

Amendment No. 275

Assembly Amendment to Assembly Bill No. 493	(BDR 27-1232)
Proposed by: Assembly Committee on Government Affairs	
Amends: Summary: Yes Title: Yes Preamble: No Joint Sponsorship: Yes Digest: Yes	

ASSEMBLY ACTION		Initial and Date	SENATE ACTION		Initial and Date
Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>	Adopted	<input type="checkbox"/>	Lost <input type="checkbox"/>
Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>	Concurred In	<input type="checkbox"/>	Not <input type="checkbox"/>
Receded	<input type="checkbox"/>	Not <input type="checkbox"/>	Receded	<input type="checkbox"/>	Not <input type="checkbox"/>

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold dashed underlining* is newly added transitory language.

RBL



Date: 4/9/2009

A.B. No. 493—Prohibits companies that are involved in specified activities in the country of Sudan from entering into a contract with certain state agencies for the provision of goods or services. (BDR 27-1232)



ASSEMBLY BILL NO. 493—COMMITTEE ON GOVERNMENT AFFAIRS

MARCH 23, 2009

JOINT SPONSOR: COMMITTEE ON FINANCE

Referred to Committee on Government Affairs

SUMMARY—~~[Prohibits companies that are involved in specified activities in the country of Sudan from entering into a contract with certain state agencies for the provision of goods or services.] Requires the Public Employees' Retirement Board to identify and report concerning investments of money from the Public Employees' Retirement System in certain scrutinized companies with certain business activities or connections to Iran's petroleum sector.~~ (BDR ~~[27-1232]~~ 23-1232)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to ~~[state purchasing contracts; prohibiting companies that are involved in specified activities in the country of Sudan from entering into a contract with certain state agencies for the provision of goods or services;]~~ public retirement systems; requiring the Public Employees' Retirement Board to identify and report concerning investments of money from the Public Employees' Retirement System in certain scrutinized companies with certain business activities or connections to Iran's petroleum sector; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

~~[Existing law authorizes contracts between state agencies within the Executive Branch of Government and private contractors and sets forth requirements for the procurement of goods and services by those state agencies. (Chapter 233 of NRS) Section 13 of this bill prohibits certain "scrutinized companies" that are involved in specified activities in the country of Sudan from entering into a contract with a state agency for goods or services. Section 13 also provides for an exception to the prohibition on such contracts if the Governor determines it is in the best interest of the State. In addition, section 13 requires a prospective bidder for a contract with a state agency that currently or within the previous 2 years has had business activities or other operations outside of the United States to certify that the company is not a scrutinized company.]~~

~~[Section 14 of this bill requires certain reports to be submitted to the U.S. Attorney General and the Attorney General for the State of Nevada and authorizes the Attorney General~~

~~for the State of Nevada to bring a civil action against a company that submits a false certification. Section 15 of this bill provides for a civil penalty to be imposed on a company that provides a false certification in an amount not to exceed \$250,000, or an amount that is twice the amount of the contract price. In addition, section 15 provides that a company which provides a false certification is prohibited from entering into another contract with a state agency for not less than 3 years.]~~

~~Section 1 of this bill outlines the difficulties that the United Nations has experienced trying to control Iran's development of nuclear weapons and weapons of mass destruction. The United Nations has passed several resolutions condemning the actions of Iran and imposing sanctions on Iran. In addition, Congress adopted the Iran Sanctions Act of 1996 which imposes an embargo and various sanctions on Iran. Because of the volatility of Iran and the sanctions imposed on that country, section 1 expresses the concern of the Nevada Legislature about investment decisions by retirement systems in this State, including the Public Employees' Retirement System, to invest in publicly traded companies that conduct business activities with or have ties to Iran's petroleum-energy industry and encourages such retirement systems to use reason and prudence in making such investment decisions.~~

~~Section 13 of this bill requires the Public Employees' Retirement Board to identify certain scrutinized companies in which the Public Employees' Retirement System has direct holdings. Section 14 of this bill further requires the Board to prepare an annual report of investments of money from the System in those scrutinized companies. The report must be submitted to the Governor and the Legislature on or before February 1 of each year.~~

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Delete existing sections 1 through 16 of this bill and replace with the following new sections 1 through 15:

Section 1. The Nevada Legislature hereby finds and declares that:

1. In 2008, the United Nations Security Council passed Resolution 1803 reaffirming prior resolutions of the Security Council, including Resolutions 1696 (2006), 1737 (2006) and 1747 (2007), and imposing sanctions on Iran for failing to suspend its uranium-enrichment activities which may lead to the development of nuclear weapons.

