



ARIZONA STATE SENATE
Fifty-Sixth Legislature, First Regular Session

VETOED

AMENDED

FACT SHEET FOR S.B. 1658

critical infrastructure; prohibited agreements

Purpose

Prohibits a business or government entity in Arizona from entering into an agreement with a company if the company would be able to access or control critical infrastructure in Arizona and is owned or controlled by citizens or the government of, or headquartered in, China, Iran, North Korea or Russia. Exempts a company from the outlined prohibition if the federal Committee on Foreign Investment in the United States (CFIUS) determines that there are no unresolved national security concerns.

Background

The Department of Public Safety (DPS) operates a statewide critical infrastructure information system and makes critical infrastructure information available to local, state, federal and tribal law enforcement agencies, certain state agencies and other organizations, as necessary to safeguard personnel and property in Arizona. The critical infrastructure information program is implemented based on the state-wide assessment of threat and vulnerability by the Arizona Counterterrorism Information Center under DPS (A.R.S. §§ [41-1801](#) and [41-1803](#)).

Current statute stipulates that loans, guarantees, investment management agreements and investment contracts that are entered into by the Public Safety Personnel Retirement System Board of Trustees (Board) are contracts memorializing obligations or interests in securities that the Board has concluded, after thorough due diligence, do not involve investments in Sudan or Iran or otherwise provide support to terrorists or in any way facilitate illegal immigration into the United States ([A.R.S. § 38-848](#)). Additionally, a public entity is prohibited from entering into or renewing a contract with a company to acquire or dispose of services, supplies, information technology, goods or construction unless the contract includes a written certification that the company does not currently, and agrees for the duration of the contract that it will not, use: 1) the forced labor of ethnic Uyghurs in the People's Republic of China; 2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; or 3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China ([A.R.S. § 35-394](#)).

The federal Foreign Investment and National Security Act of 2007 authorizes CFIUS to conduct national security investigations of covered transactions that would result in the control of any critical infrastructure of or within the United States by or on behalf of any foreign person. CFIUS may take any necessary actions to protect U.S. national security if CFIUS determines that the transaction could impair national security and the impairment has not been mitigated. The U.S.

President, on CFIUS's recommendation, may suspend or prohibit any covered transaction if there is credible evidence that the transaction threatens U.S. national security. *Covered transactions* include, but are not limited to, investments by a foreign person in any unaffiliated U.S. business that owns, operates, manufactures or services critical infrastructure ([50 U.S.C. § 4565](#)).

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

Provisions

1. Prohibits a business or government entity in Arizona from entering into an agreement involving critical infrastructure in Arizona with a company if both of the following apply:
 - a) under the agreement, the company, directly or remotely, would be able to access or control critical infrastructure in Arizona, except for access that is specifically allowed for product warranty and support purposes; and
 - b) the company is owned by or controlled by either of the following:
 - i. citizens of China, Iran, North Korea or Russia; or
 - ii. a company or other entity, including a governmental entity, that is owned or controlled by citizens of or is directly controlled by the government of China, Iran, North Korea or Russia or that is headquartered in China, Iran, North Korea or Russia.
2. Exempts, from the prohibition, a company if CFIUS or its successor committee determines that there are no unresolved national security concerns regarding the transaction that created the company's ownership or allowed the company to operate within the United States.
3. Allows, in consultation with DPS, the Governor to designate a country as a threat to critical infrastructure in Arizona.
4. Defines *critical infrastructure* as systems and assets, whether physical or virtual, that are so vital to Arizona and the United States that the incapacity or destruction of those systems and assets would have a debilitating impact on security, economic security, public health or safety.
5. Defines *company*.
6. Becomes effective on the general effective date.

Amendments Adopted by the House of Representatives

- Exempts, from the prohibition, a company if CFIUS or its successor committee determines that there are no unresolved national security concerns regarding the transaction that created the company's ownership or allowed the company to operate within the United States.

Governor's Veto Message

The Governor indicates in her [veto message](#) that S.B. 1658 would broadly disqualify many Arizonans who are dual citizens and jeopardize business entering the Arizona market and that the state regularly engages with federal officials to evaluate potential threats in cases where there are national security concerns.

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Senate Action

COM	2/16/23	DP	4-3-0
3 rd Read	3/2/23		16-14-0
Final Read	6/13/23		16-12-2

House Action

TI	3/16/23	DP	8-3-0-0
3 rd Read	5/15/23		36-22-1-0-1

Vetoed by the Governor 6/20/23

Prepared by Senate Research

June 21, 2023

JT/FB/sr