



ARIZONA STATE SENATE
Fifty-Second Legislature, Second Regular Session

FINAL AMENDED
FACT SHEET FOR H.B. 2617

Israel; boycotts; contracts; investments

Purpose

Prohibits a public entity from entering into a contract with a company unless the contract includes written certification that the company is not engaged in a boycott of Israel.

Background

Federal law authorizes the issuance of regulations prohibiting any United States person, with respect to the activities of that person in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take certain actions with the intent to comply with, further or support any boycott fostered or imposed by a foreign country against a country that is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation (50 United States Code Section 4607).

A number of states have considered legislation aimed at divesting state funding from companies that engage in a boycott of Israel. States where such legislation has been enacted include Illinois and South Carolina.

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Contracting, Procurement and Investment Prohibition

1. Prohibits a public entity from entering into a contract with a company to acquire or dispose of services, supplies, information technology or construction unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of Israel.
2. Prohibits a public entity from adopting a procurement, investment or other policy that has the effect of inducing or requiring a person or company to boycott Israel.

Restricted Companies

3. Requires each public fund, on or before April 1 of each year, to prepare a list of restricted companies and to provide a copy of the list on request.

4. Allows the public fund, in preparing the list of restricted companies, to consider at least the following:
 - a) publicly available information, including information provided by nonprofit organizations, research firms and government entities;
 - b) information prepared by an independent research firm retained by the public fund; and
 - c) a statement by a company that it is participating in a boycott of Israel or that it has taken a boycott action at the request of, in compliance with or in furtherance of calls for a boycott of Israel.
5. Requires the public fund to notify each company that is included in the list of restricted companies that the company is subject to divestment by the State Treasurer and the retirement systems.
6. Specifies that if a company that receives notice of its inclusion on the list of restricted companies submits a written certification to the public fund that it has ceased its boycott of Israel and will not engage in a boycott of Israel for the period of time that the State Treasurer or a retirement system invests in the company, then the public fund shall remove the company from the list.
7. Requires each public fund to do the following:
 - a) sell, redeem, divest or withdraw all direct holdings of a restricted company from the assets under its management in an orderly and fiducially responsible manner within three months after preparing the list of restricted companies on its website;
 - b) not acquire securities of a restricted company as part of its direct holdings; and
 - c) request that managers of its indirect holdings consider selling, redeeming, divesting or withdrawing holdings of a restricted company from the assets that are under its management.
8. Requires the State Treasurer and each retirement system to post on their websites, on or before April 1 of each year, a list of investments that are sold, redeemed, divested or withdrawn.
9. Specifies the following with respect to any action performed by the State Treasurer, each retirement system and any person acting on behalf of the State Treasurer or the retirement system:
 - a) that the State Treasurer, each retirement system and any person acting on behalf of either are exempt from any conflicting statutory or common law obligation or fiduciary duties with respect to choice of asset manager, investment funds or investments;
 - b) that the State Treasurer, each retirement system and any person acting on behalf of either are subject to Title 12, Chapter 7, Article 2, pertaining to actions against public entities or public employees;
 - c) that the State Treasurer, each retirement system and any person acting on behalf of either are indemnified and held harmless by this state from claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including attorney fees, as well as against all liability, losses and damages due to a decision involving the sale, redemption, divestment or withdrawal of holdings of a restricted company.

Definitions

10. Defines *boycott* as engaging in a refusal to deal, terminating business activities or performing other actions that are intended to limit commercial relations with Israel or with persons or entities doing business in Israel or in territories controlled by Israel, if those actions are taken either:
 - a) in compliance with or adherence to calls for a boycott of Israel other than those boycotts to which federal law applies; or
 - b) in a manner that discriminates on the basis of nationality, national origin or religion and that is not based on a valid business reason.
11. Defines *company* as a sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity or business association, and includes a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate.
12. Defines *direct holdings* as all publicly traded securities of a company that are held directly by the State Treasurer or a retirement system in an actively managed account or fund in which the retirement system owns all shares or interests.
13. Defines *indirect holdings* as all securities of a company that are held in an account or fund, including a mutual fund, that is managed by one or more persons who are not employed by the State Treasurer or a retirement system, if the State Treasurer or retirement system owns shares or interests either:
 - a) together with other investors; or
 - b) that are held in an index fund.
14. Defines *public entity* as this state, a political subdivision of this state or an agency, board, commission or department of this state or a political subdivision of this state.
15. Defines *public fund* as the State Treasurer or a retirement system.
16. Defines *restricted companies* as companies that boycott Israel.
17. Defines *retirement system* as a retirement plan or system that is established by or pursuant to Title 38, pertaining to public officers and employees.

