

# HB406 INTRODUCED



1 H9ZB86-1  
2 By Representatives Shaw, Brown, Colvin, Shirey, Lamb, Lomax,  
3 Givens, Stadthagen, Kiel, DuBose, Carns, Oliver, Hurst,  
4 Stringer, Woods  
5 RFD: State Government  
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SYNOPSIS:

This bill would require the State Treasurer and the Boards of Control of the Retirement Systems of Alabama and Judicial Retirement Fund to create and make available to the public a list of prohibited companies, which would be defined as businesses owned or controlled by Chinese military or government services and designated by the U.S. government as companies with whom U.S. citizens are restricted from entering into transactions.

This bill authorizes the respective retirement systems to use a third-party service to complete the identification of prohibited companies.

This bill prohibits the State Treasurer and the Boards of Control of the Retirement Systems of Alabama and Judicial Retirement Fund from acquiring direct holdings in publicly traded securities of a prohibited company, and requires them to sell, redeem, divest, or withdraw all direct holdings in publicly traded securities of a prohibited company within 180 days after the company becomes a prohibited company.

This bill would also define terms.



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29 A BILL  
30 TO BE ENTITLED  
31 AN ACT

32  
33 Relating to public investments; to require the State  
34 Treasurer and the Boards of Control of the Retirement Systems  
35 of Alabama and the Judicial Retirement Fund to establish and  
36 maintain a list of certain companies owned or controlled by  
37 Chinese military or government services and designated by the  
38 U.S. government as companies with whom U.S. citizens are  
39 restricted from entering into transactions; to make this list  
40 available to the public; to prohibit the State Treasurer and  
41 the Boards of Control of the Retirement Systems of Alabama and  
42 the Judicial Retirement Fund from acquiring direct holdings in  
43 publicly traded securities of a listed company, and requiring  
44 the sale, redemption, divestment, or withdrawal of all direct  
45 holdings in publicly traded securities of a listed company  
46 within 180 days after the company becomes a listed company;  
47 and to define terms.

48 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

49 Section 1. As used in this act, the following terms  
50 have the following meanings:

51 (1) COMPANY. Any business or business entity that is  
52 publicly traded and that is not based in the United States.

53 (2) DIRECT HOLDINGS. All securities of a company held  
54 directly by the public fund or in an account or fund in which  
55 the public fund owns all shares or interests.

56 (3) INDIRECT HOLDINGS. All securities of a company held



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57 in an account or fund managed by one or more persons not  
58 employed by the public fund, and in which the public fund owns  
59 shares or interests together with other investors. Indirect  
60 holdings include, but are not limited to, mutual funds,  
61 private equity funds, hedge funds, and real estate funds.

62 (4) PROHIBITED COMPANY. A company that is owned or  
63 controlled by Chinese military or government services and has  
64 been designated by the United State government as a company  
65 that citizens of the United States are restricted or  
66 prohibited from entering into transactions with, including a  
67 designation in any of the following lists:

68 a. The federal Bureau of Industry and Security's entity  
69 list.

70 b. The federal Bureau of Industry and Security's  
71 military end user list.

72 c. The Department of Defense's communist Chinese  
73 military companies list.

74 d. The Office of Foreign Assets Control's foreign  
75 sanctions evaders list.

76 e. The Office of Foreign Assets Control's list of  
77 foreign financial institutions subject to correspondent  
78 account or payable-through account sanctions.

79 f. The Office of Foreign Assets Control's Non-SDN Iran  
80 sanctions list.

81 g. The Office of Foreign Assets Control's Non-SDN  
82 Palestinian legislative council list.

83 h. The Office of Foreign Assets Control's sectoral  
84 sanctions identifications list.



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85 i. The Office of Foreign Assets Control's specially  
86 designated nationals and blocked persons list.

87 (5) PUBLIC FUND. The State Treasurer and the respective  
88 Boards of Control of the Employees' Retirement System of  
89 Alabama, the Teachers' Retirement System of Alabama, or the  
90 Judicial Retirement Fund.

91 Section 2. (a) (1) By January 1, 2024, a public fund  
92 shall identify or have identified all prohibited companies in  
93 which the public fund has direct or indirect holdings and  
94 shall create and make available to the public a prohibited  
95 companies list for that public fund. The public fund shall  
96 review and update, if necessary, the prohibited companies list  
97 on a quarterly basis thereafter.

