

As Introduced

**127th General Assembly
Regular Session
2007-2008**

H. B. No. 151

Representatives Mandel, Jones

**Cosponsors: Representatives Adams, Aslanides, Barrett, Brinkman, Bulp,
Budish, Carmichael, Collier, Combs, DeGeeter, Dodd, Dolan, Flowers, Gibbs,
Goyal, Hite, Latta, Mallory, McGregor, J., Patton, Peterson, Schindel, Setzer,
Uecker, Wagner, Wagoner, Webster, Wolpert, Zehringer**

—

A B I L L

To amend section 135.143 and to enact sections 1
117.103 and 137.01 to 137.09 of the Revised Code 2
to prohibit any public investor or any asset 3
manager investing on behalf of any public investor 4
from investing in a foreign company with active 5
business ties or operations in or with the Islamic 6
Republic of Iran and to require that any existing 7
investments in such companies be divested in order 8
to protect the public investments of the State of 9
Ohio from global security risk-related losses. 10

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

Section 1. That section 135.143 be amended and sections 11
117.103, 137.01, 137.02, 137.03, 137.04, 137.05, 137.06, 137.07, 12
137.08, and 137.09 of the Revised Code be enacted to read as 13
follows: 14

Sec. 117.103. (A) As used in this section "public investor" 15
and "public fund" have the same meanings as in section 137.01 of 16

the Revised Code. 17

(B) The auditor of state shall annually do all of the 18
following: 19

(1) Verify that each public investor has complied with the 20
requirements of Chapter 137. of the Revised Code with regard to 21
the investment of public funds; 22

(2) Submit a written report of the auditor's findings to the 23
governor, the president of the senate, the speaker of the house, 24
and the chairpersons of the standing committees with primary 25
responsibility for legislation regarding public investors; 26

(3) If the auditor determines that a public investor has not 27
complied with the requirements of Chapter 137. of the Revised 28
Code, notify the attorney general of the auditor's findings. 29

Sec. 135.143. (A) The treasurer of state may invest or 30
execute transactions for any part or all of the interim funds of 31
the state in the following classifications of obligations: 32

(1) United States treasury bills, notes, bonds, or any other 33
obligations or securities issued by the United States treasury or 34
any other obligation guaranteed as to principal and interest by 35
the United States; 36

(2) Bonds, notes, debentures, or any other obligations or 37
securities issued by any federal government agency or 38
instrumentality; 39

(3) Bonds and other direct obligations of the state of Ohio 40
issued by the treasurer of state and of the Ohio public facilities 41
commission, the Ohio building authority, and the Ohio housing 42
finance agency; 43

(4)(a) Written repurchase agreements with any eligible Ohio 44
financial institution that is a member of the federal reserve 45
system or federal home loan bank or any recognized United States 46

government securities dealer, under the terms of which agreement 47
the treasurer of state purchases and the eligible financial 48
institution or dealer agrees unconditionally to repurchase any of 49
the securities that are listed in division (A)(1), (2), or (6) of 50
this section and that will mature or are redeemable within ten 51
years from the date of purchase. The market value of securities 52
subject to these transactions must exceed the principal value of 53
the repurchase agreement by an amount specified by the treasurer 54
of state, and the securities must be delivered into the custody of 55
the treasurer of state or the qualified trustee or agent 56
designated by the treasurer of state. The agreement shall contain 57
the requirement that for each transaction pursuant to the 58
agreement, the participating institution or dealer shall provide 59
all of the following information: 60

(i) The par value of the securities; 61

(ii) The type, rate, and maturity date of the securities; 62

(iii) A numerical identifier generally accepted in the 63
securities industry that designates the securities. 64

(b) The treasurer of state also may sell any securities, 65
listed in division (A)(1), (2), or (6) of this section, regardless 66
of maturity or time of redemption of the securities, under the 67
same terms and conditions for repurchase, provided that the 68
securities have been fully paid for and are owned by the treasurer 69
of state at the time of the sale. 70

(5) Securities lending agreements with any eligible financial 71
institution that is a member of the federal reserve system or 72
federal home loan bank or any recognized United States government 73
securities dealer, under the terms of which agreements the 74
treasurer of state lends securities and the eligible financial 75
institution or dealer agrees to simultaneously exchange similar 76
securities or cash, equal value for equal value. 77

