

## Massachusetts Pension Fund Divests From Iran

### GOVERNOR SIGNS MASS. IRAN DIVESTMENT

Nurses Hall at the Commonwealth's State House was filled with supporters on August 4, 2010 as Governor Deval Patrick signed into law a bill to divest the state's pension funds from companies doing business with Iran. JCRC's President, Bill Gabovitch, who spoke at the signing ceremony and introduced State Treasurer Cahill, praised Governor Patrick, Speaker DeLeo, and Senate President Murray for taking decisive action on this important issue, thereby sending a clear message that our investments will not further Iran's nuclear ambitions.

He also lauded co-sponsors Representative Antonio Cabral (New Bedford) and Senator Joan Menard (Fall River) for their tireless advocacy in support of this bill, saying "The overwhelming bipartisan support for this legislation sends a message that the Commonwealth will support all peaceful steps to avoid



Back Row: Rep. Jay Kaufman, Rep. Lou Kafka, Rep. Ruth Balseer, Rep. Frank Smizik, Maj. Lead. Rep. Jim Vallee, Cong. Barney Frank, Treasurer Tim Cahill, JCRC Pres. Bill Gabovitch

Front Row: Albie Sherman, Governor Deval Patrick

nuclear proliferation in the Middle East and will protect the Massachusetts pension fund against dangerous investments in an unstable region."

JCRC Executive Director Nancy Kaufman praised the bill's passage and notes that, "A nuclear Iran is a threat to the stability of the Middle East and peace-seeking democracies throughout the world." Kaufman adds, "we are grateful to Congressman Barney Frank for his active and passionate role in shepherding this bill through the legislative process, and to his colleagues in the Massachusetts Congressional

Delegation for their unanimous support."

Gil Preuss, Executive Vice President of Combined Jewish Philanthropies (CJP) attended the signing and said, "By divesting the pension fund's assets from Iran our state is sending a signal to the world that Massachusetts will not support financially or otherwise acts of terrorism and hate. We want to thank Governor Patrick, Senate President Murray, Speaker DeLeo, the legislature, Congressman Frank and the Jewish Community Relations Council for working together to make this commitment to human rights and peace possible."

*"This new law sends a signal to the rest of the country and to the world that we will not tolerate the efforts of those who pose a threat to our citizens and our nation."*

*Governor  
Deval Patrick*

### SPECIAL THANKS...

The JCRC has worked tirelessly since the Mass. Divestment Bill was filed over three years ago. This enormous success should be celebrated and special thanks for partnerships and advocacy efforts should go to many. To name a few: The many lay leaders, committee members, board members, and Albie Sherman; Congressman Barney Frank, his

staff and his Congressional colleagues; Governor Deval Patrick, Senate President Therese Murray, Speaker Robert DeLeo and his staff; House Majority Leader Jim Vallee, Minority Leaders Rep. Brad Jones and Sen. Richard Tisei; Bill Sponsors Senator Joan Menard, and Rep. Tony Cabral and their staff; lead supporters Reps. Lou Kafka, Jay Kaufman, Mike Moran and Moran, and Sens. Creem and

Chandler; other supportive members of the House and Senate, including Rep. Gene O'Flaherty; Treasurer Tim Cahill; AFL-CIO President Robert Haynes and Tim Sullivan; Massachusetts Association of Jewish Federations, Combined Jewish Philanthropies, AIPAC, the Israeli Consulate to New England; American Islamic Congress; JCRC's Government Affairs and Israel teams; and, Charles Group Consulting.

## FEDERAL IRAN SANCTIONS

In early July, President Obama signed the *Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010* into law. Unanimously supported by the Massachusetts delegation, the bill targets business entities involved in refined petroleum sales to Iran or support for Iran's domestic refining efforts. It provides a stark choice to international banks involved with Iran's Islamic Revolutionary Guard



Corps, Iran's illicit nuclear program, or its support of terrorism—stop doing this type of business or lose critical business with America's financial sector.

Billed as the US's toughest sanctions on Iran yet, these sanctions go well beyond the recent UN sanctions on Iran.

The bill also provides a critical component that provides a legal framework by which states, such as Massachusetts, can divest their portfolios of companies involved in Iran's energy sector. This provision, championed by Congressman Barney Frank, paved the way for passage of the Mass. Iran Divestment Bill.

*"We're taking another step — a step that demonstrates the broad and bipartisan support for holding Iran accountable. I'm pleased to sign into law the toughest sanctions against Iran ever passed by the United States Congress — the Comprehensive Iran Sanctions, Accountability, and Divestment Act."*

*President Barack Obama*

## CONGRESSIONAL DELEGATION ENCOURAGE STATE BILL PASSAGE

Just after Congress passed the Federal Iran Sanctions Bill, Congressman Barney Frank encouraged his colleagues to sign a letter to Speaker DeLeo asking him to pass the MA Divestment Bill.

The entire MA Congressional delegation signed on to a July 1, 2010, letter stating, "Given the importance of doing every-

thing possible to deter the regime led by a president who denied the existence of the Holocaust and called for Israel to be wiped off the face of the earth, who has oppressed his own people, and who has been a bitter and unreasoning critic of all aspects of American policy, we very much hope that our MA Legislative Colleagues will join

us in support of effective sanctions legislation that would help deter Iran from building nuclear weapons."



