



Sen. Jacqueline Y. Collins

Filed: 3/9/2005

09400SB0023sam001

SDS094 00130 LMT 30130 a

1 AMENDMENT TO SENATE BILL 23

2 AMENDMENT NO. _____. Amend Senate Bill 23 by replacing the
3 title with the following:

4 "AN ACT concerning State government, which may be cited as
5 the Act to End Atrocities and Terrorism in the Sudan."; and

6 by replacing everything after the enacting clause with the
7 following:

8 "Section 5. The Deposit of State Moneys Act is amended by
9 changing Section 22.5 and by adding Section 22.6 as follows:

10 (15 ILCS 520/22.5) (from Ch. 130, par. 41a)

11 Sec. 22.5. Permitted investments. The State Treasurer may,
12 with the approval of the Governor, invest and reinvest any
13 State money in the treasury which is not needed for current
14 expenditures due or about to become due, in obligations of the
15 United States government or its agencies or of National
16 Mortgage Associations established by or under the National
17 Housing Act, 1201 U.S.C. 1701 et seq., or in mortgage
18 participation certificates representing undivided interests in
19 specified, first-lien conventional residential Illinois
20 mortgages that are underwritten, insured, guaranteed, or
21 purchased by the Federal Home Loan Mortgage Corporation or in
22 Affordable Housing Program Trust Fund Bonds or Notes as defined
23 in and issued pursuant to the Illinois Housing Development Act.

1 All such obligations shall be considered as cash and may be
2 delivered over as cash by a State Treasurer to his successor.

3 The State Treasurer may, with the approval of the Governor,
4 purchase any state bonds with any money in the State Treasury
5 that has been set aside and held for the payment of the
6 principal of and interest on the bonds. The bonds shall be
7 considered as cash and may be delivered over as cash by the
8 State Treasurer to his successor.

9 The State Treasurer may, with the approval of the Governor,
10 invest or reinvest any State money in the treasury that is not
11 needed for current expenditure due or about to become due, or
12 any money in the State Treasury that has been set aside and
13 held for the payment of the principal of and the interest on
14 any State bonds, in shares, withdrawable accounts, and
15 investment certificates of savings and building and loan
16 associations, incorporated under the laws of this State or any
17 other state or under the laws of the United States; provided,
18 however, that investments may be made only in those savings and
19 loan or building and loan associations the shares and
20 withdrawable accounts or other forms of investment securities
21 of which are insured by the Federal Deposit Insurance
22 Corporation.

23 The State Treasurer may not invest State money in any
24 savings and loan or building and loan association unless a
25 commitment by the savings and loan (or building and loan)
26 association, executed by the president or chief executive
27 officer of that association, is submitted in the following
28 form:

29 The Savings and Loan (or Building
30 and Loan) Association pledges not to reject arbitrarily
31 mortgage loans for residential properties within any
32 specific part of the community served by the savings and
33 loan (or building and loan) association because of the
34 location of the property. The savings and loan (or building

1 and loan) association also pledges to make loans available
2 on low and moderate income residential property throughout
3 the community within the limits of its legal restrictions
4 and prudent financial practices.

5 The State Treasurer may, with the approval of the Governor,
6 invest or reinvest, at a price not to exceed par, any State
7 money in the treasury that is not needed for current
8 expenditures due or about to become due, or any money in the
9 State Treasury that has been set aside and held for the payment
10 of the principal of and interest on any State bonds, in bonds
11 issued by counties or municipal corporations of the State of
12 Illinois.

13 The State Treasurer may, with the approval of the Governor,
14 invest or reinvest any State money in the Treasury which is not
15 needed for current expenditure, due or about to become due, or
16 any money in the State Treasury which has been set aside and
17 held for the payment of the principal of and the interest on
18 any State bonds, in participations in loans, the principal of
19 which participation is fully guaranteed by an agency or
20 instrumentality of the United States government; provided,
21 however, that such loan participations are represented by
22 certificates issued only by banks which are incorporated under
23 the laws of this State or any other state or under the laws of
24 the United States, and such banks, but not the loan
25 participation certificates, are insured by the Federal Deposit
26 Insurance Corporation.

