

SENATE BILL NO. 26—COMMITTEE ON GOVERNMENT AFFAIRS

(ON BEHALF OF THE LIEUTENANT GOVERNOR)

PREFILED NOVEMBER 16, 2016

Referred to Committee on Government Affairs

SUMMARY—Makes certain changes concerning governmental entities that contract with or invest in companies that boycott Israel. (BDR 27-418)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

~

EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to governmental financial administration; prohibiting certain governmental entities from contracting with companies that boycott Israel; requiring the Public Employees’ Retirement Board to identify and prepare a report concerning investments of money from the Public Employees’ Retirement System in certain companies that boycott Israel; requiring the State Treasurer to prepare similar reports with respect to investments of money from public funds administered by the State Treasurer; limiting the ability of the State Treasurer, under certain circumstances, to invest in companies that boycott Israel; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Existing law authorizes contracts between governing bodies of a local
2 government or state agencies within the Executive Branch of the State Government
3 and private contractors and sets forth requirements for the procurement of goods
4 and services by those governing bodies and state agencies. (Chapters 332 and 333
5 of NRS) **Sections 5 and 11** of this bill prohibit governing bodies of a local
6 government, the Administrator of the Purchasing Division of the Department of
7 Administration and state agencies from entering into a contract with a company
8 unless the contract includes a written certification that the company is not engaged
9 in, and agrees for the duration of the contract, not to engage in, a boycott of Israel.
10 **Sections 20 and 30** of this bill define a “scrutinized company” as a company
11 that engages in a boycott of Israel. **Section 31** of this bill requires the State
12 Treasurer to identify scrutinized companies in which a public fund administered by



13 the State Treasurer has either direct or indirect holdings. **Section 32** of this bill
14 further requires the State Treasurer to prepare an annual report of investment of
15 money from such a public fund in those scrutinized companies. The report must be
16 submitted to the Governor and the Legislature on or before February 1 of each year.
17 **Section 33** of this bill requires, with certain exceptions, that the State Treasurer: (1)
18 divest all direct holdings of scrutinized companies from the assets under his or her
19 management; and (2) request the manager of the indirect holdings of a public fund
20 administered by the State Treasurer to consider divesting from such a scrutinized
21 company. The State Treasurer is not required to take any action described in
22 **section 33** unless he or she determines that the action is consistent with the
23 fiduciary responsibilities of the State Treasurer.

24 **Sections 21 and 22** of this bill similarly require the Public Employees'
25 Retirement Board to identify scrutinized companies and to prepare an annual report
26 of investment of money from the Public Employees' Retirement System in those
27 scrutinized companies. However, the identification and report of such scrutinized
28 companies by the Board only applies to companies in which the System has direct
29 holdings.

1 WHEREAS, The Nevada Legislature finds and declares that
2 boycotts and related tactics have become a tool of economic warfare
3 that threaten the sovereignty and security of key allies and trade
4 partners of the United States; and

5 WHEREAS, The State of Israel is the most prominent target of
6 such boycott activity, beginning with the Arab League Boycott
7 adopted in 1945, even before Israel's declaration of independence as
8 the reestablished national state of the Jewish people; and

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

14 WHEREAS, It is the public policy of the United States, as
15 enshrined in several federal acts, including 50 U.S.C. § 4607, to
16 oppose such boycotts, and Congress has concluded as a matter of
17 national trade policy that cooperation with Israel materially benefits
18 United States companies and improves American competitiveness;
19 and

20 WHEREAS, Israel in particular is known for its dynamic and
21 innovative approach in many business sectors, and a company's
22 decision to discriminate against Israel, Israeli entities or entities that
23 do business with Israel or in Israel is an unsound business practice
24 making the company an unduly risky contracting partner or vehicle
25 for investment; and

26 WHEREAS, The State of Nevada seeks to implement the policy
27 proposed in H.R. 825, which is pending before the 114th Session of
28 Congress, of "examining a company's promotion or compliance
29 with unsanctioned boycotts, divestment from or sanctions against



1 Israel as part of its consideration awarding grants and contracts and
2 supports the divestment of State assets from companies that support
3 or promote actions to boycott, divest from, or sanction Israel”; now,
4 therefore,

5
6 THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
7 SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:
8

9 **Section 1.** Chapter 332 of NRS is hereby amended by adding
10 thereto the provisions set forth as sections 2 to 5, inclusive, of this
11 act.

