

REFERENCE TITLE: divestment; boycott; Israel; public entities

State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

SB 1250

Introduced by
Senator Gowan

AN ACT

AMENDING SECTIONS 35-393 AND 35-393.02, ARIZONA REVISED STATUTES; RELATING TO DIVESTMENT OF PUBLIC MONIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 35-393, Arizona Revised Statutes, is amended to
3 read:

4 35-393. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Boycott" means engaging in a refusal to deal, terminating
7 business activities or performing other actions that are intended to limit
8 commercial relations with entities doing business in Israel or in
9 territories controlled by Israel, if those actions are taken either:

10 (a) Based in part on the fact that the entity does business in
11 Israel or in territories controlled by Israel.

12 (b) In a manner that discriminates on the basis of nationality,
13 national origin or religion and that is not based on a valid business
14 reason.

15 2. "Company" means an organization, association, corporation,
16 partnership, joint venture, limited partnership, limited liability
17 partnership, limited liability company or other entity or business
18 association, including a wholly owned subsidiary, majority-owned
19 subsidiary, parent company or affiliate, that engages in for-profit
20 activity and that has ten or more full-time employees.

21 3. "Direct holdings" means all publicly traded securities of a
22 company that are held directly by the state treasurer or a retirement
23 system in an actively managed account or fund in which the retirement
24 system owns all shares or interests.

25 4. "Indirect holdings" means all securities of a company that are
26 held in an account or fund, including a mutual fund, that is managed by
27 one or more persons who are not employed by the state treasurer or a
28 retirement system, if the state treasurer or retirement system owns shares
29 or interests either:

30 (a) Together with other investors that are not subject to this
31 section.

32 (b) That are held in an index fund.

33 5. "Public entity":

34 (a) Means this state, a political subdivision of this state or an
35 agency, board, commission or department of this state or a political
36 subdivision of this state.

37 (b) INCLUDES THE UNIVERSITIES UNDER THE JURISDICTION OF THE ARIZONA
38 BOARD OF REGENTS AND COMMUNITY COLLEGE DISTRICTS AS DEFINED IN SECTION
39 15-1401.

40 6. "Public fund" means the state treasurer or a retirement system.

41 7. "Restricted companies" means companies that boycott Israel.

42 8. "Retirement system" means a retirement plan or system that is
43 established by or pursuant to title 38.

1 Sec. 2. Section 35-393.02, Arizona Revised Statutes, is amended to
2 read:

3 35-393.02. Investment; restricted companies list; notice;
4 immunity; exception

5 A. On or before April 1 of each year, each public fund shall
6 prepare a list of restricted companies and shall provide a copy of the
7 list on request.

8 B. In preparing the list of restricted companies, the public fund
9 may consider at least the following:

10 1. Publicly available information, including information provided
11 by nonprofit organizations, research firms and government entities.

12 2. Information prepared by an independent research firm retained by
13 the public fund.

14 3. A statement by a company that it is participating in a boycott
15 of Israel or that it has taken a boycott action at the request of, in
16 compliance with or in furtherance of calls for a boycott of Israel.

17 C. The public fund shall notify each company that is included on
18 the list of restricted companies that the company is subject to divestment
19 by the state treasurer, ~~and~~ the retirement systems **AND EACH PUBLIC ENTITY**.

20 D. If a company that receives notice pursuant to subsection C of
21 this section submits a written certification to the public fund that it
22 has ceased its boycott of Israel and will not engage in a boycott of
23 Israel for the period of time that the state treasurer or a retirement
24 system invests in the company, the public fund shall remove the company
25 from the restricted list.

26 E. Each public fund **AND EACH PUBLIC ENTITY** shall:

27 1. Sell, redeem, divest or withdraw all direct holdings of a
28 restricted company from the assets under its management in an orderly and
29 fiducially responsible manner within three months after ~~preparing~~ the ~~list~~
30 **LISTS** of restricted companies **ARE PREPARED** pursuant to subsection A of
31 this section. On or before August 1 of each year, the state treasurer,
32 ~~and~~ each retirement system **AND EACH PUBLIC ENTITY** shall post on their
33 websites a list of investments that are sold, redeemed, divested or
34 withdrawn pursuant to this paragraph.

35 2. Not acquire securities of a restricted company as part of its
36 direct holdings.

37 3. Request that managers of its indirect holdings consider selling,
38 redeeming, divesting or withdrawing holdings of a restricted company from
39 the assets under its management.

40 F. With respect to any action performed pursuant to this section,
41 the state treasurer, each retirement system, **EACH PUBLIC ENTITY** and any
42 person acting on behalf of the state treasurer, ~~or~~ the retirement system
43 **OR THE PUBLIC ENTITY**:

1 1. Are exempt from any conflicting statutory or common law
2 obligation or fiduciary duties with respect to choice of asset managers,
3 investment funds or investments.

4 2. Are subject to title 12, chapter 7, article 2 regarding immunity
5 for acts and omissions.

6 3. Are indemnified and held harmless by this state from claims,
7 demands, suits, actions, damages, judgments, costs, charges and expenses,
8 including attorney fees, and against all liability, losses and damages
9 because of a decision to sell, redeem, divest or withdraw holdings of a
10 restricted company made pursuant to this section.

11 G. This section does not apply to investments that are made by the
12 state treasurer pursuant to section 35-314.01.