Miscellaneous

18. Contains a severability clause.
19. Contains a legislative findings clause.
20. Makes technical changes.
21. Becomes effective on the general effective date.

Amendments Adopted by the Finance Committee

1. Adds the prohibition on a public entity adopting a procurement, investment or other policy to induce or require a person or company to boycott Israel.
2. Replaces the requirement for each public fund to prepare a list of restricted companies and to post the list on its website with one requiring that the public fund provide a copy of such a list on request.

House Action

FSR	2/10/16	DPA	6-0-0
3 rd Read	2/17/16		46-14-0

Senate Action

FMFR	3/1/16	DP	5-2-0
GOV	3/2/16	DP	5-1-1
FIN	3/9/16	DPA	4-1-0
3 rd Read	3/10/16		23-6-1

Signed by the Governor 3/17/16
Chapter 46

Prepared by Senate Research
March 23, 2016
FB/rf



HOUSE OF REPRESENTATIVES

HB 2617

Israel; boycotts; contracts; investments

Prime Sponsor: Representative Gowan, LD 14

DPA Committee on Federalism and States' Rights

DPA Caucus and COW

DPA House Engrossed

X As Transmitted to Governor

OVERVIEW

HB 2617 prohibits public entities from entering into a contract with a company to acquire or dispose of services, supplies, information technology or construction, unless the contract includes a written certification that the company is not currently involved in a boycott of Israel.

PROVISIONS

1. Prohibits public entities to enter in a contract with a company unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract, a boycott of Israel.
2. Prohibits public entities from adopting procurement, investment or other policy that has the effect of inducing or requiring a person or company to boycott Israel.
3. Requires each public fund to prepare a list of restricted companies the public fund may consider the following considerations:
 - a. Publicly available information, including information provided by nonprofit organizations, research firms and government entities;
 - b. Information prepared by an independent research firm retained by the public fund;
 - c. A statement by a company that it is participating in a boycott of Israel that it has taken a boycott action at the request of; in compliance with; or in furtherance of calls for a boycott of Israel.
4. Requires the public fund to notify companies that are on the list of restricted companies that the company is subject to divestment by the State Treasurer and the retirement systems.
5. Specifies that the public fund is required to remove a company from the restricted list if the company has provided documentation to the company it has ceased its boycott of Israel and will not engage in a boycott of Israel for the period of time that the State Treasurer or a retirement system invests in the company.
6. Requires each public fund to sell, redeem, divest or withdraw all direct holdings of the restricted company from the assets under its management within three months after preparing the list of restricted companies from the State Board of Investments.
7. Specifies that, before August 1 of every year, each public fund shall post on their website a list of investments that are sold, redeemed, divested or withdrawn.

HB 2617

8. Restricts each public fund to acquire securities of a restricted company as a part of its direct holdings.
9. Specifies that each public fund requests that the manager of its indirect holding consider selling, redeeming, divesting or withdrawing holdings of a restricted company from the assets under its management.
10. Exempts the State Treasurer, the retirement systems and any person acting on their behalf from any conflicting statutory or common law obligation or fiduciary duties with respect to the choice of asset manager, investment funds or investment.
11. Specifies the State Treasurer and the retirement systems and any person acting on their behalf are subject to Arizona Revised Statutes (A.R.S.) Title 12, Chapter 7, Article 2 regarding Immunity for Acts and Omissions.
12. Indemnifies the State Treasurer, the retirement systems and any person acting on their behalf from claims, demands, suits, actions, damages, costs, charges and expenses, including attorney fees, and against all liability, losses and damages because of the decision to sell, redeem, divest or withdraw holding of a restricted company.
13. Specifies that the investment provisions of this bill do not apply to investments relating to permanent state land fund monies stated in [A.R.S. § 35-314.01](#).
14. Specifies that if any provision of this bill or its application to any person or circumstance is held invalid, the invalidity does not affect any other provision or application of this bill that can be given effect without the invalid provision or application, and to this end the provisions of the article are severable.
15. Defines the following terms: *boycott, company, direct holdings, indirect holdings, public entity, public fund, restricted companies, and retirement system*.

CURRENT LAW

[A.R.S. § 35-311](#) assigns the State Board of Investment the responsibility of managing the permanent state land funds and provide management of the assets of the funds consistent with the requirements of the Arizona Constitution Article 10, Section 7. The State Board of Investment may also order the State Treasurer to sell any of the securities in its responsibility at current market value price.

