

Senate File 418 - Enrolled

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AN ACT

RELATING TO THE INVESTMENT OF CERTAIN PUBLIC FUNDS IN CERTAIN COMPANIES, CONCERNING COMPANIES THAT ARE OWNED OR CONTROLLED BY CHINESE MILITARY OR GOVERNMENT SERVICES AND PUBLIC FUND REVIEW REQUIREMENTS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 12.8, subsection 1, Code 2023, is amended to read as follows:

1. The treasurer of state shall invest or deposit, subject to [chapters 12F, 12H, and 12J, and 12K](#) and as provided by law, any of the public funds not currently needed for operating expenses and shall do so upon receipt of monthly notice from the director of the department of administrative services of the amount not so needed. In the event of loss on redemption or sale of securities invested as prescribed by law, and if the transaction is reported to the executive council, neither the treasurer nor director of the department of administrative services is personally liable but the loss shall be charged against the funds which would have received the profits or interest of the investment and there is appropriated from the funds the amount so required.

Sec. 2. Section 12F.3, subsection 1, paragraph a, Code 2023, is amended to read as follows:

a. By July 1, 2007, the public fund shall make its best efforts to identify all scrutinized companies in which the public fund has direct or indirect holdings or could possibly

have such holdings in the future and shall create and make available to the public a scrutinized companies list for that public fund. The list shall further identify whether the company has inactive business operations or active business operations. The public fund shall review and update, if necessary, the scrutinized companies list and the determination of whether a company has inactive or active business operations on ~~a quarterly~~ an annual basis thereafter.

Sec. 3. Section 12H.3, subsection 1, paragraph a, Code 2023, is amended to read as follows:

a. By March 1, 2012, the public fund shall make its best efforts to identify or have identified all scrutinized companies in which the public fund has direct or indirect holdings or could possibly have such holdings in the future and shall create and make available to the public a scrutinized companies list for that public fund. The list shall further identify whether the company has inactive business operations or active business operations. The public fund shall review and update, if necessary, the scrutinized companies list and the determination of whether a company has inactive or active business operations on ~~a quarterly~~ an annual basis thereafter.

Sec. 4. NEW SECTION. 12K.1 Definitions.

As used in this chapter, unless the context otherwise requires:

1. "*Company*" means any business or business entity that is publicly traded and that is not based in the United States.
2. "*Direct holdings*" in a company means all securities of a company held directly by the public fund or in an account or fund in which the public fund owns all shares or interests.
3. "*Indirect holdings*" in a company means all securities of a company held in an account or fund managed by one or more persons not employed by the public fund, in which the public fund owns shares or interests together with other investors not subject to the provisions of this chapter. Indirect holdings include but are not limited to mutual funds, fund of funds, private equity funds, hedge funds, and real estate funds.
4. "*Prohibited company*" means a company that is owned or controlled by Chinese military or government services and has been designated by the United States government as a company

that citizens of the United States are restricted or prohibited from entering into transactions with, limited to companies on any of the following lists:

- a.* The bureau of industry and security's entity list.
- b.* The bureau of industry and security's military end user list.
- c.* The department of defense's communist Chinese military companies list.
- d.* The office of foreign assets control's foreign sanctions evaders list.
- e.* The office of foreign assets control's list of foreign financial institutions subject to correspondent account or payable-through account sanctions.
- f.* The office of foreign assets control's non-SDN Iran sanctions list.
- g.* The office of foreign assets control's non-SDN Palestinian legislative council list.
- h.* The office of foreign assets control's sectoral sanctions identifications list.
- i.* The office of foreign assets control's specially designated nationals and blocked persons list.
- j.* "*Public fund*" means the treasurer of state, the state board of regents, the public safety peace officers' retirement system created in chapter 97A, the Iowa public employees' retirement system created in chapter 97B, the statewide fire and police retirement system created in chapter 411, or the judicial retirement system created in chapter 602.

Sec. 5. NEW SECTION. 12K.2 Identification of companies — notice.

1. *a.* By January 1, 2024, a public fund shall identify or have identified all prohibited companies in which the public fund has direct or indirect holdings and shall create and make available to the public a prohibited companies list for that public fund. The public fund shall review and update, if necessary, the prohibited companies list on an annual basis thereafter.

b. In identifying or having identified prohibited companies, the public fund may review and rely, in the best judgment of the public fund, on publicly available information and other

information that may be provided by nonprofit organizations, research firms, international organizations, and government entities. The public fund may also contact asset managers and institutional investors for the public fund to identify prohibited companies based upon industry-recognized lists of such companies that the public fund may have indirect holdings in.

c. The Iowa public employees' retirement system, acting on behalf of the system and other public funds subject to this section, may develop and issue a request for proposals for third-party services to complete the identification of prohibited companies and the compilation of a prohibited companies list. The request for proposals may request bids for optional services related to this purpose, including but not limited to provision of notice of such prohibited companies as required in subsection 2. The Iowa public employees' retirement system shall consult with all other public funds regarding the development of the request for proposals, however selection of a successful proposal and the final scope of services to be provided shall be determined only by those public funds that have agreed to utilize the third-party services. If more than one public fund decides to utilize the third-party services, the participating public funds shall equally share the costs of such services.

