

Oregon Human Rights and Anti-Genocide Act of 2005
Annual Report to the Legislative Assembly
January 11, 2013

Pursuant to ORS 293.811 to 293.817

State Treasurer Ted Wheeler

Background

The Oregon Legislative Assembly passed Senate Bill 1089 during the 2005 session, setting guidelines for divestiture from companies doing business in the Republic of Sudan. The bill was codified as the Oregon Human Rights and Anti-Genocide Act of 2005, ORS 293.811 to 293.817 (“the Act”). The investment funds subject to the Act are the Oregon Public Employees Retirement Fund, the State Accident Insurance Fund, the Common School Fund, the Oregon War Veterans Fund, and the Higher Education Endowment Fund.

The Act was effective on August 23, 2005, and requires an annual report to the Legislative Assembly by January 15 on actions taken by the State Treasurer and Oregon Investment Council (OIC) under the Act.

Provisions of the Act

The Legislative Assembly made a number of findings regarding genocide and other atrocities in the Republic of Sudan in the first section of the Act. The remaining sections set forth provisions specifically related to investment matters, including:

- Requiring the OIC and the State Treasurer to act reasonably to try to ensure that funds are not invested in any company the OIC knows is doing business in Sudan for as long as the Sudanese government’s campaign of human rights violations, atrocities or genocide continues.
- Requiring any divestment to be accomplished without monetary loss to the funds.
- Requiring the OIC and State Treasurer to make reasonable efforts to investigate all companies in which the OIC has invested to determine whether any of the companies are doing business in Sudan.
- Requiring the Treasurer to notify any company that investments will be withdrawn for as long as the company does business in Sudan and the atrocities continue.
- Establishing that the Act does not apply to entities engaged in human relief activities or social welfare, companies engaged in journalism, or U.S. companies authorized by the federal government to do business in Sudan.

Implementation of the Act

The statute stipulates that the OIC shall divest consistent with the prudent investor standard and “without monetary loss to the funds through reasonable, prudent and productive investments in companies and institutions generating returns that are comparable to the returns generated by the companies subject to the divestment.”

There are factors that detract from a manager's ability to divest. For example, the list of subject companies includes approximately 1.25 percent of the Morgan Stanley Capital International All Country World Index, one of the broadest world indices. These companies were likely to be in portfolios before they appeared on the subject list. Many of these companies are extremely difficult to replace without sustaining a loss to the fund; therefore, under the statute, managers may not divest immediately. Nonetheless, the program resulted in a net divestiture from Sudan-related companies of \$26.0 million in 2012.

Conclusion

Implementation of the policy has resulted in a significant divestment from companies doing business in Sudan. The Oregon Investment Council and State Treasurer will continue execution of this policy and monitor the results of the actions taken.