27 The State Treasurer may, with the approval of the Governor,
28 invest or reinvest any State money in the Treasury that is not
29 needed for current expenditure, due or about to become due, or
30 any money in the State Treasury that has been set aside and
31 held for the payment of the principal of and the interest on
32 any State bonds, in any of the following:

33 (1) Bonds, notes, certificates of indebtedness,
34 Treasury bills, or other securities now or hereafter issued

1 that are guaranteed by the full faith and credit of the
2 United States of America as to principal and interest.

3 (2) Bonds, notes, debentures, or other similar
4 obligations of the United States of America, its agencies,
5 and instrumentalities.

6 (2.5) Bonds, notes, debentures, or other similar
7 obligations of a foreign government, other than the
8 Republic of the Sudan, that are guaranteed by the full
9 faith and credit of that government as to principal and
10 interest, but only if the foreign government has not
11 defaulted and has met its payment obligations in a timely
12 manner on all similar obligations for a period of at least
13 25 years immediately before the time of acquiring those
14 obligations.

15 (3) Interest-bearing savings accounts,
16 interest-bearing certificates of deposit, interest-bearing
17 time deposits, or any other investments constituting
18 direct obligations of any bank as defined by the Illinois
19 Banking Act.

20 (4) Interest-bearing accounts, certificates of
21 deposit, or any other investments constituting direct
22 obligations of any savings and loan associations
23 incorporated under the laws of this State or any other
24 state or under the laws of the United States.

25 (5) Dividend-bearing share accounts, share certificate
26 accounts, or class of share accounts of a credit union
27 chartered under the laws of this State or the laws of the
28 United States; provided, however, the principal office of
29 the credit union must be located within the State of
30 Illinois.

31 (6) Bankers' acceptances of banks whose senior
32 obligations are rated in the top 2 rating categories by 2
33 national rating agencies and maintain that rating during
34 the term of the investment.

1 (7) Short-term obligations of corporations organized
2 in the United States with assets exceeding \$500,000,000 if
3 (i) the obligations are rated at the time of purchase at
4 one of the 3 highest classifications established by at
5 least 2 standard rating services and mature not later than
6 180 days from the date of purchase, (ii) the purchases do
7 not exceed 10% of the corporation's outstanding
8 obligations, ~~and~~ (iii) no more than one-third of the public
9 agency's funds are invested in short-term obligations of
10 corporations, and (iv) the corporation is not a forbidden
11 entity, as defined in Section 22.6 of the Deposit of State
12 Moneys Act.

13 (8) Money market mutual funds registered under the
14 Investment Company Act of 1940, provided that the portfolio
15 of the money market mutual fund is limited to obligations
16 described in this Section and to agreements to repurchase
17 such obligations.

18 (9) The Public Treasurers' Investment Pool created
19 under Section 17 of the State Treasurer Act or in a fund
20 managed, operated, and administered by a bank.

21 (10) Repurchase agreements of government securities
22 having the meaning set out in the Government Securities Act
23 of 1986 subject to the provisions of that Act and the
24 regulations issued thereunder.

25 (11) Investments made in accordance with the
26 Technology Development Act.

27 For purposes of this Section, "agencies" of the United
28 States Government includes:

29 (i) the federal land banks, federal intermediate
30 credit banks, banks for cooperatives, federal farm credit
31 banks, or any other entity authorized to issue debt
32 obligations under the Farm Credit Act of 1971 (12 U.S.C.
33 2001 et seq.) and Acts amendatory thereto;

34 (ii) the federal home loan banks and the federal home

1 loan mortgage corporation;

2 (iii) the Commodity Credit Corporation; and

3 (iv) any other agency created by Act of Congress.

4 The Treasurer may, with the approval of the Governor, lend
5 any securities acquired under this Act. However, securities may
6 be lent under this Section only in accordance with Federal
7 Financial Institution Examination Council guidelines and only
8 if the securities are collateralized at a level sufficient to
9 assure the safety of the securities, taking into account market
10 value fluctuation. The securities may be collateralized by cash
11 or collateral acceptable under Sections 11 and 11.1.

