



# HOUSE OF REPRESENTATIVES

HB 2617

Israel; boycotts; contracts; investments

Prime Sponsor: Representative Gowan, LD 14

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**DPA** Committee on Federalism and States' Rights

**DPA** Caucus and COW

**DPA** House Engrossed

**X** As Transmitted to Governor

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## 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.

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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 Unites 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.