

By: Ellis

S.B. No. 602

A BILL TO BE ENTITLED

AN ACT

1
2 relating to prohibiting the investment of the permanent university
3 fund in certain business entities doing business in Sudan.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. The legislative findings set out in Section 1,
6 Chapter 1375 (S.B. No. 247), Acts of the 80th Legislature, Regular
7 Session, 2007, are hereby reaffirmed. Those findings apply to this
8 Act in the same manner as they apply to Chapter 1375 and the law
9 enacted by that chapter.

10 SECTION 2. Subchapter A, Chapter 66, Education Code, is
11 amended by adding Section 66.10 to read as follows:

12 Sec. 66.10. PROHIBITION ON INVESTMENT IN BUSINESS ENTITIES
13 DOING BUSINESS IN SUDAN. (a) In this section, "board" means the
14 board of regents of The University of Texas System.

15 (b) Except as otherwise provided by this section, Chapter
16 806, Government Code, applies to the board and to any entity acting
17 on behalf of the board, including a nonprofit corporation acting
18 under Section 66.08, with regard to the investment of the permanent
19 university fund in the same manner as that chapter applies to a
20 state governmental entity with regard to investments made by the
21 state governmental entity. The definitions provided by Section
22 806.001, Government Code, apply to this section.

23 (c) In a cause of action based on an action, inaction,
24 decision, divestment, investment, company communication, report,

1 or other determination made or taken in connection with this
2 section or Chapter 806, Government Code, the state shall, without
3 regard to whether the person performed services for compensation,
4 indemnify and hold harmless for actual damages, court costs, and
5 attorney's fees adjudged against, and defend:

6 (1) an employee or member of the board;

7 (2) an employee or officer of any entity acting on
8 behalf of the board, including a nonprofit corporation acting under
9 Section 66.08;

10 (3) a contractor of the board;

11 (4) a former board employee, a former board member, or
12 a former employee or officer of an entity described by Subdivision
13 (2) who was serving in that capacity when the act or omission on
14 which the damages are based occurred; and

15 (5) a former contractor of the board who was a
16 contractor when the act or omission on which the damages are based
17 occurred.

18 (d) A person may not sue or pursue a private cause of action
19 against the state, the board, an employee or member of the board, an
20 employee or officer of any entity acting on behalf of the board,
21 including a nonprofit corporation acting under Section 66.08, or a
22 contractor of the board for any claim or cause of action, including
23 breach of fiduciary duty, or for violation of any constitutional,
24 statutory, or regulatory requirement in connection with any action,
25 inaction, decision, divestment, investment, company communication,
26 report, or other determination made or taken in connection with
27 this section or Chapter 806, Government Code. A person who files

1 suit against the state, the board, an employee or member of the
2 board, an employee or officer of any entity acting on behalf of the
3 board, including a nonprofit corporation acting under Section
4 66.08, or a contractor of the board is liable for paying the costs
5 and attorney's fees of a person sued in violation of this
6 subsection.

7 (e) The attorney general may bring any action to enforce
8 this section.

9 (f) This section expires on the date Chapter 806, Government
10 Code, expires.

11 (g) The comptroller shall provide the current list of
12 scrutinized companies required by Section 806.051, Government
13 Code, to the board as soon as practicable after September 1, 2009.
14 The board becomes subject to the duties imposed on a state
15 governmental entity by Chapter 806, Government Code, when the board
16 receives the initial list under this subsection. This subsection
17 expires January 1, 2010.

18 SECTION 3. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2009.