

House File 2331 - Enrolled

House File 2331

AN ACT

CONCERNING INVESTMENT OF CERTAIN PUBLIC FUNDS IN AND PUBLIC  
CONTRACTS WITH COMPANIES THAT BOYCOTT ISRAEL.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 12J.1 **Legislative findings and intent.**

The general assembly is deeply concerned and does not support boycotts and related tactics that have become a tool of economic warfare that threaten the sovereignty and security of allies and trade partners of the United States, including the state of Israel. Therefore, the general assembly intends that state funds and funds administered by the state, including public employee retirement funds, should not be invested in, and public contracts should not be entered into with, companies that refuse to engage in commerce with Israel and boycott Israel or persons doing business in Israel or territories controlled by Israel.

Sec. 2. NEW SECTION. 12J.2 **Definitions.**

As used in this chapter, unless the context otherwise requires:

1. "*Company*" means any business or business entity that is publicly traded and that is not based in the United States.

2. "*Direct holdings*" in a company means all publicly traded securities of that company that are held directly by the public fund in an actively managed account or fund in which the public fund owns all shares or interests.

3. "*Indirect holdings*" in a company means all securities of that company that are held in an account or fund managed by one or more persons not employed by the public fund, in which the public fund owns shares or interests together with other investors not subject to the provisions of this chapter. Indirect holdings include but are not limited to mutual funds, fund of funds, index funds, private equity funds, hedge funds, and real estate funds.

4. "*Public entity*" means the state, political subdivisions of the state, public school corporations, and all public officers, boards, commissions, departments, agencies, and authorities empowered by law to enter into public contracts for the expenditure of public funds, including the state board of regents and institutions under the control of the state board of regents.

5. "*Public fund*" means the treasurer of state, the state board of regents, the public safety peace officers' retirement system created in chapter 97A, the Iowa public employees' retirement system created in chapter 97B, the statewide fire and police retirement system created in chapter 411, or the judicial retirement system created in chapter 602.

6. "*Scrutinized company*" means any company that publicly states it is participating in a boycott of Israel.

Sec. 3. NEW SECTION. 12J.3 Identification of companies — notice.

1. a. By March 1, 2017, the public fund shall make its best efforts to identify or have identified all scrutinized companies in which the public fund has direct or indirect holdings or could possibly have such holdings in the future and shall create and make available to the public a scrutinized companies list for that public fund. The public fund shall review on an annual basis and update, if necessary, the scrutinized companies list.

b. In making its best efforts to identify or have identified scrutinized companies, the public fund may review and rely, in the best judgment of the public fund, on publicly available information regarding companies, and including other information that may be provided by nonprofit organizations, research firms, international organizations, and government

entities. The public fund may also contact asset managers and institutional investors for the public fund to identify scrutinized companies based upon industry-recognized lists of such companies that the public fund may have indirect holdings in.

*c.* The Iowa public employees' retirement system, acting on behalf of the system and other public funds subject to this section, may develop and issue a request for proposals for third-party services to complete the identification of scrutinized companies and the compilation of a scrutinized companies list. The Iowa public employees' retirement system shall consult with all other public funds on the development of the request for proposals. However, selection of a successful proposal and the final scope of services to be provided shall be determined only by those public funds that have agreed to utilize the third-party services. If more than one public fund decides to utilize the third-party services, the participating public funds shall equally share the costs of such services.

2. *a.* For each company on the scrutinized companies list, the public fund shall send or have sent a written notice informing the company of its status as a scrutinized company and that it may become subject to divestment and restrictions on investment in the company by the public fund. The notice shall offer the company the opportunity to clarify its activities or to cease its activities causing its inclusion on the scrutinized company list. The public fund or its representative shall continue to provide such written notice on an annual basis if the company remains a scrutinized company.

*b.* If, following notice as provided by this section, a scrutinized company ceases activity that designates it as a scrutinized company and submits a written statement to the public fund that it has ceased engaging in activities boycotting Israel, the company shall be removed from the scrutinized companies list.

**Sec. 4. NEW SECTION. 12J.4 Prohibited investments — divestment.**

1. The public fund shall not acquire publicly traded securities of a company on the public fund's most recent scrutinized companies list so long as such company remains on

the public fund's scrutinized companies list as provided in this chapter.

2. *a.* The public fund shall sell, redeem, divest, or withdraw all publicly traded securities of a company on the public fund's list of scrutinized companies, so long as the company remains on that list, within eighteen months following the first written notice sent to the scrutinized company as required by section 12J.3.

*b.* This subsection shall not be construed to require the premature or otherwise imprudent sale, redemption, divestment, or withdrawal of an investment, but such sale, redemption, divestment, or withdrawal shall be completed as provided by this subsection.

3. The requirements of this section shall not apply to indirect holdings of a scrutinized company. The public fund shall, however, submit letters to the managers of such investment funds containing scrutinized companies requesting that they consider removing such companies from the fund or create a similar fund with indirect holdings devoid of such companies. If the manager creates a similar fund with indirect holdings devoid of such companies, the public fund is encouraged to replace all applicable investments with investments in the similar fund consistent with prudent investing standards.

Sec. 5. NEW SECTION. 12J.5 Reports.

1. *Scrutinized companies list.* Each public fund shall, within thirty days after the scrutinized companies list is created or updated as required by section 12J.3, make the list available to the public.

2. *Annual report.* On October 1, 2017, and each October 1 thereafter, each public fund shall make available to the public, and file with the general assembly, an annual report covering the prior fiscal year that includes the following:

*a.* The scrutinized companies list as of the end of the fiscal year.

*b.* A summary of all written notices sent as required by section 12J.3 during the fiscal year.

*c.* All investments sold, redeemed, divested, or withdrawn as provided in section 12J.4 during the fiscal year.

Sec. 6. NEW SECTION. 12J.6 Public entities — contract requirements.

A public entity shall not enter into a contract of one thousand dollars or more with a scrutinized company included on a scrutinized company list created by a public fund pursuant to section 12J.3 to acquire or dispose of services, supplies, information technology, or construction.

Sec. 7. NEW SECTION. 12J.7 Legal obligations — immunity.

With respect to actions taken in compliance with this chapter, including all good-faith determinations regarding companies as required by this chapter, the public fund shall be immune from any liability and exempt from any conflicting statutory or common law obligations, including any such obligations in respect to choice of asset managers, investment funds, or investments for the public fund's securities portfolios.

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LINDA UPMEYER  
Speaker of the House

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PAM JOCHUM  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2331, Eighty-sixth General Assembly.

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CARMINE BOAL  
Chief Clerk of the House

Approved \_\_\_\_\_, 2016

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TERRY E. BRANSTAD  
Governor