Securities and cash received as collateral for a securities 78
lending agreement are not interim funds of the state. The 79
investment of cash collateral received pursuant to a securities 80
lending agreement may be invested only in such instruments 81
specified by the treasurer of state in accordance with a written 82
investment policy. 83

(6) Various forms of commercial paper issued by any 84
corporation that is incorporated under the laws of the United 85
States or a state, which notes are rated at the time of purchase 86
in the two highest categories by two nationally recognized rating 87
agencies, provided that the total amount invested under this 88
section in any commercial paper at any time shall not exceed 89
twenty-five per cent of the state's total average portfolio, as 90
determined and calculated by the treasurer of state; 91

(7) Bankers acceptances, maturing in two hundred seventy days 92
or less, which are eligible for purchase by the federal reserve 93
system, provided that the total amount invested in bankers 94
acceptances at any time shall not exceed ten per cent of the 95
state's total average portfolio, as determined and calculated by 96
the treasurer of state; 97

(8) Certificates of deposit in eligible institutions applying 98
for interim moneys as provided in section 135.08 of the Revised 99
Code, including linked deposits as provided in sections 135.61 to 100
135.67 of the Revised Code, agricultural linked deposits as 101
provided in sections 135.71 to 135.76 of the Revised Code, and 102
housing linked deposits as provided in sections 135.81 to 135.87 103
of the Revised Code; 104

(9) The state treasurer's investment pool authorized under 105
section 135.45 of the Revised Code; 106

(10) ~~Debt~~ Except as provided in Chapter 137. of the Revised 107
Code, debt interests, other than commercial paper described in 108

division (A)(6) of this section, rated at the time of purchase in 109
the three highest categories by two nationally recognized rating 110
agencies and issued by corporations that are incorporated under 111
the laws of the United States or a state, or issued by foreign 112
nations diplomatically recognized by the United States government, 113
or any instrument based on, derived from, or related to such 114
interests. All interest and principal shall be denominated and 115
payable in United States funds. The investments made under 116
division (A)(10) of this section shall not exceed in the aggregate 117
twenty-five per cent of the state's total average portfolio, as 118
determined and calculated by the treasurer of state. The 119
investments made under division (A)(10) of this section in debt 120
interests issued by foreign nations shall not exceed in the 121
aggregate one per cent of the state's total average portfolio, as 122
determined and calculated by the treasurer of state. The 123
investments made under division (A)(10) of this section in the 124
debt interests of a single issuer shall not exceed in the 125
aggregate one-half of one per cent of the state's total average 126
portfolio, as determined and calculated by the treasurer of state. 127

The treasurer of state shall invest under division (A)(10) of 128
this section in a debt interest issued by a foreign nation only if 129
the debt interest is backed by the full faith and credit of that 130
foreign nation. For purposes of division (A)(10) of this section, 131
a debt interest is rated in the three highest categories by two 132
nationally recognized rating agencies if either the debt interest 133
itself or the issuer of the debt interest is rated, or is 134
implicitly rated, at the time of purchase in the three highest 135
categories by two nationally recognized rating agencies. 136

(11) No-load money market mutual funds consisting exclusively 137
of obligations described in division (A)(1), (2), or (6) of this 138
section and repurchase agreements secured by such obligations. 139

(12) Obligations of a board of education issued under 140

authority of section 133.10 or 133.301 of the Revised Code. 141

(B) Whenever, during a period of designation, the treasurer 142
of state classifies public moneys as interim moneys, the treasurer 143
of state shall notify the state board of deposit of such action. 144
The notification shall be given within thirty days after such 145
classification and, in the event the state board of deposit does 146
not concur in such classification or in the investments or 147
deposits made under this section, the board may order the 148
treasurer of state to sell or liquidate any of the investments or 149
deposits, and any such order shall specifically describe the 150
investments or deposits and fix the date upon which they are to be 151
sold or liquidated. Investments or deposits so ordered to be sold 152
or liquidated shall be sold or liquidated for cash by the 153
treasurer of state on the date fixed in such order at the then 154
current market price. Neither the treasurer of state nor the 155
members of the state board of deposit shall be held accountable 156
for any loss occasioned by sales or liquidations of investments or 157
deposits at prices lower than their cost. Any loss or expense 158
incurred in making these sales or liquidations is payable as other 159
expenses of the treasurer's office. 160

