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HB 7071

2024 Legislature

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 2 An act relating to foreign investments by the State  
 3 Board of Administration; amending s. 215.47, F.S.;  
 4 conforming a provision to changes made by the act;  
 5 creating s. 215.4735, F.S.; defining terms;  
 6 prohibiting the State Board of Administration from  
 7 acquiring certain holdings on behalf of a specified  
 8 entity; requiring the board to initiate a review of  
 9 its direct holdings to make a specified determination  
 10 by a date certain; requiring the board to develop a  
 11 certain divestment plan for such holdings by a date  
 12 certain; requiring the board to divest from such  
 13 holdings according to the required plan by a date  
 14 certain; providing for an extension under specified  
 15 conditions; requiring that certain actions be adopted  
 16 and incorporated into a specified statement; providing  
 17 an effective date.

18  
 19 Be It Enacted by the Legislature of the State of Florida:

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 21 Section 1. Subsection (10) of section 215.47, Florida  
 22 Statutes, is amended to read:

23 215.47 Investments; authorized securities; loan of  
 24 securities.—Subject to the limitations and conditions of the  
 25 State Constitution or of the trust agreement relating to a trust

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26 | fund, moneys available for investments under ss. 215.44-215.53  
 27 | may be invested as follows:

28 |       (10) (a) As used in this subsection, the term "pecuniary  
 29 | factor" means a factor that the State Board of Administration  
 30 | prudently determines is expected to have a material effect on  
 31 | the risk or returns of an investment based on appropriate  
 32 | investment horizons consistent with applicable investment  
 33 | objectives and funding policy. The term does not include the  
 34 | consideration of the furtherance of any social, political, or  
 35 | ideological interests.

36 |       (b) Notwithstanding any other law except for ss. 215.471,  
 37 | 215.4725, ~~and 215.473,~~ and 215.4735, when deciding whether to  
 38 | invest and when investing the assets of any fund, the State  
 39 | Board of Administration must make decisions based solely on  
 40 | pecuniary factors and may not subordinate the interests of the  
 41 | participants and beneficiaries of the fund to other objectives,  
 42 | including sacrificing investment return or undertaking  
 43 | additional investment risk to promote any nonpecuniary factor.  
 44 | The weight given to any pecuniary factor must appropriately  
 45 | reflect a prudent assessment of its impact on risk or returns.

46 |       (c) Investments made by the State Board of Administration  
 47 | shall be designed to maximize the financial return to the fund  
 48 | consistent with the risks incumbent in each investment and shall  
 49 | be designed to preserve an appropriate diversification of the  
 50 | portfolio. The board shall discharge its duties with respect to

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51 a plan solely in the interest of its participants and  
 52 beneficiaries. The board in performing the above investment  
 53 duties shall comply with the fiduciary standards set forth in  
 54 the Employee Retirement Income Security Act of 1974 at 29 U.S.C.  
 55 s. 1104(a)(1)(A) through (C). Except as provided in paragraph  
 56 (b), in case of conflict with other provisions of law  
 57 authorizing investments, the investment and fiduciary standards  
 58 set forth in this paragraph prevail.

59 Section 2. Section 215.4735, Florida Statutes, is created  
 60 to read:

61 215.4735 Prohibited foreign investments.-

62 (1) As used in this section, the term:

63 (a) "Board" means the State Board of Administration.

64 (b) "China" means the government of the People's Republic  
 65 of China, the Chinese Communist Party, the Chinese military, or  
 66 any instrumentality thereof, or any combination thereof.

67 (c) "Chinese company" means a company that is publicly  
 68 known to be majority-owned by China.

69 (d) "Company" means a sole proprietorship, an  
 70 organization, an association, a corporation, a partnership, a  
 71 joint venture, a limited partnership, a limited liability  
 72 partnership, a limited liability company, or any other entity or  
 73 business association, including all wholly owned subsidiaries,  
 74 majority-owned subsidiaries, and parent companies, or an  
 75 affiliate of such entity or business association which exists

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76 for the purpose of making a profit.

77 (e) "Direct holdings" in a company means all securities of  
 78 that company which are held directly by the Florida Retirement  
 79 System Trust Fund or in an account or fund in which the Florida  
 80 Retirement System Trust Fund owns all shares or interests. The  
 81 term does not include indirect holdings in actively managed  
 82 investment funds, including a private equity fund, or holdings  
 83 in exchange-traded funds.

84 (f) "Florida Retirement System Trust Fund" means all  
 85 assets of the Florida Retirement System held by the board in its  
 86 capacity as a fiduciary pursuant to part I of chapter 121.

87 (g) "Indirect holdings" in a company means all securities  
 88 of that company which are held in a commingled fund or other  
 89 collective investment, such as a mutual fund, in which the  
 90 Florida Retirement System Trust Fund owns shares or interests,  
 91 together with other investors not subject to this section.

92 (h) "Majority-owned" means to have ownership of 50.1  
 93 percent or more of the outstanding equity interests of a  
 94 company.

95 (2) (a) The board may not acquire, on behalf of the Florida  
 96 Retirement System Trust Fund, direct holdings in a Chinese  
 97 company.

98 (b) The board must:

99 1. Initiate, no later than June 1, 2024, a review of all  
 100 current direct holdings to determine which direct holdings, if

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101 any, include securities of a Chinese company.

102 2. Develop, no later than September 1, 2024, a divestment  
103 plan for all direct holdings in Chinese companies. The  
104 divestment plan must be developed and implemented consistent  
105 with the fiduciary standards set forth in s. 215.47(10).

106 3. Complete divestment from direct holdings in Chinese  
107 companies included in the divestment plan developed pursuant to  
108 subparagraph 2. no later than September 1, 2025, or at such  
109 later time if necessary for the board to implement the  
110 divestment plan consistent with the fiduciary standards set  
111 forth in s. 215.47(10).

112 (3) The board's actions taken in compliance with this  
113 section, including all good faith determinations regarding  
114 companies as required by this section, must be adopted and  
115 incorporated into the investment policy statement as provided in  
116 s. 215.475.

117 Section 3. This act shall take effect upon becoming a law.