United States Code 50, Section 4607 provides that the U.S. may issue regulations against countries that are involved in discriminatory contracts or boycotts towards other countries who are friendly with the United States. Additionally, United States Code 10, Section 2401 also limits and restricts trade practices with entities that comply with the secondary boycott of Israel.

ADDITIONAL INFORMATION

The states of Florida, Tennessee, New York, Indiana, and Pennsylvania currently have HB 527, SJR170, S6378A, HB1378 and HR370 going through the legislative process, respectively, to divest or add further restrictions in business practices to any company that has engaged in a boycott of Israel.



ARIZONA STATE SENATE
Fifty-Fourth Legislature, First Regular Session

AMENDED
FACT SHEET FOR S.B. 1167

Israel boycott divestments

Purpose

Limits the prohibition on public contracts with a company boycotting goods and services from Israel to contracts of \$100,000 or more.

Background

Federal law authorizes the issuance of regulations prohibiting any United States person, with respect to the activities of that person in the interstate or foreign commerce of the United States, from taking or knowingly agreeing to take certain actions with the intent to comply with, further or support any boycott fostered or imposed by a foreign country against a country that is friendly to the United States and which is not itself the object of any form of boycott pursuant to United States law or regulation ([50 U.S.C. § 4842](#)).

Current statute prohibits a public entity from entering into any contract with a company to acquire or dispose of services, supplies, information technology or construction unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of Israel ([A.R.S. § 35-393.01](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Limits the prohibition on public contracts to acquire or dispose of services, supplies, information technology or construction, with a company boycotting goods and services from Israel, to contracts with a value of \$100,000 or more.
2. Specifies that a company's written certification applies to a boycott of goods or services from Israel.
3. Specifies that Israel boycott divestments does not apply to boycotts prohibited by federal law.
4. Removes, from the definition of *company*, a sole proprietorship and specifies that only a company that engages in for-profit activity and has at least 10 full-time employees meets the definition.
5. Modifies the definition of *boycott* to include actions that are taken based in part on the fact that the entity does business in Israel or in territories controlled by Israel.
6. Makes technical and conforming changes.
7. Becomes effective on the general effective date.

Amendments Adopted by the House

1. Removes the requirement that a company's written certification must specify that goods and services being boycotted are integral to their business in Arizona.
2. Specifies that a company is a business that engages in for-profit activity.

Senate Action

COM 1/31/19 DP 6-1-1
3rd Read 2/13/19 22-8-0

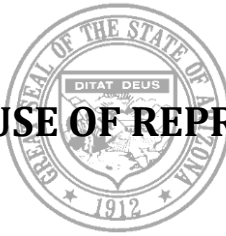
House Action

SIA 3/20/19 DPA 6-3-0-0
3rd Read 4/8/19 37-21-2

Prepared by Senate Research

April 8, 2019

MG/g



ARIZONA HOUSE OF REPRESENTATIVES

SB 1167: Israel boycott divestments

PRIME SPONSOR: Senator Boyer, LD 20

BILL STATUS: [House Engrossed](#)

Overview

Modifies the conditions regarding public contracts with companies boycotting goods and services from Israel.

History

[Laws 2016, Chapter 46 \(HB 2617\)](#) prohibits a public entity from entering into a contract with a company who provides certain goods and services unless the contract includes a written certification stating the company is not engaged in a boycott or intends to boycott Israel for the duration of the contract. Also, a public entity may not adopt a policy that induces or requires a person or company to boycott Israel ([A.R.S. § 35-393.01](#)).

The [United States District Court for the District of Arizona](#) granted a preliminary injunction regarding the certification requirements in [A.R.S. § 35-393.01 \(A\)](#).

Provisions

1. Modifies the definition of *boycott* to include actions taken based in part on the fact that the entity does business in Israel or in territories controlled by Israel. (Sec. 1)
2. Modifies the definition of a *company* by removing a sole proprietorship and specifies that a company has ten or more full-time employees and engages in for profit activities. (Sec. 1)
3. Allows a public entity to enter into a contract without the written certification if the contract value is less than \$100,000. (Sec. 2)
4. Makes technical and clarifying changes. (Sec. 1, 3)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
--	--	---	--------------------------------------



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature
Second Regular Session

Senate: FIN DP 8-0-2-0 | 3rd Read 22-6-2-0

House: GE DP 8-5-0-0 | 3rd Read 42-17-1-0

SB1250: divestment; boycott; Israel; public entities

Sponsor: Senator Gowan, LD 14

Transmitted to the Governor

Overview

Expands the definition of *public entity* to include universities under the jurisdiction of the Arizona Board of Regents (ABOR) and community college districts.

