

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 161
Committee Substitute Favorable 3/22/17

Short Title: Divestment From Companies That Boycott Israel.

(Public)

Sponsors:

Referred to:

February 22, 2017

A BILL TO BE ENTITLED

AN ACT REQUIRING STATE DIVESTMENT FROM, AND PROHIBITING STATE AGENCIES FROM CONTRACTING WITH, COMPANIES THAT BOYCOTT ISRAEL.

Whereas, boycotts and related tactics have become a tool of economic warfare that threaten the sovereignty and security of key allies and trade partners of the United States; and

Whereas, the State of Israel is the most prominent target of such boycott activity, which began with, but has not been limited to, the Arab League Boycott adopted in 1945, even before Israel's declaration of independence as the reestablished national state of the Jewish people; and

Whereas, companies that refuse to deal with United States trade partners such as Israel, or entities that do business with or in such countries, make discriminatory decisions on the basis of national origin that impair those companies' commercial soundness; and

Whereas, it is the public policy of the United States, as enshrined in several federal acts, to oppose boycotts against Israel, and Congress has concluded as a matter of national trade policy that cooperation with Israel materially benefits United States companies and improves American competitiveness; and

Whereas, Israel in particular is known for its dynamic and innovative approach in many business sectors, and, therefore, a company's decision to discriminate against Israel, Israeli entities, or entities that do business with or in Israel is an unsound business practice making such a company an unduly risky contracting partner or vehicle for investment; Now, therefore,

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 147 of the General Statutes is amended by adding a new Article to read:

"Article 6G.

"Divestment From Companies Boycotting Israel.

"§ 147-86.80. Definitions.

The following definitions apply in this Article:

- (1) Boycott Israel or boycott of Israel. – Engaging in refusals to deal, terminating business activities, or taking actions that are intended to penalize, inflict economic harm, or otherwise limit commercial relations specifically with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories. This term does not apply to decisions made for ordinary business purposes or for actions with an economic impact of less than fifty million dollars (\$50,000,000) in a 12-month period.



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- 1 (2) Company. – Any sole proprietorship, organization, association, corporation,
2 partnership, joint venture, limited partnership, limited liability partnership,
3 limited liability company, or other entity or business association, including
4 all wholly owned subsidiaries, majority-owned subsidiaries, parent
5 companies, or affiliates of those entities or business associations.
6 (3) Investment. – This term has the same meaning as G.S. 147-86.57(3).
7 (4) Restricted company. – A company that appears on the list of companies that
8 are engaged in a boycott of Israel developed by the State Treasurer under
9 G.S. 147-86-81(a)(1).
10 (5) State agency. – Any board, commission, department, executive department,
11 officer, institution, and any political subdivision of the State.

12 **§ 147-86.81. Prohibitions on State investment.**

13 (a) No more than 30 days after October 1, 2017, the State Treasurer shall adopt a policy
14 prohibiting the North Carolina Retirement Systems or the Department of State Treasurer from
15 directly investing in any company engaged in a boycott of Israel. At a minimum, the policy
16 shall provide for the following:

