SB251

VKT8PVL-1

By Senators Jones, Shelnutt, Allen, Williams, Melson, Beasley, Kitchens, Butler, Barfoot, Kelley, Sessions, Roberts, Weaver, Livingston, Reed, Price, Chesteen, Carnley, Stutts, Givhan, Hovey, Waggoner

RFD: Veterans and Military Affairs

First Read: 21-Mar-24

SYNOPSIS:

Under existing law, the Board of Control of the Retirement Systems of Alabama is authorized to act as trustee of several funds and is granted full power to invest and reinvest funds.

This bill would enforce the prohibition placed on investment activities by certain Presidential Executive Orders addressing an identified national emergency regarding the threat from securities investments that finance Communist Chinese military companies.

This bill would prohibit the purchase or sale of any publicly traded securities to or from certain entities affiliated with Communist Chines military companies or any publicly traded securities that are derivative of such securities or are designed to provide investment exposure to such securities.

The bills would also provide for certain definitions.

A BILL

TO BE ENTITLED

AN ACT

Relating to public investments; to add Section

16-25-20.1, to the Code of Alabama 1975, to prohibit the Board of Control of the Teachers' Retirement System of Alabama from making certain investments; and to add Section 36-27-25.1 to prohibit the Board of Control for the Employees' Retirement System of Alabama from making certain investments.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 16-25-20.1 and 36-27-25.1 are added to the Code of Alabama 1975, to read as follows:

§16-25-20.1

(a) as used in this section, the following terms have the following meanings:

(1) INVESTMENT ACTIVITIES. The act of investing or the lending of assets of the Teachers' Retirement System of Alabama.

(2) RESTRICTED ENTITY. All of the following:

a. A Chinese Entity that is:

1. Designated by Presidential Executive Order 13959, relating to addressing the threat from securities investments that finance Communist Chinese military companies;

2. Designated by Presidential Executive Order 14105(88 Fed. Reg. 54867), relating to addressing United States investments in certain national security technologies and products in countries of concern; and

3. Included in the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of the Treasury, Office of Foreign Assets Control.

b. A Chinese Entity that is:

1. Included on the Non-SDN Chinese Military-Industrial

Complex Companies List (NS-CMIC List) maintained by the U.S. Department of the Treasury Office of Foreign Assets Control under Executive Order 14032;

2. A Chinese military company or a military-civil fusion contributor and included on the list maintained by the Department of Defense in accordance with Section 1260H(b)of the National Defense Authorization Act for Fiscal Year 2021;

3. Included on the list required under Section 1237 of the National Defense Authorization Act for Fiscal Year 1999;

4. Included on the Entity List in 15 C.F.R. Supplement No. 4 to Part 744 of the federal government's Export Administration Regulations;

5. Included on the Denied Persons List described in 15 C.F.R. § 764.3(a)(2) of the federal government's Export Administration Regulations;

6. Included on the Unverified List set forth in 15 C.F.R. Supplement No.6 to Part 744 of the Export Administration Regulations;

7. Included on the Military End User List set forth in 15 C.F.R. Supplement No.7 to Part 744 of the Export Administration Regulations;

8. Produces or provides communications equipment or service on the list published by the Federal Communications Commission under 47 U.S.C. § 1601(a) of the Secure and Trusted Communications Networks Act of 2019;

9. Included on the Uyghur Forced Labor Prevention Act Entity List maintained by the Department of Homeland Security;

10. Included on the Withhold Release Orders and

Findings List maintained by the Commissioner of U.S. Customs and Border Protection pursuant to the Uyghur Forced Labor Prevention Act 88 Fed. Reg. 85899;

11. Included on the list of covered issuers, as defined in Section 104 of the Sarbanes Oxley Act of 2002 15 U.S.C. § 7214, maintained by the Securities and Exchange Commission; and

12. Otherwise included on any other list maintained by the United States Government that designates a Chinese entity for a restriction relating to investment, contracting, or procurement.

c. A Chinese entity otherwise subject to the control of a Chinese entity listed in paragraph a. or b.

d. Any agency or instrumentality of the People's Republic of China.

(b) The State Auditor or his or her designee, no later than January 1, 2025, shall create a list of restricted entities and shall update the list each six months. The retirement system shall not engage in investment activities with a listed restricted entity.

(c) Upon publication of the restricted entity list, the Board of Control of the retirement system shall identify any holdings of the retirement system in such a restricted entity and, acting as a prudent investor, shall expeditiously divest from any holdings or other investment activity in that entity.

§36-27-25.1

(a) as used in this section, the following terms have the following meanings:

(1) INVESTMENT ACTIVITIES. The act of investing or the lending of assets of the retirement systems.

(2) RESTRICTED ENTITY. All of the following:

a. A Chinese Entity that is:

1. Designated by Presidential Executive Order 13959, relating to addressing the threat from securities investments that finance Communist Chinese military companies;

2. Designated by Presidential Executive Order 14105 (88 Fed. Reg. 54867), relating to addressing United States investments in certain national security technologies and products in countries of concern; and

3. Included in the List of Specially Designated Nationals and Blocked Persons maintained by the U.S. Department of the Treasury, Office of Foreign Assets Control.

b. A Chinese Entity that is:

1. Included on the Non-SDN Chinese Military-Industrial Complex Companies List (NS-CMIC List) maintained by the Office of Foreign Assets Control Department of the Treasury under Executive Order 14032;

2. A Chinese military company or a military-civil fusion contributor and included on the list maintained by the Department of Defense in accordance with Section 1260H(b) of the National Defense Authorization Act for Fiscal Year 2021;

3. Included on the list required under Section 1237 of the National Defense Authorization Act for Fiscal Year 1999;

4. Included on the Entity List in 15 C.F.R. Supplement No. 4 to Part 744 of the federal government's Export Administration Regulations;

5. Included on the Denied Persons List described in 15 C.F.R. § 764.3(a)(2) of the federal government's Export Administration Regulations;

6. Included on the Unverified List set fort in 15 C.F.R. Supplement No.6 to Part 744 of the Export Administration Regulations;

7. Included on the Military End User List set forth in 15 C.F.R. Supplement No.7 to Part 744 of the Export Administration Regulations;

8. Produces or provides communications equipment or service on the list published by the Federal Communications Commission under 47 U.S.C. § 1601(a) of the Secure and Trusted Communications Networks Act of 2019;

9. Included on the Uyghur Forced Labor Prevention Act Entity List maintained by the Department of Homeland Security;

10. Included on the Withhold Release Orders and Findings List maintained by the Commissioner of U.S. Customs and Border Protection pursuant to the Uyghur Forced Labor Prevention Act 88 Fed. Reg. 855899;

11. Included on the list of covered issuers, as defined in Section 104 of the Sarbanes Oxley Act of 2002, 15 U.S.C. § 7214, maintained by the Securities and Exchange Commission; and

12. Otherwise included on any other list maintained by the United States Government that designates as a Chinese entity for a restriction relating to investment, contracting, or procurement.

c. A Chinese entity otherwise subject to the control of

a Chinese entity listed in paragraph a or b.

d. Any agency or instrumentality of the People's Republic of China.

(b) The State Auditor or his or her designee, no later than January 1, 2025, shall create a list of restricted entities and shall update the list each six months. The retirement system shall not engage in investment activities with a listed restricted entity.

(c) Upon publication of the restricted entity list, the Board of Control of The retirement system shall identify any holdings of the retirement system in such a restricted entity and, acting as a prudent investor, shall expeditiously divest from any holdings or other investment activity in that entity.

Section 2. This act shall become effective on October 1, 2024.