History

Each public fund is directed to sell, withdraw, redeem or divest all direct holdings of restricted companies from the assets under its management in an orderly and fiducially responsible manner within three months after the list of restricted companies is prepared pursuant to statute. The State Treasurer and each retirement system must post on their respective websites a list of investments that are sold, redeemed, withdrawn or divested ([A.R.S. § 35-393.02](#)).

The State Treasurer and each retirement system and any person acting on behalf of the State Treasurer are exempt from any conflicting common law obligation, conflicting statutory or fiduciary duties with respect to choice of asset managers, investment funds or investments. Additionally, the State Treasurer and each retirement system and any person acting on behalf of the State Treasurer are held harmless by the State of Arizona from liability, losses and damages ([A.R.S. § 35-393.02](#)).

Current statute defines a *public entity* as the State of Arizona or an agency, board, commission or department of the State of Arizona or a political subdivision of the State of Arizona ([A.R.S. § 35-393](#)).

Provisions

1. Adds the requirement of a public entity to divest from companies included on the list of restricted companies. (Sec. 2)
2. Inserts public entities along with the public fund to sell, redeem, divest or withdraw direct holdings of restricted companies under the management of the entities and outlines additional actions the entity must take within specified time periods. (Sec. 2)
3. Specifies that each public entity and any persons acting on behalf of an entity are exempt from obligations and duties with respect to specified actors and held harmless against liability relating to direct holdings of restricted companies under the entity's management. (Sec. 2)
4. Modifies the definition of *public entity* to include universities under the jurisdiction of ABOR and community college districts. (Sec. 1)
5. Makes technical changes. (Sec. 2)

☐ Prop 105 (45 votes)

☐ Prop 108 (40 votes)

☐ Emergency (40 votes)

☐ Fiscal Note



ARIZONA STATE SENATE
Fifty-Fifth Legislature, Second Regular Session

FACT SHEET FOR S.B. 1250

divestment; boycott; Israel; public entities

Purpose

Requires a public entity to sell, redeem, divest or withdraw all direct holdings from a restricted company. Extends public entity prohibitions and requirements to state universities and community college districts by including state universities and community college districts in the definition of *public entity*.

Background

By April 1 of each year, the State Treasurer and the state retirement systems must prepare a list of companies that boycott Israel (restricted company list). The State Treasurer and the state retirement systems must notify each company included on the restricted company list that the company is subject to divestment. The State Treasurer and the state retirement systems must: 1) sell, redeem, divest or withdraw all direct holdings from a restricted company within three months of the company being placed on the restricted company list; 2) not acquire securities of a restricted company as part of its direct holdings; or 3) request that managers of its indirect holdings consider selling, redeeming, divesting or withdrawing holdings or a restricted company from the assets under its management ([A.R.S. § 35-393.02](#)).

Current statute prohibits a public entity from entering into a contract with a value of \$100,000 or more with a company to acquire or dispose of services, supplies, information technology or construction unless the contract includes a written certification that the company is not currently engaged in, and agrees for the duration of the contract to not engage in, a boycott of goods and services from Israel. A *public entity* is the State of Arizona, a political subdivision or an agency, board, commission or department (A.R.S §§ [35-393](#) and [35-393.01](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires each public entity to:
 - a) sell, redeem, divest or withdraw all direct holdings from a restricted company within three months of the company being placed on the annual restricted company list;
 - b) not acquire securities of a restricted company as part of its direct holdings; or
 - c) request that managers of its indirect holdings consider selling, redeeming, divesting or withdrawing holdings of a restricted company from the assets under its management.
2. Includes state universities and community college districts in the definition of *public entity*.

FACT SHEET

S.B. 1250

Page 2

3. Requires each public entity, by August 1, to annually post on its website a list of investments that are sold, redeemed, divested or withdrawn.
4. Requires the State Treasurer to notify each restricted company that the company is subject to divestment by a public entity.
5. Exempts each public entity, for actions relating to divestment, from any conflicting statutory or common law obligation or fiduciary duties with respect to choice of asset managers, investment funds or investments.
6. Subjects each public entity, for actions relating to divestment, to statutes relating to immunity for acts and omissions.
7. Indemnifies and holds harmless each public entity, for actions relating to divestment, from claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including attorney fees, and against all liability, losses and damages because of a decision to sell, redeem, divest or withdraw holdings of a restricted company.
8. Makes technical changes.
9. Becomes effective on the general effective date.

Prepared by Senate Research

January 31, 2022

MG/slp