## THE LONG ROAD TO SUCCESS

On July 31, 2008, members of the JCRC team and Charles Group Consulting stood outside the Senate Chamber on the last night of a two year session. Having tirelessly worked for passage of an Iran Divestment Bill throughout the session, advocates were running out of options. As the session ended with a member of the Senate halting debate on the bill, so did hopes of bill passage until the following year.

Thousands of bills were filed, as the new session began in 2009. However, in the midst of a devastating financial crisis in the state and across the country, it soon became clear that legislation relating to the state budget, economic

stability, enhanced revenue, and job creation would take priority. Despite the prospects, the bill was brought to the floor of the House for debate shortly after JCRC brought Haifa Mayor Yona Yahav, Iran expert Gen. Zvi Shtaubert, and Deputy Prime Minister of Israel Dan Meridor for separate visits to meet with Speaker of the House Robert DeLeo and members of his leadership team.

There was significant debate in caucus and on the floor both for and against the bill. Members were frustrated with the debate because there were pending economic items that were not being addressed. As a result, one Representative asked that debate end and be scheduled for a later date.

After months of lobbying and working with dedicated members of the House and Senate to influence leadership, the bill was brought back to the floor for debate, again during the last week of session. The bill passed the House with overwhelming bipartisan support and was sent to the House. After some negotiation between House and Senate versions, the bill was engrossed and sent to the Governor for his signature.

While it took over three years, spanning two legislative sessions, two Speakers of the House, two House Chairs of Ways and Means, a crop of freshman legislators and varied opponents, the bill passed and Massachusetts will now divest its pension fund holdings from Iran.

## ABOUT THE BILL

Chapter 232 of the Acts of 2010, *An Act Relative to Pension Divestment from Certain Companies that Invest in the Republic of Iran*, or the so-called MA Iran Divestment Bill, requires the \$44 billion Pension Reserves Investment Management (PRIM) Board to hire an independent research firm to identify all companies in which the public fund has direct or indirect holdings. The board must then, within one year, cease investments with those companies with active business interests in Iran. The PRIM board is required to update its list of scrutinized companies on a quarterly basis based on regular information from the research firm.

A company considered to be doing business with Iran is one that knowingly provides goods or services deployed to develop petroleum resources in Iran and has knowingly made an investment in Iran of at least \$20 million in any one-year

period that directly or significantly contributes to the enhancement of Iran's ability to develop its petroleum resources.

The bill does not apply to indirect holdings in actively managed investment funds as long as the fund submits letters to fund managers with a list of scrutinized companies requesting that they consider removing such companies for the fund or create a similar actively managed fund with indirect holdings devoid of such companies.

Timeline: Bill signed into law on August 4, 2010.

-90 Days: Bills in Massachusetts go into effect 90 days after the Governor signs them into law.

-180 Days: Within 90 days of the effective date of the act (see above), fund must make best effort to identify scrutinized companies with fund holdings. Updated quarterly.

- 210 Days: 30 days after such a

list is created of scrutinized companies, the fund must file a copy of the list with the House, the Senate, and the Attorney General.

- 6 months after a company appears on the scrutinized company list as having active business operations in Iran, at least 50% of assets must be removed from the fund.

- 12 months after a company appears on the scrutinized company list as having active business operations in Iran, 100% of assets must be removed from the fund.

-Cessation of divestment: The fund may cease divesting from scrutinized companies upon clear and convincing evidence that the total and aggregate value of all assets are less 99.5% or less, or 100% less 50 basis points

- Expiration of Act: The Act expires upon the US Department of State removing Iran from its list of state sponsors of terrorism and certifying that Iran is no longer pursuing nuclear capability in violation of its international commitments and obligations.

## IMPLEMENTATION

The question of whether the MA Iran divestment bill will be implemented in the timeline outlined above, or at all, has been raised since the bill's passage in early August.

One question posed is whether there is an "escape clause" that requires the fund to make decisions based on their fiduciary responsibility to the fund's solvency. While there are other laws related to the pension fund that do require investments to be sound and aimed at increasing the overall fund solvency, Section 4 of the new law indicates that divestment outlined in the bill will not be subject to such laws:

"Notwithstanding any general or special law to the contrary, with respect to actions taken in compliance with this act, the public fund shall be ex-

empt from any conflicting statutory or common law obligations, including any such obligations with respect to choice of asset managers, investment funds or investments for the public fund's securities portfolios and all good faith determinations regarding companies as required by this act."



Further, the new federal sanctions bill, the *Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010*, provides in Sec. 202 (b) that "Authority to Divest- Notwithstanding any

other provision of law, a State or local government may adopt and enforce measures that meet the requirements of subsection (d) to divest the assets of the State or local government from, or prohibit investment of the assets of the State or local government in, any person that the State or local government determines, using credible information available to the public, engages in investment activities in Iran described in subsection (c)."

Additionally, it is important to note, that MA Treasurer Tim Cahill supported the bill when it came to the House floor for a vote at the end of July, 2010. As Treasurer, he also serves as Chair of the PRIM board, which is charged with implementing the bill. JCRC will meet with Treasurer Cahill to discuss timely and successful implementation and will also reach out to the new Treasurer once elected.

*"With this legislation, the House has signaled that we will not tolerate the investment of state funds in companies conducting business with Iran. Not only will this bill protect taxpayer money, but it will also send a clear message that Massachusetts will not support or enable the current Iranian regime."*

*House Speaker  
Robert A. DeLeo*