

SENATE, No. 1923

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED MARCH 10, 2016

Sponsored by:

Senator JAMES BEACH
District 6 (Burlington and Camden)
Senator LORETTA WEINBERG
District 37 (Bergen)

Co-Sponsored by:

Senators Bateman, Whelan, Gordon, T.Kean, Kyrillos, Sweeney, Codey, Cruz-Perez, Gill, Greenstein, Lesniak, Madden, Pennacchio, Singer, B.Smith and Vitale

SYNOPSIS

Prohibits investment of pension and annuity funds by State in companies that boycott Israel or Israeli businesses.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/10/2016)

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1 AN ACT concerning the investment of State pension and annuity
2 funds in companies that boycott Israel or Israeli businesses and
3 supplementing P.L.1950, c.270 (C.52:18A-79).

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

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8 1. The Legislature finds and declares that:

9 Israel and the United States are allies sharing a common bond
10 rooted in the values of freedom, democracy, and equal rights.

11 The State of New Jersey is committed to supporting Israel and
12 maintaining the strong New Jersey-Israel relationship that has
13 existed since the founding of the Jewish state in 1948, recognizing
14 that the United States and Israel have mutually benefitted from
15 being allies, including economic cooperation, which Congress has
16 determined materially benefits the United States.

17 The State is deeply concerned about the Boycott, Divestment and
18 Sanctions (BDS) effort to boycott Israeli goods, products, and
19 businesses which is contrary to federal policy articulated in
20 numerous laws.

21 The State and Israel have a long history of friendship based on
22 economic, cultural, intellectual, and political cooperation and
23 exchange, and the elected representatives of New Jersey recognize
24 and support Israel's right to exist as a Jewish state.

25 More than \$1.3 billion in goods and services are traded annually
26 between New Jersey and Israel, and the two trading partners
27 continue to look for and find new opportunities to enhance
28 cooperation and initiatives of mutual economic benefit.

29 Boycotts, divestments, and sanctions place economic and
30 political pressure on business entities, and other organizations and
31 institutions to influence their behavior against Israel.

32 It is fitting and appropriate that the State of New Jersey reaffirm
33 its interest in viable trade and exchange with an ally of the United
34 State and a vibrant economic partner of the State.

35 Economic cooperation and political reconciliation are necessary
36 for building mutual trust and foundations for a lasting peace in the
37 Middle East.

38 Both Israelis and Palestinians have the right to live safely and
39 securely in their homes, free from fear and violence, with mutual
40 recognition, trade, and normalization of relations as neighbors.

41 The strengthening of New Jersey-Israel cooperation recognizes
42 the beneficial economic and technological value of that cooperation
43 including for improving the competitive capabilities in global
44 markets for both New Jersey and Israel.

45 Nationality-based boycott actions are often veiled discrimination,
46 and it is against the public policy of New Jersey to support such
47 discrimination.

1 Boycotts, such as those against Israel, do not make for effective
2 business decision making, prevent a business from making the best
3 use of the resources available to it and should be opposed as an
4 impairment to the soundness of commercial contracting
5 performance.

6 It is important to the economic well-being of New Jersey that
7 persons or entities conducting commercial trade and doing business
8 in the State do not engage in boycotts of a legitimate and viable
9 partner with whom New Jersey can enjoy open trade contracting.

10 Therefore, it is in the best interest of this State that a statutory
11 prohibition be enacted to prohibit the investment of public
12 employee retirement funds in companies boycotting Israel.

13

14 2. a. Notwithstanding any provision of law to the contrary, no
15 assets of any pension or annuity fund under the jurisdiction of the
16 Division of Investment in the Department of the Treasury, or its
17 successor, shall be invested in any company that boycotts the
18 goods, products, or businesses of Israel, boycotts those doing
19 business with Israel, or boycotts companies operating in Israel or
20 Israeli-controlled territory. This section shall not apply to those
21 boycotts organized by foreign governments pursuant to 50 U.S.C.
22 s.4607(c). The activities of any company solely providing
23 humanitarian aid to the Palestinian people through either a
24 governmental or non-governmental organization shall not render the
25 company subject to the provisions of this act, P.L. , c. (C.)
26 (pending before the Legislature as this bill) unless it is also
27 engaging in the prohibited boycotts or otherwise discriminating
28 against goods, products, or businesses of Israel, or entities operating
29 in Israel or Israeli-controlled territory.