- 17 (1) List of restricted companies. – Within 120 days of adoption of the policy, the
18 State Treasurer shall develop and make publicly available a list of
19 companies it determines to be engaged in a boycott of Israel. In the
20 development of this list, the State Treasurer shall use any other state lists of
21 restricted companies pursuant to similar laws and any federal information or
22 guidance on companies that boycott Israel and any other credible
23 information provided by nonprofit organizations, research firms, and
24 governmental entities, and generally publicly available information. The
25 State Treasurer shall make every effort to avoid erroneously including a
26 company on the list. Before finalizing an initial or updated list, the State
27 Treasurer must do all of the following before a company is included on the
28 list:
29 a. Provide 90 days' written notice of the State Treasurer's intent to
30 include the company on the list. The notice shall inform the company
31 that inclusion on the list would make the company ineligible for State
32 investment, may result in the company becoming subject to
33 divestment by the North Carolina Retirement Systems, and may
34 affect the company's ability to conduct business with the State and its
35 subdivisions. The notice shall specify that the company may be
36 removed from the list if the company ceases its engagement in a
37 boycott of Israel.
38 b. The State Treasurer shall provide a company with an opportunity to
39 comment in writing that the company is not engaged in a boycott of
40 Israel or has ceased its boycott of Israel. If the company demonstrates
41 to the State Treasurer that the company has not been engaged in a
42 boycott of Israel, the company shall not be placed on the list. If a
43 company had been engaged in a boycott of Israel but has ceased the
44 boycott, it must submit a written certification to the State Treasurer
45 that the company will not reengage in a boycott of Israel for the
46 duration of any business with the State. The State Treasurer shall
47 keep all written certifications from restricted and previously
48 restricted companies.
49 (2) Identification of investments. – Upon completion of the initial list of
50 restricted companies created pursuant to subdivision (1) of this subsection,
51 the State Treasurer shall identify any restricted companies in which the

1 North Carolina Retirement Systems owns direct holdings and indirect
2 holdings.

3 (3) Review of restricted companies list. – The State Treasurer shall review the
4 list of restricted companies created pursuant to subdivision (1) of this
5 subsection on an annual basis. This updated list shall be made publicly
6 available and any updates shall be distributed to the North Carolina
7 Retirement Systems.

8 (4) Investments prohibited. – Neither the North Carolina Retirement Systems
9 nor the State Treasurer may invest funds with a company that is identified on
10 a list created pursuant to subdivision (1) of this section as a company
11 engaging in restricted investment activities.

12 (5) Existing investments. – Any existing investment with a company that is
13 identified on a list created pursuant to subdivision (1) of this section as a
14 company engaging in restricted activities must be divested within 180 days
15 of the adoption of the policy.

16 (b) Nothing in the policy or in this Article shall require the North Carolina Retirement
17 Systems or the State Treasurer to take action unless it is determined by the State Treasurer, in
18 good faith, that the action is consistent with the fiduciary responsibilities of the Retirement
19 Systems and the State Treasurer.

20 **"§ 147-86.82. Restrictions on contracts with the State or subdivisions of the State.**

21 (a) A company that is identified as a restricted company is ineligible to contract with
22 the State or any political subdivision of the State.

23 (b) Any contract entered into with a company that is identified as a restricted company
24 at the time of contract is void ab initio.

25 (c) Upon receiving information that a company that was not identified as a restricted
26 company at the time of contract has later been identified as a restricted company, the State
27 agency shall review the information and offer the company an opportunity to respond. If the
28 company fails to demonstrate that the company should not have been identified as a restricted
29 company within 90 days after notification by the State agency, then the State agency shall take
30 action as may be appropriate and provided for by law, rule, or contract.

31 (d) Contracts in existence on October 1, 2017, with restricted companies shall be
32 allowed to expire in accordance with the terms of the contract.

33 **"§ 147-86.83. Exceptions.**

34 G.S. 147-86.82 shall not apply to contracts valued at one thousand dollars (\$1,000) or less.

35 **"§ 147-86.84. Reporting.**

36 The State Treasurer shall report to the Joint Legislative Commission on Governmental
37 Operations annually by October 1 on information regarding investments sold, redeemed,
38 divested, or withdrawn in compliance with this Article."

39 **SECTION 2.(a)** Pursuant to G.S. 147-69.3(g), the State Treasurer is authorized to
40 retain the services of consultants, professional individuals, analysts, data collection firms, or
41 other persons possessing specialized skills or knowledge necessary for the proper
42 implementation and administration of the requirements of this act.

43 **SECTION 2.(b)** This section is effective when this act becomes law.

44 **SECTION 3.** Except as otherwise provided, this act becomes effective October 1,
45 2017.