

HOUSE BILL NO. HB0279

Wyoming anti boycott, divestment and sanctions.

Sponsored by: Representative(s) Winters, Biteman,
Blackburn, Byrd, Clem, Edwards and Jennings
and Senator(s) Agar, Christensen and
Peterson

A BILL

for

1 AN ACT relating to public contracts and public funds;
2 prohibiting public contracts with companies that boycott
3 Israel as specified; requiring investment policies to limit
4 investment of state funds and retirement funds in companies
5 that boycott Israel; amending the duties of a trustee of
6 the Wyoming Retirement System; and providing for an
7 effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 16-6-122 is created to read:

12

13 **16-6-122. Prohibition on contracts with companies**
14 **that boycott Israel; conflict of law.**

1

2 (a) Except as provided in subsection (b) of this
3 section and subject to constitutional limitations, on and
4 after January 1, 2018 no agency shall enter into a contract
5 with a company for goods or services if the contract price
6 is greater than fifty thousand dollars (\$50,000.00) unless
7 the contract contains a written verification from the
8 company that it:

9

10 (i) Does not boycott Israel; and

11

12 (ii) Will not boycott Israel during the term of
13 the contract.

14

15 (b) The administrative head of each agency, in
16 consultation with the attorney general, may excuse from the
17 requirements of subsection (a) of this section any contract
18 for goods or services upon a finding that good cause to
19 excuse the contract exists.

20

21 (c) As used in this section:

22

1 (i) "Agency" means the state of Wyoming and its
2 branches, agencies, municipalities, counties, school
3 districts, political subdivisions, special districts,
4 community college districts and the University of Wyoming;

5
6 (ii) "Boycott Israel" means refusing to deal
7 with, terminating business activities with or otherwise
8 taking any action that is intended to penalize, inflict
9 economic harm on or limit commercial relations specifically
10 with Israel or with a company doing business in Israel or
11 in an Israeli-controlled territory, but does not include
12 any action made for ordinary business purposes.

13
14 **Section 2.** W.S. 9-3-408(b), 9-3-440(a)(iv), (v) and
15 by creating a new paragraph (vi), (b), 9-4-715(d) and by
16 creating a new subsection (p) are amended to read:

17
18 **9-3-408. Designated custodian of retirement account;**
19 **disbursements; investment of account monies.**

20
21 (b) The board, or its designee, which shall be
22 registered under the Investment Advisor's Act of 1940 as
23 amended, or any bank as defined in that act, upon written

1 authority, shall invest monies in the retirement account,
2 which investments shall not be considered disbursements for
3 the purposes of W.S. 9-4-214 and subsection (a) of this
4 section. Subject to the limitations of W.S. 9-3-440(a)(vi),
5 in investing and managing monies in the retirement account,
6 the board, or its designee, shall exercise the judgment and
7 care that a prudent investor would, in light of the
8 purposes, terms, distribution requirements and all other
9 circumstances surrounding the monies in the retirement
10 account, including risk and return objectives established
11 by the board which are reasonably suitable to the purpose
12 of the Wyoming retirement system.

13

14 **9-3-440. Duties of trustee in investing and managing**
15 **assets of retirement system.**

16

17 (a) In investing and managing assets of a retirement
18 system pursuant to W.S. 9-3-439, a trustee with authority
19 to invest and manage assets:

20

21 (iv) May invest in any kind of property or type
22 of investment consistent with this act; ~~and~~

23

1 (v) May consider benefits created by an
2 investment in addition to investment return only if the
3 trustee determines that the investment providing these
4 collateral benefits would be prudent even without the
5 collateral benefits;~~;~~ and

6
7 (vi) On and after January 1, 2018, pursuant to
8 the statement of investment objectives and policies
9 required by W.S. 9-3-440(b), shall exercise reasonable
10 efforts to ensure no assets of a retirement system are
11 invested in a company known to boycott Israel, as defined
12 in W.S. 16-6-122(c)(ii). This paragraph shall not apply to
13 any assets invested before January 1, 2018 or any assets
14 exempted from the requirements of the statement of
15 investment objectives and policies. Any act or omission
16 performed in compliance with this paragraph shall not be
17 considered a breach of fiduciary duty or a violation of any
18 other standard of care required under the Wyoming
19 Retirement Act.

20
21 (b) A trustee with authority to invest and manage
22 assets of a retirement system shall adopt a statement of
23 investment objectives and policies for each retirement

1 program or appropriate grouping of programs. The statement
2 shall include the desired rate of return on assets overall,
3 the desired rates of return and acceptable levels of risk
4 for each asset class, asset-allocation goals, guidelines
5 for the delegation of authority and information on the
6 types of reports to be used to evaluate investment
7 performance. At least annually, the trustee shall review
8 the statement and change or reaffirm it. The statement of
9 investment objectives and policies shall specify that on
10 and after January 1, 2018 any investment manager providing
11 investment services to a retirement system is discouraged
12 from investing in companies known to boycott Israel, as
13 defined in W.S. 16-6-122(c)(ii). The statement of
14 investment objectives and policies may exempt from the
15 requirements of this subsection any assets invested in
16 accordance with a passive investment strategy or any assets
17 invested in a commingled or index fund.

18

19 **9-4-715. Permissible investments.**

20

21 (d) Subject to the limitations of subsection (p) of
22 this section, when approving, acquiring, investing,
23 reinvesting, exchanging, retaining, selling and managing

1 investments of the state of Wyoming, the members of the
2 board, the state treasurer, designees of the state
3 treasurer or any other fiduciary appointed by the state
4 treasurer or the board shall exercise the judgment and care
5 of a prudent investor as specified by the Uniform Prudent
6 Investor Act, W.S. 4-10-901 through 4-10-913.

7
8 (p) Notwithstanding any other provision of law, on
9 and after January 1, 2018, pursuant to the investment
10 policy statements adopted by the board, reasonable efforts
11 shall be made to ensure no assets of the state of Wyoming
12 held in custody or managed by the state treasurer are
13 invested in any company known to boycott Israel, as defined
14 in W.S. 16-6-122(b)(ii). The investment policy statements
15 adopted pursuant to this subsection may exempt from the
16 requirements of this subsection any assets invested in
17 accordance with a passive investment strategy or any assets
18 invested in a commingled or index fund. Any act or
19 omission performed in compliance with this subsection shall
20 not be considered a breach of fiduciary duty or a violation
21 of the Uniform Prudent Investor Act, W.S. 4-10-901 through
22 4-10-913.

23

1 **Section 3.**

2

3 (a) Nothing in this act shall be construed to apply
4 to, modify or impair:

5

6 (i) Any existing contracts executed by the state
7 of Wyoming prior to January 1, 2018; or

8

9 (ii) Any existing investment of public funds
10 made prior to January 1, 2018.

11

12 **Section 4.** This act is effective July 1, 2017.

13

14

(END)