2. Security Council Resolution 1803 notes that the Director General of the International Atomic Energy Agency (IAEA) confirmed that Iran has not established full and sustained suspension of all enrichment-related and reprocessing activities and heavy water-related projects, has not resumed its cooperation with the IAEA, has not taken the other steps called for by the IAEA Board of Governors or complied with the prior resolutions.

3. The United Nations Security Council voted unanimously in Resolution 1803 to continue to freeze the financial assets and restrict the travel of persons or entities supporting Iran's proliferation sensitive nuclear activities or the development of nuclear weapon delivery and expanded the list of persons and entities subject to the freezing of assets and travel restrictions.

4. The United Nations Security Council, through its resolutions, has required that nations prevent the transfer to Iran of a broad range of proliferation sensitive items and related technical and financial assistance and resources and services related to these items that could contribute to Iran's

1 proscribed nuclear activities or the development of nuclear weapon delivery
2 systems.

3 5. The United Nations Security Council has also called for nations to
4 exercise vigilance in entering into new commitments for financial support for
5 trade with Iran, including the granting of export credits, guarantees or
6 insurance, to their nationals or entities involved in such trade in order to avoid
7 having such financial support contribute to proliferation sensitive nuclear
8 activities or to the development of nuclear weapon delivery systems.

9 6. Resolution 1803 also calls for nations to exercise vigilance over the
10 activities of financial institutions in their territories with all banks domiciled in
11 Iran, as well as their branches and subsidiaries abroad because of their
12 connections to proliferation sensitive nuclear activities and the development of
13 nuclear weapon delivery systems.

14 7. In 1996, the United States Congress adopted the Iran and Libya
15 Sanctions Act of 1996, Public Law 104-172, renewed the Act in 2001 and in
16 2006 renamed it the Iran Sanctions Act of 1996, Public Law 109-293.

17 8. Congress found that “[t]he efforts of the Government of Iran to
18 acquire weapons of mass destruction and the means to deliver them and its
19 support of acts of international terrorism endanger the national security and
20 foreign policy interests of the United States and those countries with which the
21 United States shares common strategic and foreign policy objectives.”

22 9. The Iran Sanctions Act of 1996 requires the President of the United
23 States to impose certain sanctions on any person or entity who, with actual
24 knowledge, invests \$20 million or more, either in a single investment or a
25 combination of investments of at least \$5 million each, which in the aggregate
26 equal or exceed \$20 million in any 12-month period, that directly and
27 significantly contributes to the enhancement of Iran’s ability to develop the
28 petroleum resources of that country.

29 10. Iran’s financial ability to pay its debts is put at risk by the embargo
30 and sanctions of the Iran Sanctions Act of 1996.

31 11. Actions by fiduciaries of public money, including selling, redeeming,
32 divesting or withdrawing from investments (divestiture), should be considered
33 with the purpose of improving investment performance, and such fiduciaries
34 must apply reason and prudence in making such decisions with consideration
35 given to all relevant, substantive information concerning the investment.

36 12. Because of the instability of markets that are vulnerable to embargo,
37 loan restrictions and sanctions by the United States and the international
38 community, including the United Nations Security Council, fiduciaries should
39 use caution and exercise restraint in investing in such markets and, applying
40 reason and prudence, should consider divestiture from such markets.

41 13. The Nevada Legislature is deeply concerned about investments in
42 publicly traded companies that conduct business activities with or have ties to
43 Iran’s petroleum-energy industry because of the serious financial risk to the
44 shareholders.

45 14. Retirement systems, including the Public Employees’ Retirement
46 System, which invest money on behalf of public employees in publicly traded
47 companies that conduct business activities with or have ties to Iran’s
48 petroleum-energy industry must use reason and prudence in making such
49 investments.