12 **Sec. 2.** *As used in sections 2 to 5, inclusive, of this act, unless*
13 *the context otherwise requires, the words and terms defined in*
14 *sections 3 and 4 of this act have the meanings ascribed to them in*
15 *those sections.*

16 **Sec. 3. 1.** *“Boycott of Israel” means, except as otherwise*
17 *provided in subsection 2, refusing to deal or conduct business*
18 *with, abstaining from dealing or conducting business with,*
19 *terminating business or business activities with or performing any*
20 *other action that is intended to limit commercial relations with:*

21 *(a) Israel; or*

22 *(b) A person or entity doing business in Israel or in territories*
23 *controlled by Israel,*
24 *↳ if such an action is taken in a manner that discriminates on the*
25 *basis of nationality, national origin or religion.*

26 **2.** *The term does not include an action that is described in*
27 *subsection 1 if the action:*

28 *(a) Is based on a bona fide business or economic reason;*

29 *(b) Is taken pursuant to a boycott against a public entity of*
30 *Israel if the boycott is applied in a nondiscriminatory manner; or*

31 *(c) Is taken in compliance with or adherence to calls for a*
32 *boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or*
33 *any other federal or state law.*

34 **Sec. 4.** *“Company” means any domestic or foreign sole*
35 *proprietorship, organization, association, corporation,*
36 *partnership, joint venture, limited partnership, limited-liability*
37 *partnership, limited-liability company, or other domestic or*
38 *foreign entity or business association, including, without*
39 *limitation, any wholly owned subsidiary, majority owned*
40 *subsidiary, parent company or affiliate of such an entity or*
41 *business association, that exists for the purpose of making a profit.*

42 **Sec. 5.** *A governing body or its authorized representative*
43 *shall not enter into a contract with a company unless the contract*
44 *includes a written certification that the company is not currently*



1 *engaged in, and agrees for the duration of the contract not to*
2 *engage in, a boycott of Israel.*

3 **Sec. 6.** NRS 332.045 is hereby amended to read as follows:

4 332.045 1. The advertisement required by paragraph (a) of
5 subsection 1 of NRS 332.039 must be by notice to bid and must be
6 published:

7 (a) In a newspaper qualified pursuant to chapter 238 of NRS that
8 has a general circulation within the county wherein the local
9 government, or a major portion thereof, is situated at least once and
10 not less than 7 days before the opening of bids; and

11 (b) On the Internet website of the local government, if the local
12 government maintains an Internet website, every day for not less
13 than 7 days before the opening of bids.

14 2. The notice must state:

15 (a) The nature, character or object of the contract.

16 (b) If plans and specifications are to constitute part of the
17 contract, where the plans and specifications may be seen.

18 (c) The time and place where bids will be received and opened.

19 (d) *That a written certification is a required part of the*
20 *contract pursuant to section 5 of this act.*

21 (e) Such other matters as may properly pertain to giving notice
22 to bid.

23 **Sec. 7.** Chapter 333 of NRS is hereby amended by adding
24 thereto the provisions set forth as sections 8 to 11, inclusive, of this
25 act.

26 **Sec. 8.** *As used in sections 8 to 11, inclusive, of this act,*
27 *unless the context otherwise requires, the words and terms defined*
28 *in sections 9 and 10 of this act have the meanings ascribed to them*
29 *in those sections.*

30 **Sec. 9. 1.** *“Boycott of Israel” means, except as otherwise*
31 *provided in subsection 2, refusing to deal or conduct business*
32 *with, abstaining from dealing or conducting business with,*
33 *terminating business or business activities with or performing any*
34 *other action that is intended to limit commercial relations with:*

35 (a) *Israel; or*

36 (b) *A person or entity doing business in Israel or in territories*
37 *controlled by Israel,*

38 *↪ if such an action is taken in a manner that discriminates on the*
39 *basis of nationality, national origin or religion.*

40 2. *The term does not include an action that is described in*
41 *subsection 1 if the action:*

42 (a) *Is based on a bona fide business or economic reason;*

43 (b) *Is taken pursuant to a boycott against a public entity of*
44 *Israel if the boycott is applied in a nondiscriminatory manner; or*