12 (Source: P.A. 92-546, eff. 1-1-03; 92-851, eff. 8-26-02;
13 revised 9-19-02.)

14 (15 ILCS 520/22.6 new)

15 Sec. 22.6. Prohibited deposits.

16 (a) Notwithstanding any other provision of law, the State
17 Treasurer shall not deposit any funds into or otherwise
18 contract with any financial institution unless an expressly
19 authorized officer of that financial institution annually
20 certifies, in the manner and form established by the Treasurer,
21 that the financial institution has implemented policies and
22 practices that require loan applicants to certify that they are
23 not forbidden entities.

24 (b) For the purposes of this Section:

25 "Company" is any entity capable of affecting commerce,
26 including but not limited to (i) a government, government
27 agency, natural person, legal person, sole proprietorship,
28 partnership, firm, corporation, subsidiary, affiliate,
29 franchisor, franchisee, joint venture, trade association,
30 financial institution, utility, public franchise, provider of
31 financial services, trust, or enterprise; and (ii) any
32 association thereof.

33 "Forbidden entity" means any of the following:

1 (1)The government of the Republic of the Sudan and any
2 of its agencies, including but not limited to political
3 units and subdivisions;

4 (2)Any company that is wholly or partially managed or
5 controlled by the government of the Republic of the Sudan
6 and any of its agencies, including but not limited to
7 political units and subdivisions;

8 (3)Any company (i) that is established or organized
9 under the laws of the Republic of the Sudan; or (ii) whose
10 principal place of business is in the Republic of the
11 Sudan;

12 (4)Any company (i) identified by the Office of Foreign
13 Assets Control in the United States Department of the
14 Treasury as sponsoring terrorist activities; or (ii)
15 fined, penalized, or sanctioned by the Office of Foreign
16 Assets Control in the United States Department of the
17 Treasury for any violation of any United States rules and
18 restrictions relating to the Republic of the Sudan that
19 occurred at any time following the effective date of this
20 Act; and

21 (5)Any company who has failed to certify under oath
22 that it does not own or control any property or asset
23 located in, have employees or facilities located in,
24 provide goods or services to, obtain goods or services
25 from, have distribution agreements with, issue credits or
26 loans to, purchase bonds or commercial paper issued by, or
27 invest in (i) the Republic of the Sudan; or (ii) any
28 company domiciled in the Republic of the Sudan.

29 Notwithstanding the foregoing, the term "forbidden entity"
30 shall exclude companies, except agencies of the Republic of the
31 Sudan, who are certified as Non-Government Organizations by the
32 United Nations, or who engage solely in (i) the provision of
33 goods and services intended to relieve human suffering or to
34 promote welfare, health, religious and spiritual activities,

1 and education for humanitarian purposes or otherwise; or (ii)
2 journalistic activities.

3 (c) In addition to any other penalties and remedies
4 available under the law of Illinois and the United States,
5 any transaction between a financial institution and a
6 company that violates the provisions of this Act shall be
7 void or voidable, at the joint discretion of the Treasurer
8 and the financial institution.

9 (d) This Section does not apply to (a) linked deposits made
10 by the Treasurer into financial institutions in return for
11 that institution's commitment to provide, through loans or
12 other financial support, agreed benefits in projects
13 undertaken in the community; and (b) the purchase of
14 depository, custodial, processing, and advisory services
15 that are necessary to fulfill the Treasurer's obligations
16 and responsibilities.