(C) If any securities or obligations invested in by the 161
treasurer of state pursuant to this section are registrable either 162
as to principal or interest, or both, such securities or 163
obligations shall be registered in the name of the treasurer of 164
state. 165

(D) The treasurer of state is responsible for the safekeeping 166
of all securities or obligations under this section. Any such 167
securities or obligations may be deposited for safekeeping as 168
provided in section 113.05 of the Revised Code. 169

(E) Interest earned on any investments or deposits authorized 170
by this section shall be collected by the treasurer of state and 171
credited by the treasurer of state to the proper fund of the 172

state.	173
(F) Whenever investments or deposits acquired under this	174
section mature and become due and payable, the treasurer of state	175
shall present them for payment according to their tenor, and shall	176
collect the moneys payable thereon. The moneys so collected shall	177
be treated as public moneys subject to sections 135.01 to 135.21	178
of the Revised Code.	179
(G) The treasurer of state and any board of education issuing	180
obligations referred to in division (A)(12) of this section may	181
enter into an agreement providing for:	182
(1) The purchase of those obligations by the treasurer of	183
state on terms and subject to conditions set forth in the	184
agreement;	185
(2) The payment by the board of education to the treasurer of	186
state of a reasonable fee as consideration for the agreement of	187
the treasurer of state to purchase those obligations; provided,	188
however, that the treasurer of state shall not be authorized to	189
enter into any such agreement with the board of education of a	190
school district that has an outstanding obligation with respect to	191
a loan received under authority of section 3313.483 of the Revised	192
Code.	193
(H) For purposes of division (G) of this section, a fee shall	194
not be considered reasonable unless it is set to recover only the	195
direct costs and a reasonable estimate of the indirect costs	196
associated with the purchasing of obligations of a school board	197
under division (G) of this section and any reselling of the	198
obligations or any interest in the obligations, including	199
interests in a fund comprised of the obligations. No money from	200
the general revenue fund shall be used to subsidize the purchase	201
or resale of these obligations.	202
(I) All money collected by the treasurer of state from the	203

fee imposed by division (G) of this section shall be deposited to 204
the credit of the state school board obligations fund, which is 205
hereby created in the state treasury. Money credited to the fund 206
shall be used solely to pay the treasurer of state's direct and 207
indirect costs associated with purchasing and reselling 208
obligations of a board of education under division (G) of this 209
section. 210

Sec. 137.01. As used in this section: 211

(A) "Asset manager" means any company that enters into a 212
contract with a public investor for the investment of public 213
funds. 214

(B) "Asset manager certification report" means the report 215
described in section 137.05 of the Revised Code. 216

(C) "Business ties or operations" means engaging in commerce 217
in any form, including maintaining, selling, acquiring, 218
developing, owning, possessing, operating, or leasing any 219
equipment, facilities, personnel, products, services, personal or 220
real property, or any other apparatus of business or commerce. 221

(D) "Company" means a sole proprietorship, organization, 222
association, corporation, partnership, joint venture, limited 223
partnership, limited liability partnership, limited liability 224
company, business association, or other entity, including any 225
wholly-owned subsidiary, parent company, or affiliate of any of 226
those types of entities, that exists for the purpose of making a 227
profit. 228

(E) "Independent research provider" means a company that has 229
received approval from the treasurer of state as described in 230
section 137.02 of the Revised Code. 231

(F) "Iran" means the Islamic republic of Iran. 232

(G) "Non-publicly-traded foreign company" means any company 233

<u>that is headquartered, domiciled, or incorporated under the laws</u>	234
<u>of any country other than the United States that does not do</u>	235
<u>either of the following anywhere in the world:</u>	236
<u>(1) Issue securities to the public;</u>	237
<u>(2) Make available securities for public trade.</u>	238
<u>(H) "Public investor" means the treasurer of state, the state</u>	239
<u>board of deposit, the workers' compensation oversight commission,</u>	240
<u>the administrator of workers' compensation, and the board of each</u>	241
<u>of the state retirement systems.</u>	242
<u>(I) "Public fund" means the assets included in any fund or</u>	243
<u>portfolio that is under the control of, or controlled on behalf</u>	244
<u>of, a public investor.</u>	245
<u>(J) "Publicly traded foreign company" means any company that</u>	246
<u>is headquartered, domiciled, or incorporated under the laws of any</u>	247
<u>country other than the United States that does either or both of</u>	248
<u>the following anywhere in the world:</u>	249
<u>(1) Issues securities to the public;</u>	250
<u>(2) Makes available securities for public trade.</u>	251
<u>(K) "Social development company" means any of the following:</u>	252
<u>(1) Any company or entity that is not an agency of the</u>	253
<u>government of Iran that holds a valid, current accreditation as a</u>	254
<u>nongovernmental organization from the united nations department of</u>	255
<u>public information;</u>	256
<u>(2) A company that has been identified by an independent</u>	257
<u>research provider as a company whose primary purpose in Iran is to</u>	258
<u>provide to the people of Iran goods and services intended to</u>	259
<u>relieve human suffering; to promote health, religious, or</u>	260
<u>spiritual activities; and to provide education for humanitarian</u>	261
<u>purposes;</u>	262
<u>(3) A company that has been identified by an independent</u>	263