1 (c) *Is taken in compliance with or adherence to calls for a*
2 *boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or*
3 *any other federal or state law.*

4 **Sec. 10.** *“Company” means any domestic or foreign sole*
5 *proprietorship, organization, association, corporation,*
6 *partnership, joint venture, limited partnership, limited-liability*
7 *partnership, limited-liability company, or other domestic or*
8 *foreign entity or business association, including, without*
9 *limitation, any wholly owned subsidiary, majority owned*
10 *subsidiary, parent company or affiliate of such an entity or*
11 *business association, that exists for the purpose of making a profit.*

12 **Sec. 11. 1.** *The Administrator or a using agency shall not*
13 *enter into a contract with a company unless the contract includes*
14 *a written certification that the company is not currently engaged*
15 *in, and agrees for the duration of the contract not to engage in, a*
16 *boycott of Israel.*

17 **2.** *The Administrator shall adopt regulations as necessary to*
18 *carry out the provisions of this section.*

19 **Sec. 12.** NRS 333.310 is hereby amended to read as follows:

20 333.310 1. An advertisement must contain a general
21 description of the classes of commodities or services for which a bid
22 or proposal is wanted and must state:

23 (a) The name and location of the department, agency, local
24 government, district or institution for which the purchase is to be
25 made.

26 (b) Where and how specifications and quotation forms may be
27 obtained.

28 (c) If the advertisement is for bids, whether the Administrator is
29 authorized by the using agency to be supplied to consider a bid for
30 an article that is an alternative to the article listed in the original
31 request for bids if:

32 (1) The specifications of the alternative article meet or
33 exceed the specifications of the article listed in the original request
34 for bids;

35 (2) The purchase of the alternative article results in a lower
36 price; and

37 (3) The Administrator deems the purchase of the alternative
38 article to be in the best interests of the State of Nevada.

39 (d) Notice of the preference set forth in NRS 333.3366.

40 (e) *Notice of the written certification required pursuant to*
41 *section 11 of this act.*

42 (f) The date and time not later than which responses must be
43 received by the Purchasing Division.

44 ~~(f)~~ (g) The date and time when responses will be opened.



1 ↪ The Administrator or a designated agent of the Administrator
2 shall approve the copy for the advertisement.

3 2. Each advertisement must be published:

4 (a) In at least one newspaper of general circulation in the State.
5 The selection of the newspaper to carry the advertisement must be
6 made in the manner provided by this chapter for other purchases, on
7 the basis of the lowest price to be secured in relation to the paid
8 circulation; and

9 (b) On the Internet website of the Purchasing Division.

10 **Sec. 13.** NRS 333.311 is hereby amended to read as follows:

11 333.311 1. Each request for proposals must include
12 ~~minimum~~ :

13 (a) *Minimum* requirements that the successful bidder must meet
14 for the awarding of a contract pursuant to the provisions of this
15 chapter ~~H~~; and

16 (b) *Notice of the written certification required pursuant to*
17 *section 11 of this act.*

18 2. A contract may not be awarded to a bidder who does not
19 comply with the requirements set forth in the request for proposals.

20 **Sec. 14.** Chapter 286 of NRS is hereby amended by adding
21 thereto the provisions set forth as sections 15 to 22, inclusive, of this
22 act.

23 **Sec. 15.** *As used in sections 15 to 22, inclusive, of this act,*
24 *unless the context otherwise requires, the words and terms defined*
25 *in sections 16 to 20, inclusive, of this act have the meanings*
26 *ascribed to them in those sections.*

27 **Sec. 16.** 1. *“Boycott of Israel” means, except as otherwise*
28 *provided in subsection 2, refusing to deal or conduct business*
29 *with, abstaining from dealing or conducting business with,*
30 *terminating business or business activities with or performing any*
31 *other action that is intended to limit commercial relations with:*

32 (a) *Israel; or*

33 (b) *A person or entity doing business in Israel or in territories*
34 *controlled by Israel,*

35 ↪ *if such an action is taken in a manner that discriminates on the*
36 *basis of nationality, national origin or religion.*

37 2. *The term does not include an action that is described in*
38 *subsection 1 if the action:*

