

State of South Dakota

EIGHTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2010

400R0338

SENATE RETIREMENT LAWS ENGROSSED NO. **SB 21** - 1/22/2010

Introduced by: The Committee on Retirement Laws at the request of the South Dakota Retirement System

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding exclusive benefit
2 requirements and the range of investments available to the South Dakota Retirement System
3 member trust fund.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 3-12-54 be amended to read as follows:

6 3-12-54. The system shall be under the Board of Trustees. The Board of Trustees shall be
7 held to the standard of conduct of a fiduciary and shall carry out its functions solely in the
8 interest of the members and benefit recipients and for the exclusive purpose of providing
9 benefits and defraying reasonable expenses incurred in performing such duties as required by
10 law. The system may not engage in any activity that is not solely designed to provide for the
11 exclusive benefit of the members and benefit recipients of the system. The attorney general is
12 the legal adviser to the board.

13 Section 2. That § 3-12-47 be amended by adding thereto a NEW SUBDIVISION to read as
14 follows:



1 "Social investment," investment, divestment, or prohibition of investment of the assets of
2 the system for purposes other than maximum risk-adjusted investment return, which other
3 purposes include ideological purposes, environmental purposes, political purposes, religious
4 purposes, or purposes of local or regional economic development;

5 Section 3. That § 3-12-117 be amended to read as follows:

6 3-12-117. The State Investment Council as provided in § 4-5-12 is responsible for the
7 investment of the assets of the system. The Investment Council may pool the several retirement
8 funds for investment purposes and the investment of such funds is not restricted by the
9 provisions of § 4-5-26, but is governed by the provisions of § 4-5-27. However, the assets of the
10 system may not be used as venture capital, nor may the assets of the system be managed in any
11 manner for the purposes of social investment. The State Investment Council shall invest
12 member trust funds in a manner that is solely designed to provide for the exclusive benefit of
13 the members and benefit recipients of the system. However, the foregoing provisions
14 notwithstanding, the State Investment Council shall establish a Shareholder Activism Policy to
15 engage and promote compliance with federal divestiture enactments by the United States House
16 of Representatives or the United States Senate, specifically including the enactments' effect in
17 regard to Royal Dutch Shell, Petrobras, and Total, and to recognize the risks associated with
18 companies doing business in the countries identified. The State Investment Council shall report
19 semi-annually and fifteen months after the effective date of this Act on council actions related
20 to the Shareholder Activism Policy. The report shall include an analysis of the success of the
21 policy in accomplishing the goal of promoting compliance with the federal enactments and its
22 impact on all sales of affected companies.

23 The Legislature may express its concerns about investments related to terrorism, genocide,
24 or other atrocities recognized by the United States House of Representatives or the United States

- 1 Senate through resolutions advising the State Investment Council to activate its Shareholder
- 2 Activism Policy.