research provider as a company whose primary purpose in Iran is to 264
perform journalistic activities. 265

(L) "State retirement system" means the public employees 266
retirement system, Ohio police and fire pension fund, state 267
teachers retirement system, school employees retirement system, 268
and state highway patrol retirement system. 269

Sec. 137.02. (A)(1) A company may obtain approval from the 270
treasurer of state as an independent research provider for the 271
purposes of section 137.04 of the Revised Code by submitting to 272
the treasurer of state an affidavit that states all of the 273
following: 274

(a) The company is headquartered, domiciled, or incorporated 275
under the laws of this or any other state, or the United States. 276

(b) The company specializes in identifying and assessing 277
companies that are exposed to global security risk. 278

(c) The company offers impartial research on companies' 279
business ties or operations in Iran. 280

(d) The company has, for at least four consecutive calendar 281
years prior to the date the affidavit is submitted, regularly 282
maintained and provided to clients the information described in 283
division (A)(1)(b) and (c) of this section. 284

(e) The company does not engage in or provide investment 285
banking, brokerage services, or corporate finance services. 286

(2) The company shall include with the affidavit the 287
following information: 288

(a) The name of the company and, if different, the name under 289
which it is registered or organized in the state of its 290
organization; 291

(b) The state in which it was organized and the date of its 292

<u>formation;</u>	293
<u>(c) The name and address of an agent for service of any process, notice, or demand on the company;</u>	294 295
<u>(d) An address to which interested persons may direct requests for copies of the articles of organization, operating agreement, bylaws, or other charter documents of the company.</u>	296 297 298
<u>(B) The treasurer of state shall approve a company as an independent research provider for the purposes of section 137.04 of the Revised Code if the statements contained in the affidavit are true and the company otherwise complies with the requirements of this section.</u>	299 300 301 302 303
<u>(C) The treasurer of state shall compile and make available to public investors a list of the companies approved by the treasurer as independent research providers under this section. The treasurer of state shall update the list on a quarterly basis.</u>	304 305 306 307
Sec. 137.03. <u>(A) Each non-publicly-traded foreign company that seeks investment of public funds by a public investor shall submit to the public investor or, if the public investor has contracted with an asset manager for the investment of public funds, to the public investor's asset manager an affidavit that states the following:</u>	308 309 310 311 312 313
<u>(1) That the company does not own or control any property or assets located in Iran;</u>	314 315
<u>(2) That the company does not have business ties or operations in or with Iran.</u>	316 317
<u>(B) Each non-publicly-traded foreign company in which a public investor's public funds are invested on or after the effective date of this section shall annually submit to the public investor, or, if the public investor has contracted with an asset manager for the investment of public funds, to the public</u>	318 319 320 321 322

<u>investor's asset manager an affidavit that states the following:</u>	323
<u>(1) That the company does not own or control any property or asset located in Iran;</u>	324
	325
<u>(2) That the company does not have business ties or operations in or with Iran.</u>	326
	327
<u>(C) A non-publicly-traded foreign company that fails to submit an accurate affidavit of the type described in division (A) of this section or otherwise fails to comply with the requirements of this section is a forbidden entity as provided under section 137.04 of the Revised Code.</u>	328
	329
	330
	331
	332
<u>Sec. 137.04. (A) Except as provided in division (B) of this section, each of the following entities is a forbidden entity:</u>	333
	334
<u>(1) Any publicly-traded foreign company that has been identified by an independent research provider as being a company that is one of the following:</u>	335
	336
	337
<u>(a) A company that has active business ties or operations in or with Iran;</u>	338
	339
<u>(b) A company that has active business ties or operations with any company domiciled in Iran.</u>	340
	341
<u>(2) Any non-publicly-traded foreign company that fails to meet the requirements of section 137.03 of the Revised Code;</u>	342
	343
<u>(3) Any mutual fund, separate account, index, index managed product, or compilation of stocks identified that is not certified by an independent research provider as excluding all forbidden entities described in division (A)(1) of this section.</u>	344
	345
	346
	347
<u>(B) A social development company is not a forbidden entity.</u>	348
<u>Sec. 137.05. (A) No public investor shall invest any public funds by acquiring securities in any forbidden entity.</u>	349
	350