50 15. To protect Nevada’s assets, it is in the best interest of the State for
51 public retirement systems in this State, including the Public Employees’
52 Retirement System, to use reason and prudence in deciding whether to invest

1 or divest from publicly traded securities of entities that conduct business
2 activities with and have ties to Iran's petroleum-energy industry.

3 16. It is the intent of the Legislature that public retirement systems in
4 Nevada, including the Public Employees' Retirement System, continue to limit
5 investments in entities that conduct business with or have ties to Iran's
6 petroleum-energy industry in the manner set forth in this declaration only
7 insofar as it continues to be consistent with the foreign policy of the United
8 States.

9 Sec. 2. Chapter 286 of NRS is hereby amended by adding thereto the
10 provisions set forth as sections 3 to 15, inclusive, of this act.

11 Sec. 3. As used in sections 3 to 15, inclusive, of this act, the words and
12 terms defined in sections 4 to 12, inclusive, of this act have the meanings ascribed
13 to them in those sections.

14 Sec. 4. "Active business operations" means all business operations that are
15 not inactive business operations.

16 Sec. 5. "Business operations" means investing, with actual knowledge on
17 or after August 5, 1996, in Iran's petroleum sector, which investment directly and
18 significantly contributes to the enhancement of Iran's ability to develop the
19 petroleum resources of Iran. The term does not include the retail sale of gasoline
20 and related consumer products.

21 Sec. 6. "Company" means any foreign sole proprietorship, organization,
22 association, corporation, partnership, joint venture, limited partnership, limited-
23 liability partnership, limited-liability company, or any other foreign entity or
24 business association, including all wholly-owned subsidiaries, majority-owned
25 subsidiaries or parent companies or affiliates of these entities or business
26 associations, that exist for the purpose of making a profit.

27 Sec. 7. "Direct holdings" means all publicly traded equity securities of a
28 company that are held directly by the public fund or in an account or fund in
29 which the public fund owns all shares or interests.

30 Sec. 8. "Inactive business operations" means the continued holding or
31 renewal of rights to property previously operated for the purpose of generating
32 revenues but not presently deployed for that purpose.

33 Sec. 9. "Iran" means the Islamic Republic of Iran.

34 Sec. 10. "Petroleum resources" means petroleum or natural gas.

35 Sec. 11. "Scrutinized business operations" means any active business
36 operations that:

37 1. Are subject to or liable for sanctions under the Iran Sanctions Act of
38 1996, Public Law 104-172, as amended; and

39 2. Involve the maintenance of:

40 (a) The company's existing assets or investments in Iran; or

41 (b) The deployment of new investments to Iran that meet or exceed the
42 threshold referred to in the Iran Sanctions Act of 1996, as amended.

43 Sec. 12. "Scrutinized company" means any company engaging in
44 scrutinized business operations.

45 Sec. 13. 1. Except as otherwise provided in section 15 of this act, the
46 Board shall identify those scrutinized companies in which the System has direct
47 holdings. In making the determination, the Board shall review and rely on
48 publicly available information regarding companies with business operations in
49 Iran, including information provided by nonprofit organizations, research firms,
50 international organizations and governmental entities.

51 2. The Board shall create a list of all identified scrutinized companies
52 pursuant to subsection 1.

1 3. The Board shall update the list on an annual basis with information
2 provided and received from those entities listed in subsection 1.

3 Sec. 14. 1. Except as otherwise provided in section 15 of this act, the
4 Board shall prepare an annual report of investments of money from the System
5 in scrutinized companies as identified pursuant to section 13 of this act. The
6 report must include the amount of money allocated in such investments and other
7 data and statistics designed to explain the past and current extent to which funds
8 from the System are invested in scrutinized companies.

9 2. The Board shall submit a copy of the report to the Governor and the
10 Director of the Legislative Counsel Bureau for distribution to the Legislature on
11 or before February 1 of each year which must cover all investments during the
12 previous calendar year.

13 Sec. 15. The provisions of sections 13 and 14 of this act do not apply to:

14 1. Money invested in a defined contribution plan that is authorized by the
15 Internal Revenue Code and administered by the Board; or

16 2. Investments in a company that is primarily engaged in:

17 (a) Supplying goods or services intended to relieve human suffering in Iran;
18 or

19 (b) Promoting health, education, religious, welfare or journalistic activities
20 in Iran.