39 (a) *Is based on a bona fide business or economic reason;*

40 (b) *Is taken pursuant to a boycott against a public entity of*
41 *Israel if the boycott is applied in a nondiscriminatory manner; or*

42 (c) *Is taken in compliance with or adherence to calls for a*
43 *boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or*
44 *any other federal or state law.*



1 **Sec. 17.** *“Company” means any domestic or foreign sole*
2 *proprietorship, organization, association, corporation,*
3 *partnership, joint venture, limited partnership, limited-liability*
4 *partnership, limited-liability company, or other domestic or*
5 *foreign entity or business association, including, without*
6 *limitation, any wholly owned subsidiary, majority owned*
7 *subsidiary, parent company or affiliate of such an entity or*
8 *business association, that exists for the purpose of making a profit.*

9 **Sec. 18.** *“Direct holdings” means all publicly traded equity*
10 *securities of a company that are held directly by the public fund or*
11 *in an account or fund in which the public fund owns all shares or*
12 *interests.*

13 **Sec. 19.** *“Public fund” means a trust fund administered by*
14 *the Board pursuant to this chapter.*

15 **Sec. 20.** *“Scrutinized company” means any company that*
16 *engages in a boycott of Israel.*

17 **Sec. 21.** 1. *The Board shall identify each scrutinized*
18 *company in which the System has direct holdings. In making the*
19 *identification, the Board shall review and rely on publicly*
20 *available information regarding which companies are engaging in*
21 *a boycott of Israel, including, without limitation, information*
22 *provided by nonprofit organizations, research firms, international*
23 *organizations and governmental entities.*

24 2. *The Board shall create a list of all scrutinized companies*
25 *identified pursuant to subsection 1.*

26 3. *The Board shall update the list on an annual basis with the*
27 *information provided by and received from those entities listed in*
28 *subsection 1.*

29 **Sec. 22.** 1. *The Board shall prepare an annual report of*
30 *investments of money from the System in scrutinized companies as*
31 *identified pursuant to section 21 of this act. The report must*
32 *include the amount of money allocated in such investments and*
33 *other data and statistics designed to explain the past and current*
34 *extent to which funds from the System are invested in scrutinized*
35 *companies.*

36 2. *The Board shall submit to the Governor and the Director*
37 *of the Legislative Counsel Bureau for distribution to the*
38 *Legislature on or before February 1 of each year a copy of the*
39 *report which must cover all investments during the immediately*
40 *preceding calendar year.*

41 **Sec. 23.** Chapter 353 of NRS is hereby amended by adding
42 thereto the provisions set forth as sections 24 to 34, inclusive, of this
43 act.

44 **Sec. 24.** *As used in sections 24 to 34, inclusive, of this act,*
45 *unless the context otherwise requires, the words and terms defined*



1 *in sections 25 to 30, inclusive, of this act have the meanings*
2 *ascribed to them in those sections.*

3 **Sec. 25. 1.** *“Boycott of Israel” means, except as otherwise*
4 *provided in subsection 2, refusing to deal or conduct business*
5 *with, abstaining from dealing or conducting business with,*
6 *terminating business or business activities with or performing any*
7 *other action that is intended to limit commercial relations with:*

8 (a) *Israel; or*

9 (b) *A person or entity doing business in Israel or in territories*
10 *controlled by Israel,*

11 *↪ if such an action is taken in a manner that discriminates on the*
12 *basis of nationality, national origin or religion.*

13 2. *The term does not include an action that is described in*
14 *subsection 1 if the action:*

15 (a) *Is based on a bona fide business or economic reason;*

16 (b) *Is taken pursuant to a boycott against a public entity of*
17 *Israel if the boycott is applied in a nondiscriminatory manner; or*

18 (c) *Is taken in compliance with or adherence to calls for a*
19 *boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or*
20 *any other federal or state law.*

21 **Sec. 26.** *“Company” means any domestic or foreign sole*
22 *proprietorship, organization, association, corporation,*
23 *partnership, joint venture, limited partnership, limited-liability*
24 *partnership, limited-liability company, or other domestic or*
25 *foreign entity or business association, including, without*
26 *limitation, any wholly owned subsidiary, majority owned*
27 *subsidiary, parent company or affiliate of such an entity or*
28 *business association, that exists for the purpose of making a profit.*