(B) If a public investor has entered into a contract with an asset manager for the investment of public funds, the public investor shall direct each such asset manager to submit to the investor, at no additional cost to the investor, a report that shall be known as the asset manager certification report certifying both of the following: 351
352
353
354
355
356

(1) That the asset manager has not loaned to, invested in, or otherwise transferred any of the public investor's public funds to a forbidden entity any time after the effective date of this section; 357
358
359
360

(2) That the asset manager has divested the public investor's public funds in accordance with section 137.06 of the Revised Code. 361
362
363

The asset manager certification report shall be submitted in writing on a form prescribed by the treasurer of state. 364
365

(C) A public investor that finds that an asset manager with which the public investor has entered into a contract for the investment of public funds has not complied with the requirements of this chapter shall terminate the contract with the asset manager. The asset manager shall be ineligible to conduct business with any public investor for one year. 366
367
368
369
370
371

Sec. 137.06. A public investor shall divest or redeem, or, if applicable, shall direct any asset manager with which the public investor has contracted for the investment of public funds to divest or redeem any securities the public investor holds in a forbidden entity or withdraw from an account that includes such entities as described in division (A)(3) of section 137.04 of the Revised Code in accordance with the following schedule: 372
373
374
375
376
377
378

(A) Within six months after the effective date of this section, divest or redeem at least sixty per cent of the 379
380

investments that the public investor holds in forbidden entities 381
or withdraw at least sixty per cent of the investments in the 382
forbidden entities held in an account; 383

(B) Within twelve months after the effective date of this 384
section, divest or redeem one hundred per cent of the investments 385
that the public investor holds in forbidden entities or withdraw 386
one hundred per cent of the investments in the forbidden entities 387
held in an account. 388

Sec. 137.07. A public investor is not liable for breach of 389
the public investor's fiduciary duty to the public fund for which 390
that public investor has the authority to invest assets if the 391
public investor complies with the requirements of Chapter 137. of 392
the Revised Code. All members and former members of the boards of 393
all public investors and all officers, employees, and agents of 394
such boards shall be indemnified, whether jointly or severally, 395
for all claims, demands, suits, actions, damages, judgments, 396
costs, charges, and expenses, including court costs and attorney's 397
fees, and against all liability, losses, and damages of any nature 398
that such board members, officers, employees, or agents may incur 399
by reason of any decision to restrict, reduce, or eliminate 400
investments in forbidden entities. A board member, officer, 401
employee, or agent of a public investor shall be indemnified 402
through the public fund in which the public investor has the 403
authority to invest. 404

Sec. 137.08. Except as otherwise specified by this chapter or 405
as otherwise specified by the general assembly, this chapter 406
prevails over any conflicting provisions of sections 135.143, 407
145.11, 742.11, 3307.15, 3309.15, 4123.44, and 5505.06 of the 408
Revised Code and all other laws that conflict with this chapter. 409

Sec. 137.09. The attorney general shall enforce the 410

provisions of this chapter and the attorney general or the 411
attorney general's designee may bring an action in court to 412
enforce this chapter. 413

Section 2. That existing section 135.143 of the Revised Code 414
is hereby repealed. 415

Section 3. Each non-publicly-traded foreign company in which 416
a public investor's public funds are invested on the effective 417
date of this act shall, within six months after the effective date 418
of the act, submit to the public investor, or, if the public 419
investor has contracted with an asset manager for the investment 420
of public funds, to the public investor's asset manager an 421
affidavit that states the following: 422

(1) That the company does not own or control any property or 423
asset located in Iran; 424

(2) That the company does not have business ties or 425
operations in or with Iran. 426