

SENATE No. 1089

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act relative to the divestment of state assets from nations that sponsor terrorism..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after
2 section 5C the following new section:-

3 “Section 5D. (a) The state treasurer shall not knowingly permit, whenever feasible, the
4 investment of any of the funds of the commonwealth, including but not limited to all pension and
5 annuity funds, in the stock, securities or other obligations of any corporation, which directly, or
6 through a subsidiary, engage in business with, or with any instrumentality of, any state
7 designated by the United States Department of State as a state sponsor of terrorism under the
8 provisions of 22 U.S.C. 2371, 22 U.S.C 2780, or 50 U.S.C. app. 2405(j), or any other applicable
9 federal law, except for those corporations specified in paragraph (b) of this section.

10 (b) The prohibitions contained in paragraph (a) shall not apply to any corporation that is
11 primarily engaged in supplying goods or services intended to relieve human suffering, a
12 corporation that promotes public health, education, journalistic, religious, or welfare activities, or
13 a United States corporation authorized by the federal government to have businesses operations
14 within the designated countries.

15 (c) The state treasurer shall make every reasonable effort to sell, redeem, divest or
16 withdraw any investment currently held in violation of the provisions of paragraph (a) of this
17 section within one year from the passage of this act.

18 (d) The state treasurer shall annually issue a report, not later than January 30 each year,
19 listing all corporations which the Commonwealth has divested funds from, under the provisions
20 of paragraph (c) of this section, during the previous calendar year. The state treasurer shall also
21 list any and all corporations known to the treasurer which directly, or through a subsidiary,
22 engage in business with, or with any instrumentality of, any country designated by the United
23 States Department of State as a state sponsor of terrorism under the provisions of 22 U.S.C.
24 2371, 22 U.S.C 278, or 50 U.S.C. app. 2405(j) or any other applicable federal law. The treasurer
25 may utilize all information available to make such determinations.

26 SECTION 2. Notwithstanding any special or general law to the contrary, no contributory
27 retirement system operating under the terms of section 1 to 28, inclusive, of chapter 32, including
28 those operating under the terms of section 19 of chapter 34B, shall permit the investment of any
29 funds in the stock, securities or other obligations in any corporation listed by the state treasurer
30 under the provisions of paragraph (c) of section 1 of this act. Moreover, within one year of a
31 corporation being listed on said report any aforementioned contributory retirement system shall
32 make every reasonable effort to sell, redeem, divest or withdraw any investment currently held in
33 such a corporation.

34 SECTION 3. The state treasurer may continue any existing or and make new
35 investments in any corporation prohibited from investment under the provisions of section 1 of
36 this act; if, by a majority vote of investment advisory council, said council moves to exempt any

37 such designated country. Such exemption must be made prior to April 1 in any given year and
38 shall be applicable until March 31 of the following year.

39 SECTION 4. Nothing in this act shall alter or diminish existing fiduciary or statutory
40 obligations and other terms, conditions, and limitations on the investment of retirement system
41 assets for the exclusive interest and benefit of participants and beneficiaries of a retirement
42 system.