2. If a public fund determines that a company may be subject to inclusion on the prohibited companies list, the public fund shall scrutinize and engage the company for a period of not more than twelve months and shall include the company on the prohibited companies list if the public fund determines that the company is a prohibited company.

Sec. 6. NEW SECTION. 12K.3 Divestment.

1. A public fund shall not acquire any direct holdings in publicly traded securities of a prohibited company.

2. a. A public fund shall sell, redeem, divest, or withdraw all direct holdings in publicly traded securities of a prohibited company no later than one hundred eighty days following the date the company is included on the prohibited companies list.

b. This subsection shall not be construed to require the

premature or otherwise imprudent sale, redemption, divestment, or withdrawal of an investment, but such sale, redemption, divestment, or withdrawal shall be completed as provided by this subsection.

Sec. 7. NEW SECTION. 12K.4 Reports.

1. Each public fund shall, within thirty days after the prohibited companies list is created or updated as required by section 12K.2, make the list available to the public.

2. On October 1, 2024, and each October 1 thereafter, each public fund shall make available to the public, and file with the general assembly, an annual report covering the prior fiscal year that includes all of the following:

a. The prohibited companies list as of the end of the fiscal year.

b. All investments sold, redeemed, divested, or withdrawn as provided in section 12K.3 during the fiscal year.

c. A list of indirect holdings of the public fund in publicly traded securities of prohibited companies and the percentage of the total portfolio of the public fund the indirect holdings of securities in prohibited companies represent.

Sec. 8. NEW SECTION. 12K.5 Legal obligations.

With respect to actions taken in compliance with this chapter, including all good-faith determinations regarding companies as required by this chapter, the public fund shall be exempt from any conflicting statutory or common law obligations, including any such obligations with respect to choice of asset managers, investment funds, or investments for the public fund's securities portfolios.

Sec. 9. NEW SECTION. 12K.6 Applicability.

The requirements of sections 12K.2, 12K.3, and 12K.4 shall not apply if the United States Congress or president of the United States, through legislation or executive order, declares that mandatory divestment of the type provided for in this chapter interferes with the conduct of United States foreign policy.

Sec. 10. Section 97A.7, subsection 1, Code 2023, is amended to read as follows:

1. The board of trustees shall be the trustees of the

retirement fund created by [this chapter](#) as provided in section 97A.8 and shall have full power to invest and reinvest funds subject to the terms, conditions, limitations, and restrictions imposed by [subsection 2](#) and [chapters 12F, 12H, and 12J, and 12K](#) and subject to like terms, conditions, limitations, and restrictions said trustees shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities and investments of the retirement fund which have been invested, as well as of the proceeds of said investments and any moneys belonging to the retirement fund. The board of trustees may authorize the treasurer of state to exercise any of the duties of [this section](#). When so authorized the treasurer of state shall report any transactions to the board of trustees at its next monthly meeting.

Sec. 11. Section 97B.4, subsection 5, Code 2023, is amended to read as follows:

5. *Investments.* The system, through the chief investment officer, shall invest, subject to [chapters 12F, 12H, and 12J, and 12K](#) and in accordance with the investment policy and goal statement established by the board, the portion of the retirement fund which, in the judgment of the system, is not needed for current payment of benefits under [this chapter](#) subject to the requirements of [section 97B.7A](#).

Sec. 12. Section 262.14, unnumbered paragraph 1, Code 2023, is amended to read as follows:

The board may invest funds belonging to the institutions, subject to [chapters 12F, 12H, and 12J, and 12K](#) and the following regulations:

Sec. 13. Section 411.7, subsection 1, Code 2023, is amended to read as follows:

1. The board of trustees is the trustee of the fire and police retirement fund created in [section 411.8](#) and shall annually establish an investment policy to govern the investment and reinvestment of the moneys in the fund, subject to the terms, conditions, limitations, and restrictions imposed by [subsection 2](#) and [chapters 12F, 12H, and 12J, and 12K](#). Subject to like terms, conditions, limitations, and restrictions the system has full power to hold, purchase, sell, assign, transfer, or dispose of any of the securities and

investments in which the fund has been invested, as well as of the proceeds of the investments and any moneys belonging to the fund.

Sec. 14. Section 602.9111, subsection 1, Code 2023, is amended to read as follows:

1. So much of the judicial retirement fund as may not be necessary to be kept on hand for the making of disbursements under [this article](#) shall be invested by the treasurer of state in any investments authorized for the Iowa public employees' retirement system in [section 97B.7A](#) and subject to the requirements of [chapters 12F, 12H, and 12J](#), and [12K](#), and the earnings therefrom shall be credited to the fund. The treasurer of state may execute contracts and agreements with investment advisors, consultants, and investment management and benefit consultant firms in the administration of the judicial retirement fund.

AMY SINCLAIR
President of the Senate

PAT GRASSLEY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 418, Ninetieth General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2023

KIM REYNOLDS
Governor