30 b. The State Investment Council and the Director of the
31 Division of Investment shall take appropriate action to sell, redeem,
32 divest, or withdraw any investment held in violation of subsection
33 a. of this section. This section shall not be construed to require the
34 premature or otherwise imprudent sale, redemption, divestment, or
35 withdrawal or an investment, but such sale, redemption, divestment,
36 or withdrawal shall be completed not later than 18 months
37 following the effective date of this act.

38 c. Within 60 days after the effective date of this act, the
39 Director of the Division of Investment shall file with the
40 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
41 19.1), a report of all investments held as of the effective date that
42 are in violation of subsection a. of this section. The State
43 Investment Council and the Director of the Division of Investment
44 shall use its best efforts to identify all companies that boycott Israel
45 and these efforts shall include, but are not limited, the following, as
46 appropriate in the judgment of the State Investment Council and the
47 Director of the Division of Investment:

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1 (1) reviewing and relying on publicly available information
2 regarding companies that boycott Israel, including information
3 provided by non-profit organizations, research firms, and
4 government entities;

5 (2) contacting other institutional investors that have divested
6 from companies that boycott Israel; and

7 (3) retaining an independent research firm to identify companies
8 that boycott Israel.

9 One year thereafter, and every subsequent year on the
10 anniversary of the effective date of this act, the director shall report
11 on all investments sold, redeemed, divested, or withdrawn in
12 compliance with subsection b. of this section. The report shall
13 provide a description of the progress that the division has made
14 since the previous report and since the effective date of this act in
15 implementing subsection b. of this section.

16 d. The members of the State Investment Council, jointly and
17 individually, and State officers and employees involved therewith,
18 shall be indemnified and held harmless by the State of New Jersey
19 from all claims, demands, suits, actions, damages, judgments, costs,
20 charges, and expenses, including court costs and attorney's fees,
21 and against all liability, losses, and damages that these council
22 members, and State officers and employees, may sustain by reason
23 of any decision to restrict, reduce, or eliminate investments
24 pursuant to this act.

25 e. As used in this act, "humanitarian aid" means the provision
26 of goods and services intended to relieve human suffering or to
27 promote general welfare and health; "Boycott, Divestment, and
28 Sanctions" (BDS) refers to the encouragement of boycotts,
29 divestments and sanctions that place economic and political
30 pressure on states, business entities, and other organizations and
31 institutions to influence their behavior against Israel; "boycott"
32 means engaging in actions that are politically motivated and are
33 intended to penalize, inflict economic harm on, or otherwise limit
34 commercial relations with another state or nation; "divestment"
35 means to sell redeem, or withdraw all holdings of a company from
36 the investment portfolio of another company or of a governmental
37 entity; and "sanctions" means the attempts by national
38 governments, multilateral organizations and other international
39 bodies or their subdivisions to limit or ban trade or other relations
40 with a state or nation.

41 f. The provisions of this act are severable. If any phrase,
42 clause, sentence, provision or section is declared to be invalid or
43 preempted by federal law or regulation, the validity of the
44 remainder of this act shall not be affected thereby.

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46 4. This act shall take effect immediately.

STATEMENT

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This bill would prohibit the investment of New Jersey public employee retirement funds in any company that boycotts, divests from, or sanctions Israel or Israeli businesses, or boycotts those doing business with Israel, or boycotts companies operating in Israel or Israeli-controlled territory.

The State of New Jersey reaffirms its interest in viable trade and exchange with allies of the United States and vibrant economic partners of the United States and the State and in finding new opportunities for the State to enhance cooperation and initiatives of mutual economic benefit.

The bill does not apply to the activities of any company providing humanitarian aid to the Palestinian people through either a governmental or non-governmental organization unless that company boycotts the goods, products, or businesses of Israel, or discriminates against people doing business with Israel and entities owned or controlled by the government of Israel, or entities operating in Israel or Israeli-controlled territory.

The bill would require the State Investment Council and the Director of the Division of Investment to take appropriate action to identify companies that violate the prohibition and to divest any investment held in violation of the prohibition. Progress reports by the division regarding these divestments would be required by the bill.

Illinois's legislature recently passed similar legislation restricting investment of its pension fund in companies that boycott Israel.