

Senate Bill 17

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SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Oregon Investment Council and State Treasurer to try to ensure that moneys in Public Employees Retirement Fund are not invested in companies with interest in Sudan. Applies to investments for which federal law allows divestment by public pension plans.

Directs State Treasurer to adopt engagement policy with private investment fund managers and to encourage managers to end investments with companies with interest in Sudan.

Requires notices to fund managers, companies and Oregon Investment Council. Specifies contents of notices.

Applies subject to specified fiduciary standards.

Applies subject to appropriate funding.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to state finance; creating new provisions; amending ORS 293.812; repealing ORS 293.814,
3 293.815, 293.816 and 293.817; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 293.812 is amended to read:

6 293.812. As used in ORS 293.811 to 293.817:

7 (1) "Company" means any sole proprietorship, organization, firm, association, corporation, util-
8 ity, partnership, venture, public franchise, franchisor, franchisee or its wholly owned subsidiary that
9 exists for profit-making purposes or otherwise to secure economic advantage.

10 [(2) "*Doing business*" means maintaining equipment, facilities, personnel or any other apparatus
11 of business or commerce in Sudan, including the ownership or possession of real or personal property
12 located in Sudan.]

13 [(3) "*Investment*" or "*Invest*" means the commitment of funds or other assets to a company, in-
14 cluding a loan or other extension of credit made to that company, or the ownership or control of a
15 share or interest in that company or of a bond or other debt instrument issued by that company.]

16 [(4) "*Subject investment funds*" means:]

17 [(a) *The Public Employees Retirement Fund referred to in ORS 238.660;*]

18 [(b) *The Industrial Accident Fund referred to in ORS 656.632;*]

19 [(c) *The Common School Fund referred to in ORS 327.405;*]

20 [(d) *The Oregon War Veterans' Fund referred to in ORS 407.495; and*]

21 [(e) *Investment funds of the State Board of Higher Education available for investment or reinvest-*
22 *ment by the Oregon Investment Council.*]

23 (2) "**Fund of funds**" means investment funds that function by secondary investment in a
24 portfolio of other investments, including investment funds.

25 (3) "**Index funds**" means pooled investments that are passively managed with an intent

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 to match or track the performance of a market index.

2 (4)(a) "Invest" means to commit funds or other assets to a company. "Invest" includes
3 making a loan or other extension of credit to a company, or owning or controlling a share
4 or interest in a company or a bond or other debt instrument issued by a company.

5 (b) "Investment" means the commitment of funds or other assets to a company for an
6 interest in the company. "Investment" includes the ownership or control of a share or in-
7 terest in a company or of a bond or other debt instrument issued by a company.

8 (5) "Scrutinized company" means any company that currently has an investment, in the
9 Sudan, from which federal law specifically allows public pension plans to divest.

10 [(5)] (6) "Sudan" means the Republic of the Sudan and any territory under the administration,
11 legal or illegal, of Sudan, including but not limited to the Darfur region.

12 **SECTION 2.** Sections 3 to 6 of this 2013 Act are added to and made a part of ORS 293.811
13 to 293.817.

14 **SECTION 3.** (1) The Oregon Investment Council and the State Treasurer, in the State
15 Treasurer's role as investment officer for the council, shall act reasonably and in a manner
16 consistent with fiduciary standards, including the provisions of ORS 293.721 and 293.726, to
17 try to ensure that managers who are engaged by the council or the State Treasurer for the
18 active management of investment funds consisting of the Public Employees Retirement Fund
19 referred to in ORS 238.660, through the purchase and sale of publicly traded equities, are not
20 investing in publicly traded equities of any scrutinized company.

21 (2) Subsection (1) of this section does not apply to investment indirectly made through
22 index funds, fund of funds or privately placed investments.

23 **SECTION 4.** (1) Consistent with fiduciary standards, including the provisions of ORS
24 293.721 and 293.726, the State Treasurer shall adopt a statement of policy that describes a
25 process of engagement with managers who:

26 (a) Are engaged by the Oregon Investment Council or the State Treasurer for the active
27 management of investment funds consisting of the Public Employees Retirement Fund re-
28 ferred to in ORS 238.660 through the purchase and sale of publicly traded equities; and

29 (b) Have invested such funds in scrutinized companies.

30 (2) The policy required under subsection (1) of this section must require the State
31 Treasurer, to the extent practicable, to identify and send a written notice to the managers
32 described in subsection (1) of this section. The notice shall encourage the managers, con-
33 sistent with fiduciary standards, including the provisions of ORS 293.721 and 293.726, to:

34 (a) Notify scrutinized companies with which the managers have made investments of the
35 State Treasurer's policy adopted pursuant to subsection (1) of this section; and

36 (b) Not later than 90 days after giving the notice, end investments in the scrutinized
37 companies and avoid future investments in the scrutinized companies, as long as the man-
38 agers may do so without monetary loss through reasonable, prudent and productive invest-
39 ments in companies generating returns that are comparable to the returns generated by the
40 scrutinized companies.

41 (3) A notice provided by a manager to a scrutinized company under subsection (2) of this
42 section shall advise the scrutinized company that the company may comment in writing to
43 the State Treasurer to dispute the identification of the company as a scrutinized company.

44 (4) If the State Treasurer determines under subsection (3) of this section that a company
45 is not a scrutinized company, the State Treasurer shall notify the relevant manager of the

1 State Treasurer's determination.

2 (5) The State Treasurer shall advise the Oregon Investment Council of a notice the State
3 Treasurer provides under subsection (2) of this section if the manager to whom the notice
4 was given has not informed the State Treasurer within 180 days after the date the notice
5 was given that the manager has ended the manager's investment in scrutinized companies
6 or plans to divest from its investment in scrutinized companies.

7 SECTION 5. On or before March 15 of each year, the State Treasurer shall make avail-
8 able on the State Treasurer's website a summary of actions taken during the previous year
9 in accordance with ORS 293.811 to 293.817. The summary shall include a list of identified
10 scrutinized companies.

11 SECTION 6. (1) Section 4 (2) to (5) and section 5 of this 2013 Act apply only if the Legis-
12 lative Assembly appropriates sufficient moneys to the State Treasurer, other than moneys
13 described by ORS 293.718 or moneys in the Public Employees' Retirement Fund, to administer
14 section 4 (2) to (5) and section 5 of this 2013 Act.

15 SECTION 7. The State Treasurer shall first make available on the State Treasurer's
16 website the information required under section 5 of this 2013 Act not later than March 15,
17 2014.

18 SECTION 8. Sections 3 to 5 of this 2013 Act and the amendments to ORS 293.812 by sec-
19 tion 1 of this 2013 Act apply to investments made prior to, on or after the effective date of
20 this 2013 Act.

21 SECTION 9. ORS 293.814, 293.815, 293.816 and 293.817 are repealed.

22 SECTION 10. This 2013 Act being necessary for the immediate preservation of the public
23 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
24 on its passage.

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