29 **Sec. 27.** *“Direct holdings” means all publicly traded equity*
30 *securities of a company that are held directly by the public fund or*
31 *in an account or fund in which the public fund owns all shares or*
32 *interests.*

33 **Sec. 28.** *“Indirect holdings” means all publicly traded*
34 *securities of a company that are held by the State Treasurer in an*
35 *account or fund which is managed by one or more persons who*
36 *are not employed by the State Treasurer and in which the public*
37 *fund owns shares or interests, together with other investors who*
38 *are not subject to sections 24 to 34, inclusive, of this act.*

39 **Sec. 29.** *“Public fund” means a trust fund administered by*
40 *the State Treasurer.*

41 **Sec. 30.** *“Scrutinized company” means any company that*
42 *engages in a boycott of Israel.*

43 **Sec. 31. 1.** *The State Treasurer shall identify each*
44 *scrutinized company in which a public fund has either direct*
45 *holdings or indirect holdings. In making the identification, the*



1 *State Treasurer shall review and rely on publicly available*
2 *information regarding companies which are engaging in a boycott*
3 *of Israel, including, without limitation, information provided by*
4 *nonprofit organizations, research firms, international*
5 *organizations and governmental entities.*

6 *2. The State Treasurer shall create a list of all scrutinized*
7 *companies identified pursuant to subsection 1.*

8 *3. The State Treasurer shall update the list on an annual*
9 *basis with the information provided by and received from those*
10 *entities listed in subsection 1.*

11 **Sec. 32.** *1. The State Treasurer shall prepare an annual*
12 *report of investments of money from a public fund in scrutinized*
13 *companies as identified pursuant to section 31 of this act. The*
14 *report must include the amount of money allocated in such*
15 *investments and other data and statistics designed to explain the*
16 *past and current extent to which public funds are invested in*
17 *scrutinized companies.*

18 *2. The State Treasurer shall submit to the Governor and the*
19 *Director of the Legislative Counsel Bureau for distribution to*
20 *the Legislature on or before February 1 of each year a copy of the*
21 *report which must cover all investments during the immediately*
22 *preceding calendar year.*

23 **Sec. 33.** *1. Except as otherwise provided in subsection 2,*
24 *the State Treasurer:*

25 *(a) Shall sell, redeem, divest or withdraw all direct holdings of*
26 *a scrutinized company from the assets under his or her*
27 *management within 3 months after preparing a list of scrutinized*
28 *companies pursuant to section 31 of this act which includes that*
29 *scrutinized company.*

30 *(b) Shall, on or before June 30 of each year, post on the*
31 *Internet website of the State Treasurer a list that includes each*
32 *investment that was sold, redeemed, divested or withdrawn*
33 *pursuant to subsection 1.*

34 *(c) Shall not acquire securities of a scrutinized company as*
35 *part of the direct holdings of the Office of the State Treasurer.*

36 *(d) Shall request that the manager of the indirect holdings of*
37 *any public fund consider selling, redeeming, divesting or*
38 *withdrawing holdings of a scrutinized company from the assets*
39 *under his or her management.*

40 *2. Nothing in this section shall require the State Treasurer to*
41 *take action as described in this section unless the State Treasurer*
42 *determines and adopts findings, in good faith and based on*
43 *credible information available to the public, that the action*
44 *described in this section is consistent with the fiduciary*
45 *responsibilities of the State Treasurer.*



1 **Sec. 34. *The State Treasurer shall adopt regulations:***

2 ***1. Establishing a process for giving notice to a company of***
3 ***the inclusion of that company on the list of scrutinized companies***
4 ***created pursuant to section 31 of this act;***

5 ***2. Establishing the process for the removal of a company***
6 ***from the list of scrutinized companies created pursuant to section***
7 ***31 of this act; and***

8 ***3. Deemed necessary by the State Treasurer to carry out the***
9 ***provisions of sections 24 to 34, inclusive, of this act.***

10 **Sec. 35.** The provisions of subsection 1 of NRS 218D.380 do
11 not apply to any provision of this act which adds or revises a
12 requirement to submit a report to the Legislature.

13 **Sec. 36.** This act becomes effective on passage and approval
14 for the purposes of adopting regulations and performing any other
15 preparatory administrative tasks that are necessary to carry out the
16 provisions of this act, and on July 1, 2018, for all other purposes.



