 council or treasurer shall adhere to the following procedures for
20 companies on the scrutinized companies list:

21 “(a) The council or treasurer shall determine the companies on the
22 scrutinized companies list in which the council or treasurer has direct
23 or indirect holdings.

24 “(b) For each company identified in paragraph (a) of this subsection
25 that has active or inactive business operations in Iran, the council or
26 treasurer shall send a written notice informing the company of its
27 scrutinized company status and of the provisions of this section.

28 “(c) The written notice shall also advise the company that the
29 company may become subject to divestment by the council or treas-
30 urer, inform the company of the opportunity to clarify the company’s

1 Iran-related activities or describe the company's plan to cease business
2 operations as a scrutinized company, describe possible sanctions ap-
3 plicable under federal law to scrutinized companies and encourage the
4 company to cease its business operations as a scrutinized company or
5 convert the operations to inactive business operations.

6 "(d) If a company ceases business operations as a scrutinized com-
7 pany, the council or treasurer shall remove the company from the
8 scrutinized companies list and the provisions of this section do not
9 apply to the company unless the company resumes business operations
10 as a scrutinized company.

11 "(4) If a company continues to have active business operations as
12 a scrutinized company, the council or treasurer, subject to the stand-
13 ard set forth in ORS 293.726, is encouraged to sell, redeem, divest or
14 withdraw all publicly traded securities of the company, except as pro-
15 vided in subsection (6) of this section, from the council's or treasurer's
16 assets under management of the council or treasurer.

17 "(5) Subject to the standard set forth in ORS 293.726 and except as
18 provided in subsection (6) of this section, the council or treasurer may
19 not acquire securities of companies on the scrutinized companies list
20 that have active business operations in Iran.

21 "(6) A company that the United States Government affirmatively
22 declares to be excluded from present or any future federal sanctions
23 relating to Iran is not subject to divestment or the investment prohi-
24 bition pursuant to subsections (4) and (5) of this section.

25 "(7) Notwithstanding the provisions of this section, subsections (4)
26 and (5) of this section do not apply to indirect holdings in a private
27 market fund. The council or treasurer shall submit letters to the
28 managers of those investment funds containing companies that engage
29 in active business operations as scrutinized companies requesting that
30 they consider removing the companies from the fund or create a sim-

1 ilar actively managed fund having indirect holdings devoid of the
2 companies. If the manager creates a similar fund, the council or
3 treasurer is encouraged to replace all applicable investments with in-
4 vestments in the similar fund in an expedited time frame consistent
5 with prudent investing standards.

6 “(8) The council or treasurer shall publish the list of scrutinized
7 companies on the treasurer’s website.

8 “(9) The treasurer shall publish an annual report on the treasurer’s
9 website. The report shall include:

10 “(a) A summary of correspondence with companies engaged by the
11 council or treasurer under this section;

12 “(b) A list of all investments sold, redeemed, divested or withdrawn
13 in compliance with this section;

14 “(c) A list of investments prohibited under subsection (5) of this
15 section; and

16 “(d) A summary of correspondence with private market funds under
17 subsection (7) of this section.

18 “(10) With respect to actions taken in compliance with this section,
19 including all good faith determinations regarding companies as re-
20 quired by this section, the council and treasurer are exempt from any
21 conflicting statutory or common law obligations, including any such
22 obligations with respect to choice of asset managers, investment funds
23 or investments for the council’s or treasurer’s securities portfolios.

24 “(11)(a) Notwithstanding the provisions of this section, the council
25 or treasurer may cease divesting from certain scrutinized companies
26 pursuant to subsection (4) of this section or reinvest in certain scru-
27 tinized companies from which it divested pursuant to subsection (4)
28 of this section if clear and convincing evidence shows that the value
29 of all assets under management by the council or treasurer becomes
30 equal to or less than 99.50 percent, or 50 basis points, of the hy-

1 pothetical value of all assets under management by the council or
2 treasurer assuming no divestment for any company had occurred un-
3 der subsection (4) of this section.

4 “(b) Cessation of divestment, reinvestment or any subsequent on-
5 going investment authorized by this section is limited to the minimum
6 steps necessary to avoid the contingency set forth in paragraph (a) of
7 this subsection.

8 “(c) This subsection does not apply to reinvestment in companies
9 on the grounds that they have ceased to engage in active business
10 operations as scrutinized companies.

11 **“SECTION 4.** The Oregon Investment Council or State Treasurer
12 shall produce the first list of scrutinized companies required by section
13 3 of this 2011 Act not later than 90 days following the operative date
14 specified in section 5 of this 2011 Act.

15 **“SECTION 5.** (1) Sections 1 to 4 of this 2011 Act become operative
16 January 1, 2012.

17 “(2) The State Treasurer and the Oregon Investment Council may
18 take any action before the operative date specified in subsection (1)
19 of this section that is necessary for the council or treasurer to exer-
20 cise, on and after the operative date specified in subsection (1) of this
21 section, all the duties, functions and powers conferred on the council
22 or treasurer by sections 1 to 4 of this 2011 Act.

23 **“SECTION 6.** This 2011 Act being necessary for the immediate
24 preservation of the public peace, health and safety, an emergency is
25 declared to exist, and this 2011 Act takes effect on its passage.”.