17 Section 10. The Illinois Pension Code is amended by adding
18 Section 1-110.5 as follows:

19 (40 ILCS 5/1-110.5 new)

20 Sec. 1-110.5. Certain prohibited transactions.

21 (a) A fiduciary of a retirement system or pension fund
22 established under this Code shall not transfer or disburse
23 funds to, deposit into, acquire any bonds or commercial paper
24 from, or otherwise loan to or invest in any entity unless the
25 company charged with managing the assets of the retirement
26 system or pension fund, at no additional cost to the fiduciary,
27 certifies to the fiduciary, in the manner and form established
28 by the Treasurer, that:

29 (1)the fund managing company has not loaned to,
30 invested in, or otherwise transferred any of the retirement
31 system or pension fund's assets to a forbidden entity any
32 time after the effective date of this Act;

1 (2)at least 60% of the retirement system or pension
2 fund's assets are not invested in forbidden entities at any
3 time more than twelve months after the effective date of
4 this Act;

5 (3)at least 100% of the retirement system or pension
6 fund's assets are not invested in forbidden entities at any
7 time more than eighteen months after the effective date of
8 this Act.

9
10 (b) For purposes of this Section:

11 "Company" is any entity capable of affecting commerce,
12 including but not limited to (i) a government, government
13 agency, natural person, legal person, sole proprietorship,
14 partnership, firm, corporation, subsidiary, affiliate,
15 franchisor, franchisee, joint venture, trade association,
16 financial institution, utility, public franchise, provider
17 of financial services, trust, or enterprise; and (ii) any
18 association thereof.

19 "Forbidden entity" means any of the following:

20 (1)The government of the Republic of the Sudan and any of
21 its agencies, including but not limited to political units
22 and subdivisions;

23 (2)Any company that is wholly or partially managed or
24 controlled by the government of the Republic of the Sudan
25 and any of its agencies, including but not limited to
26 political units and subdivisions;

27 (3)Any company (i) that is established or organized under
28 the laws of the Republic of the Sudan; (ii) whose principal
29 place of business is in the Republic of the Sudan;

30 (4)Any company (i) identified by the Office of Foreign
31 Assets Control in the United States Department of the
32 Treasury as sponsoring terrorist activities; or (ii)
33 fined, penalized, or sanctioned by the Office of Foreign
34 Assets Control in the United States Department of the

1 Treasury for any violation of any United States rules and
2 restrictions relating to the Republic of the Sudan that
3 occurred at any time following the effective date of this
4 Act; and

5 (5)Any publicly traded company who has been identified by
6 an independent researching firm that specializes in global
7 security risk as being a company that owns or controls
8 property or assets located in, has employees or facilities
9 located in, provides goods or services to, obtain goods or
10 services from, has distribution agreements with, issue
11 credits or loans to, purchase bonds or commercial paper
12 issued by, or invest in (i) the Republic of the Sudan; or
13 (ii) any company domiciled in the Republic of the Sudan;
14 and

15 (6)Any non publicly-traded company that fails to submit to
16 the fund managing company an affidavit sworn under oath in
17 which an expressly authorized officer of the company avers
18 that the company (i) does not own or control any property
19 or asset located in the Republic of the Sudan; and (ii) did
20 not transact commercial business in the Republic of the
21 Sudan.

22 Notwithstanding the foregoing, the term "forbidden entity"
23 shall exclude companies, except agencies of the Republic of the
24 Sudan, who are certified as Non-Government Organizations by the
25 United Nations, or who engage solely in (i) the provision of
26 goods and services intended to relieve human suffering or to
27 promote welfare, health, religious and spiritual activities,
28 and education humanitarian purposes or otherwise; or (ii)
29 journalistic activities.

30 (c) In addition to any other penalties and remedies
31 available under the law of Illinois and the United States,
32 any transaction that violates the provisions of this Act
33 shall be void or voidable, at the sole discretion of the
34 fiduciary.

1 Section 90. Term; construction. The provisions of this
2 amendatory Act of the 94th General Assembly shall have full
3 force and effect until such time as the government of the
4 United States, through Executive Order or otherwise, rescinds
5 Executive Order 13067, or until such time as these provisions
6 are repealed or modified by the General Assembly. This
7 amendatory Act of the 94th General Assembly shall be construed
8 under the laws of the State of Illinois and, where applicable,
9 the laws of the United States.

10 Section 99. Effective date. This Act takes effect 7 months
11 after becoming law."