



ARIZONA STATE SENATE
Fifty-Sixth Legislature, First Regular Session

VETOED
FACT SHEET FOR S.B. 1146

divestment; K-12; abortion; explicit material

Purpose

Requires the State Board of Investment (BOI) to identify U.S. companies that donate to or invest in organizations that promote, facilitate or advocate for abortions for minors or for the inclusion of, or the referral of students to, sexually explicit material in grades K-12. Requires the State Treasurer to divest from the identified companies.

Background

The State Treasurer is responsible for the safekeeping of all securities for which the State Treasurer is the lawful custodian. The State Treasurer invests state monies and operates the Local Government Investment Pool for the benefit of participating units of local government. The BOI reviews investments of Arizona State Treasury monies, serves as trustees of permanent funds and provides management of the assets of the funds consistent with outlined conditions. Current statute requires the State Treasurer to divest from companies that boycott Israel ([Ariz. Const. art. 10 § 7](#); A.R.S. §§ [35-314](#) and [35-393.02](#)).

A person may not perform an abortion on a minor unless the attending physician has written and notarized consent from the minor's parents, guardians or conservator or unless a superior court judge authorizes the physician to perform the abortion as outlined. A parent, a guardian or any other person may not coerce a minor to obtain an abortion. A person who performs an abortion on a minor in violation of statute or who intentionally causes, aids or assists a minor in illegally obtaining an abortion is guilty of a class 1 misdemeanor (A.R.S. §§ [36-2152](#) and [36-2153](#)).

Except for sex education instruction as outlined, a public school may not refer a student to or use any sexually explicit material in any manner unless: 1) the material possesses serious educational value for minors or serious literacy, artistic, political or scientific value; and 2) the public school requires written parental consent, on a per-material basis, before referring a student to or using the material. The public school must provide students for whom parental consent is not secured with an alternative assignment that does not contain sexually explicit material ([A.R.S. § 15-120.03](#)).

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

Provisions

1. Requires the BOI to adopt a policy regarding companies that donate to or invest in organizations that promote, facilitate or advocate for abortions for minors or for the inclusion of, or the referral of students to, sexually explicit material in grades K-12.

2. Requires the BOI's policy to include the procedure to identify U.S. companies that donate to or invest in organizations that promote, facilitate or advocate for:
 - a) abortions for minors; and
 - b) the inclusion of, or the referral of students to, sexually explicit material in grades K-12.
3. Requires the BOI's policy to include processes for:
 - a) communicating with the companies and appropriate federal officials, including the state's congressional delegation, regarding the BOI's findings; and
 - b) divestment from the identified companies.
4. Requires the State Treasurer to divest from the identified companies based on public information.
5. Requires the BOI to submit a copy of the policy to the President of the Senate and Speaker of the House of Representatives.
6. Defines *sexually explicit material* to include textual, visual or audio materials or materials accessed via any other medium that depict:
 - a) *sexual conduct*, defined as acts of masturbation, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person is a female, breast;
 - b) *sexual excitement*, defined as the condition of human male or female genitals when in a state of sexual stimulation or arousal; or
 - c) *ultimate sexual acts*, defined as sexual intercourse, vaginal or anal, fellatio, cunnilingus, bestiality or sodomy.
7. States that a sexual act is simulated when it depicts explicit sexual activity that gives the appearance of consummation of ultimate sexual acts.
8. Makes technical and conforming changes.
9. Becomes effective on the general effective date.

Governor's Veto Message

The Governor indicates in her [veto message](#) that S.B. 1146 politicizes decisions made by the professional portfolio managers at the Office of the State Treasurer.

Senate Action

House Action

FIN	2/13/23	DP	4-3-0	GOV	3/15/23	DP	5-4-0-0
3 rd Read	3/1/23		16-12-2	3 rd Read	5/15/23		31-27-1-0-1

Vetoed by the Governor 6/5/23

Prepared by Senate Research

June 5, 2023

MG/sr