98 (2) In identifying or having identified prohibited  
99 companies, the public fund may review and rely, in the best  
100 judgment of the public fund, on publicly available information  
101 and other information that may be provided by nonprofit  
102 organizations, research firms, international organizations,  
103 and governmental entities. The public fund may also contract  
104 asset managers and institutional investors for the public fund  
105 to identify prohibited companies based upon  
106 industry-recognized lists of such companies that the public  
107 fund may have indirect holdings in.

108 (3) A Board of Control of the respective Retirement  
109 System of Alabama, acting on behalf of the retirement system  
110 and other public funds subject to this section, may develop  
111 and issue a request for proposals for third-party services to  
112 complete the identification of prohibited companies and the



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113 compilation of a prohibited companies list. The request for  
114 proposals may request bids for optional services related to  
115 this purpose, including, but not limited to, provision of  
116 notice of such prohibited companies as required in subsection  
117 (b). The respective board of control shall consult with all  
118 other public funds regarding the development of the request  
119 for proposals, however, selection of a successful proposal and  
120 the final scope of services to be provided shall be determined  
121 only by those public funds that have agreed to utilize the  
122 third-party services. If more than one public fund decides to  
123 utilize the third-party services, the participating public  
124 funds shall equally share the costs of such services.

125 (b) For each company on the prohibited companies list  
126 in which a public fund has direct or indirect holdings, the  
127 public fund shall send or have sent a written notice informing  
128 the company of the requirements of this act. The public fund  
129 or its representative shall continue to provide such written  
130 notice on an annual basis if the company remains a prohibited  
131 company.

132 (c) If a public fund determines that a company may be  
133 subject to inclusion on the prohibited companies list, the  
134 public fund shall scrutinize and engage the company for a  
135 period of not more than 12 months and shall include the  
136 company on the prohibited companies list if the public fund  
137 determines that the company is a prohibited company.

138 Section 3. (a) A public fund shall not acquire any  
139 direct holdings in publicly traded securities of a prohibited  
140 company.



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141 (b) (1) A public fund shall sell, redeem, divest, or  
142 withdraw all direct holdings in publicly traded securities of  
143 a prohibited company no later than 180 days following the date  
144 the company is included on the prohibited companies list.

145 (2) This subsection shall not be construed to require  
146 the premature or otherwise imprudent sale, redemption,  
147 divestment, or withdrawal of an investment, but such sale,  
148 redemption, divestment, or withdrawal shall be completed as  
149 provided by this subsection.

150 Section 4. (a) Each public fund shall, within 30 days  
151 after the prohibited companies list is created or updated as  
152 required by Section 2, make the list available to the public.

153 (b) By October 1, 2024, and each October 1 thereafter,  
154 each public fund shall make available to the public, and file  
155 with the Legislature, an annual report covering the prior  
156 fiscal year that includes all of the following:

157 (1) The prohibited companies list as of the end of the  
158 fiscal year.

159 (2) A summary of all written notices sent as required  
160 by Section 2 during the fiscal year.

161 (3) All investments sold, redeemed, divested, or  
162 withdrawn as provided in Section 3 during the fiscal year.

163 (4) A list of indirect holdings of the public fund in  
164 publicly traded securities of prohibited companies and the  
165 percentage of the total portfolio of the public fund the  
166 indirect holdings of securities in prohibited companies  
167 represent.

168 Section 5. With respect to actions taken in compliance



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169 with this act, including all good-faith determinations  
170 regarding companies as required by this act, the public fund  
171 shall be exempt from any conflicting statutory or common law  
172 obligations, including any such obligations with respect to  
173 choice of asset managers, investment funds, or investments for  
174 the public fund's securities portfolios.

175           Section 6. The requirements of this act shall not apply  
176 if the United States Congress or President of the United  
177 States, through legislation or executive order, declares that  
178 mandatory divestment of the type provided for in this chapter  
179 interferes with the conduct of United States foreign policy.

180           Section 7. This act shall become effective on the first  
181 day of the third month following its passage and approval by  
182 the Governor, or its otherwise becoming law.