

State of Arkansas

76th General Assembly

Regular Session, 1987

SENATE BILL 58

By: Joint Committee on Public Retirement
and Social Security Programs

"AN ACT TO AMEND VARIOUS SECTIONS OF ACT 793 OF 1977, AS AMENDED [ARK. STAT. 12-3301 ET AL.], TO REQUIRE QUALIFIED DIVESTMENT OF STATE SUPPORTED RETIREMENT SYSTEMS FUNDS OF ANY COMPANY ENGAGED IN BUSINESS IN OR WITH THE REPUBLIC OF SOUTH AFRICA; AND FOR OTHER PURPOSES."

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

SECTION 1. Section 7 of Act 793 of 1977, the same being Arkansas Statute 12-3307, is hereby amended by adding a new subsection:

"7.15 INVESTMENTS - PUBLIC FUNDS - SOUTH AFRICA. (a) After July 1, 1987, within four (4) years, in accordance with the timetable that herein follows, the fiduciaries administering each of the Arkansas public employee retirement systems shall divest pension funds which are, as of July 1, 1987, invested in any company engaged in business in or with the Republic of South Africa. The divestment timetable shall be in four (4) phases during which time the fiduciaries shall divest of stocks, bonds and other forms of financial investments issued by any company engaged in business in or with the Republic of South Africa as set forth herein and subject to the investment criteria set forth in this subsection. The fiduciaries shall divest:

(1) Phase One: During the period July 1, 1987, to June 30, 1988, stocks, bonds and any other forms of financial investments of any company engaged in business in or with the Republic of South Africa that manufactures or sells arms, ammunition, implements of war or data processing equipment or supplies or sells oil for use by the military, police, or security forces or agencies of the Republic of South Africa.

(2) Phase Two: During the period July 1, 1988 to June 30, 1989, of any company engaged in business in or with the Republic of South Africa which has not adopted the 'Statement of Principles of U. S. Firms with Affiliates in

the Republic of South Africa' articulated by Reverend Leon H. Sullivan and set forth in the most recent amplification thereof.

(3) Phase Three: During the period July 1, 1989 to June 30, 1990, of any company engaged in business in or with the Republic of South Africa which has adopted the so-called 'Sullivan Principles' referred to in Phase Two, but which does not have a performance rating in categories I, II or V of the 'Sullivan Principles' rating system prepared by Arthur D. Little, Inc.

(4) Phase Four: During the period July 1, 1990, to June 30, 1991, of any company engaged in business in or with the Republic of South Africa which has adopted the so-called 'Sullivan Principles' referred to in Phases Two and Three, but which does not have a performance rating in category I of the 'Sullivan Principles' rating system prepared by Arthur D. Little, Inc.

(b) Commencing July 1, 1987, the fiduciaries administering said systems shall invest no new pension funds in any company engaged in business in or with the Republic of South Africa which has not adopted the 'Statement of Principles of U. S. Firms with Affiliates in the Republic of South Africa' articulated by Reverend Leon H. Sullivan and set forth in the most recent amplification thereof.

(c) For the purposes of this subsection, 'engaged in business in or with the Republic of South Africa' shall mean a United States company, corporation, subsidiary, or affiliate conducting or performing banking, financial services, manufacturing, assembly, or warehousing operations within the Republic of South Africa, or, if a bank or other financial institution lending money to the Republic of South Africa, or any agency or instrumentality thereof. These companies shall be determined by the most recent annual report of 'American Firms, Subsidiaries and Affiliates in South Africa' published by the American consulate general in Johannesburg, South Africa, and circulated by the United States Department of Commerce; the annual report issued by Arthur D. Little Company; and by other procedures satisfactory to the fiduciaries administering the system.

(d) Notwithstanding the directives of (a) and (b), the fiduciaries administering said systems shall not be required to divest of any funds in accordance with Phases One through Four of the timetable set forth in (a) above if to do so with respect to any investments would not be in accordance with such action as prudent investors would take or when the market value of the investments in any company engaged in business in or with the Republic of South

Africa is lower than the purchase price of such investments.

(e) Present, future, and former members of the board of trustees of any Arkansas public employee retirement system, jointly and individually, state officers and employees, and investment managers under contract with the public employee retirement systems shall be indemnified by the State of Arkansas from all claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including court costs and attorney's fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members, officers, employees, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments in companies engaged in business in or with the Republic of South Africa in compliance with this Act."

SECTION 2. Section 8 of Act 793 of 1977, the same being Arkansas Statute 12-3308, is hereby amended to read as follows:

"Section 8. (a) Each Arkansas public employee retirement system annual audit prepared by the Division of Legislative Audit shall contain, but shall not be limited to: a balance sheet; a statement of receipts and disbursements; a statement of investments acquired and disposed of during the year; a statement of the rate of investment return from all assets and from each type of investment; the results of the most recent actuarial valuation of the system; a list of investments made during the year audited that favorably impact the economic condition and capital investment in the State of Arkansas; and a list of investments in companies engaged in business in or with the Republic of South Africa. A copy of the audit report is to be given to the Legislative Council, and Governor of the State of Arkansas.

(b) The financial reports specified in (a) shall be in a format established by the Legislative Auditor and shall be as concise as practicable and in accordance with standards set forth in the Accounting and Operating Handbook for Public Employee Retirement Systems published by the Municipal Finance Officers Association of the United States and Canada, or as prescribed by the Legislative Auditor."

SECTION 3. The various provisions and parts of this Act are hereby declared severable and if any section or part of a section, provision or part of a provision, herein is declared unconstitutional, inappropriate or invalid

by any court of competent jurisdiction, such holding shall not invalidate or affect the remainder of this Act.

SECTION 4. All laws and parts of laws in conflict with this Act are hereby repealed.

