SUBJECT:	Prohibiting investments of public money in certain foreign entities
COMMITTEE:	State Affairs — committee substitute recommended
VOTE:	11 ayes — Cook, Giddings, Craddick, Farrar, Geren, K. King, Kuempel, Meyer, Oliveira, Paddie, E. Rodriguez 0 nays 2 absent — Guillen, Smithee
WITNESSES:	For — (*Registered, but did not testify*: Michelle Smith, Texas Association of School Business Officials) Against — None On — (*Registered, but did not testify*: Brent Turner, Comptroller of Public Accounts)

BACKGROUND: The 80th Legislature in 2007 enacted SB 247 by Ellis (Government Code, ch. 806), which required the Employees Retirement System and the Teacher Retirement System to sell, redeem, divest or withdraw all publicly traded securities of scrutinized companies engaged in business with Sudan. It also prohibited the retirement systems from investing in such companies.

The 83rd Legislature in 2013 enacted SB 200 by Patrick (Government Code, ch. 807), which established investment prohibitions and required the same divestment process of the Employees, Teacher, Municipal, County and District, and Emergency Services retirement systems from scrutinized companies engaged in business with Iran.

A scrutinized company is one that has engaged in scrutinized business operations that involve contracts with or providing supplies or services to the governments of Sudan or Iran; a company in which either government has any direct or indirect equity share; a consortium or project commissioned by either government; or a company involved in a consortium or project commissioned by either government.

Concerns have been raised that while these laws required certain retirement systems' to divest from and prohibited future investments in companies engaged in business with Sudan or Iran, the requirements did not extend to other public funds.

DIGEST: CSHB 1143 would prohibit the investment of public money in companies engaged in scrutinized business with Sudan, Iran, or a foreign terrorist organization designated by the U.S. secretary of state.

Investments in Sudan and Iran. Government Code, ch. 806, governing investment in Sudan, would be re-designated as a new chapter. Ch. 807, governing investment in Iran, would be repealed and consolidated into the new chapter. On the effective date of the bill, all power, duties, and functions of the State Pension Review Board under ch. 807 would be transferred to the comptroller.

Investments in certain foreign terrorist organizations. The consolidated provisions, including those related to the divestment process and investment prohibitions, would be expanded to apply to investments with a company engaged in scrutinized business operations with a designated foreign terrorist organization, as defined in the bill.

The comptroller would be required to prepare, maintain, and make available on the comptroller's website a list of designated foreign terrorist organizations. The initial list would have to be provided by September 1, 2017, and filed within 30 days with the presiding officer of each house of the Legislature.

Investing entities. The bill would apply to all investing entities, not just the Employees Retirement System and Teacher Retirement System. The bill would define investing entities to include a local government, a state agency, a nonprofit organization acting on behalf of a governmental entity, an investment pool, and the comptroller.

Listed companies. The bill would expand the requirements for the comptroller to maintain a list of scrutinized companies with certain business operations in Sudan to include those with similar operations in Iran and with a designated foreign terrorist organization. The initial list would have to be provided by October 1, 2017, and updated annually.

Exemptions. The Employees Retirement System or the Teacher Retirement System would not be subject to divestment requirements if the entity determined that the requirement would be inconsistent with its fiduciary responsibility with respect to the investment of assets or other duties imposed by law.

The bill would exempt an investing entity from any conflicting statutory obligations regarding investment decisions that relate to state treasury operations of the comptroller or public funds.

A company that the U.S. government declared to be excluded from its federal sanctions regime relating to Sudan, Iran, or a designated foreign terrorist organization would not be subject to divestment or investment prohibition.

Sunset. The chapter added by the bill would expire September 1, 2037.

Effective date. This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect on the 91st day after the last day of the legislative session.

NOTES:

According to the Legislative Budget Board, the bill could have an indeterminate fiscal impact on the state depending on the difference in returns for investments affected by the bill and the returns for investments that would replace them.

A companion bill, SB 253 by V. Taylor, was reported engrossed by the Senate on April 19 and was referred to the House State Affairs Committee on May 1.