

# CALIFORNIA STATE TEACHERS' RETIREMENT SYSTEM

# BILL ANALYSIS

**BILL NUMBER:** Assembly Concurrent Resolution 11 (Dymally) – As Amended 4/18/05

**SUMMARY:** ACR 11 encourages the California State Teachers' Retirement System (CalSTRS) and the California Public Employees' Retirement System (CalPERS) to persuade companies doing business in Sudan to avoid taking actions that promote or enable human rights violations in that country.

## **PURPOSE OF THE BILL:**

The author hopes retirement fund encouragement will fuel corporate pressure on the Sudanese government to end practices that violate human rights of their citizens.

## **BOARD POSITION:**

Support. CalSTRS encourages companies to prevent social injury consistent with the Board's current governance policy and fiduciary responsibilities. Support of shareholder resolutions and other means that encourage companies to prevent social injury is consistent with the Board's current governance policy.

## **LEGISLATIVE HISTORY:**

Resolution Chapter 57, Statutes of 2005 (AJR 6—Koretz) urges the government of Sudan to condemn human rights abuses, war crimes, and crimes against humanity being committed by a state-sponsored militia, and move towards national reconciliation. In addition, it requests the President and Congress to take all necessary and prudent action to address the violence in Sudan.

ACR 1X (Dymally) urges CalPERS to divest from companies doing business in Sudan.

## **PROGRAM BACKGROUND:**

Sudan, located on the East African coast, has experienced civil war on an intermittent basis for the past 20 years. Oil is its most important natural resource, with production concentrated in the southern half of the country. Most foreign oil companies have left the region because of security concerns. However, many have indicated they intend to return once the security situation is stabilized.

In the Darfur region of western Sudan, a two-year old rebel revolt has resulted in widespread violence and human rights atrocities. The United Nations attributes these atrocities to government forces. According to the New York Times, an estimated 70,000 people have been killed and another 1.8 million have been forced to flee their homes. On January 9, 2005 the Government of Sudan and the southern opposition group signed a peace agreement to end their conflict, however, the sustainability of this peace and its impact on the Darfur region is unclear. CalSTRS Investment staff indicates there has been a growing campaign to persuade individuals and institutions to divest their holdings in companies that do business with the Sudanese government.

Primarily because of its reported ties to terrorist organizations, the federal government has strict economic sanctions in place against Sudan that prohibit U.S. companies from doing business in that country. Under the sanctions, certain transactions, such as supplying food and medicine, are permitted. In order for a U.S. company to conduct these transactions, they must receive a license through the Department of Treasury.

The fiduciary standards in the Teachers' Retirement Law and Article XVI, Section 17 of the state Constitution require the Board, CalSTRS officers and employees to discharge their duties with respect to CalSTRS solely in the interests of the members and beneficiaries for the exclusive purpose of providing benefits, and to defray reasonable expenses of administering the plan. When considering investments, the preservation of principal and maximization of income is the primary and underlying criteria for the selection and retention of securities.

The Board does recognize, however, a responsibility not only to CalSTRS members and beneficiaries, but to the general public as well. For example, it is Board policy to vote in favor of shareholder resolutions which, if implemented, prevent, reduce or eliminate social injury. Corporate practices regarding human rights is one of many non-economic factors the Board considers when voting shareholder proxies. Currently the Board has no specific policies regarding investments in, or relating to, Sudan.

#### **ANALYSIS:**

Assembly Concurrent Resolution 11 contains a series of legislative findings related to the situation in Darfur and encourages CalSTRS and CalPERS, whenever feasible and consistent with their fiduciary responsibilities, to encourage companies identified by the Department of Treasury's Office of Foreign Asset Control as doing business in Sudan to act responsibly and not to take actions that promote or otherwise enable human rights violations in the Sudan.

ACR 11 does not propose the divestment of stocks owned by CalSTRS, nor does it limit or restrict the corporations or types of stocks that may be held by CalSTRS. It appears that U.S. companies have complied with the sanctions in place, and only a few foreign companies are reported to be doing business with Sudan. However, reliable and current information regarding companies' involvement with Sudan is difficult to obtain.

On November 17, 2004, CalPERS received a letter from five members of California's Congressional delegation asking CalSTRS to review its investment portfolio to ensure that none of its holdings conducted business in Sudan. CalPERS' resulting survey of its external investment managers and portfolio companies revealed one Israeli pharmaceutical company whose European affiliate sold \$250,000 worth of cancer drugs to the Sudanese government. Another 11 companies disclosed past or present dealings within the country, and their level of compliance with federal sanctions.

#### **FISCAL IMPACT:**

**Benefit Program cost/savings:** None.

**Administrative costs/savings:** Minor and absorbable costs associated with identifying individual companies doing business with the Sudanese government and pursuing communications strategies.

**SUPPORT/OPPOSITION**

**Support:** Author (Sponsor), AFSCME; CalPERS; CFT, CTA

**Opposition:** None Known