

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 189

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO STATE GOVERNMENT AND STATE AFFAIRS; AMENDING CHAPTER 23, TITLE  
2 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2347A, IDAHO CODE, TO  
3 PROHIBIT CONTRACTS WITH COMPANIES BOYCOTTING CERTAIN SECTORS AND PUB-  
4 LIC CONTRACTS DISFAVORING CERTAIN SECTORS; AND DECLARING AN EMERGENCY  
5 AND PROVIDING AN EFFECTIVE DATE.  
6

7 Be It Enacted by the Legislature of the State of Idaho:

8 SECTION 1. That Chapter 23, Title 67, Idaho Code, be, and the same is  
9 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
10 ignated as Section 67-2347A, Idaho Code, and to read as follows:

11 67-2347A. PROHIBITION ON CONTRACTS WITH COMPANIES BOYCOTTING CERTAIN  
12 SECTORS AND PUBLIC CONTRACTS DISFAVORING CERTAIN SECTORS. (1) As used in  
13 this section:

14 (a) "Boycott" means, without a reasonable business purpose, refus-  
15 ing to deal with an individual or organization, terminating business  
16 with an individual or organization, or taking another action that is  
17 intended to penalize, inflict economic harm on, or limit commercial  
18 relations with an individual or organization because the individual or  
19 organization:

20 (i) Engages in a particular business sector;

21 (ii) Engages in a particular business sector and does not commit  
22 or pledge to meet standards beyond applicable federal and state  
23 law; or

24 (iii) Does business with an individual or organization that en-  
25 gages in a particular business sector.

26 (b) "Company" means any for-profit or not-for-profit organization,  
27 association, corporation, partnership, joint venture, limited part-  
28 nership, limited liability partnership, limited liability company,  
29 or other entity or business association, including all wholly owned  
30 subsidiaries, majority-owned subsidiaries, parent companies, or af-  
31 filiates of those entities or business associations.

32 (c) "Public entity" means the state of Idaho or any political subdi-  
33 vision thereof, including all boards, commissions, agencies, institu-  
34 tions, authorities, and bodies politic and corporate of the state, cre-  
35 ated by or in accordance with state law or regulations.

36 (d) "Reasonable business purpose" means any purpose directly related  
37 to:

38 (i) Promoting the financial success or stability of the company;

39 (ii) Mitigating risk to the company;

40 (iii) Complying with legal or regulatory requirements; or

41 (iv) Limiting liability of the company.

42 (2) This section applies only to a contract that:

1 (a) Is between a public entity and a company with ten (10) or more full-  
2 time employees; and

3 (b) Has a value of one hundred thousand dollars (\$100,000) or more that  
4 is to be paid wholly or partly from public funds of the public entity.

5 (3) Except as provided in subsection (4) of this section, a public en-  
6 tity may not enter into a contract with a company for goods or services unless  
7 the contract contains a written verification from the company that it is not  
8 currently engaged in, and will not for the duration of the contract engage  
9 in, a boycott of any individual or company because the individual or company:

10 (a) Engages in or supports the exploration, production, utilization,  
11 transportation, sale, or manufacture of fossil fuel-based energy, tim-  
12 ber, minerals, hydroelectric power, nuclear energy, or agriculture; or

13 (b) Engages in or supports the manufacture, distribution, sale, or use  
14 of firearms, as defined in section 18-3302(2)(d), Idaho Code.

15 (4) Subsections (3) and (6) of this section do not apply to a public  
16 entity that determines the requirements of subsection (3) or (6) of this sec-  
17 tion are inconsistent with the public entity's constitutional or statutory  
18 duties related to the issuance, incurrence, or management of debt obli-  
19 gations or the deposit, custody, management, borrowing, or investment of  
20 funds. Subsections (3) and (6) of this section also do not apply to a public  
21 entity that determines the requirements of subsection (3) or (6) of this sec-  
22 tion, with respect to a specific contract, would be contrary to the business  
23 needs of the public entity and prevent the public entity from fulfilling  
24 its legal duties or obligations. State public entities that determine one  
25 of the exemptions in this subsection is applicable to the requirements of  
26 subsection (3) or (6) of this section shall provide written notification to  
27 the state board of examiners within thirty (30) days of such determination  
28 for purposes of informing the public. Local public entities that determine  
29 one of the exemptions in this subsection is applicable to the requirements  
30 of subsection (3) or (6) of this section shall provide written notification  
31 to the local public entity's governing body within thirty (30) days of such  
32 determination for purposes of informing the public.

33 (5) Written notification provided pursuant to subsection (4) of this  
34 section shall:

35 (a) Describe the reasoning in support of the determination that one of  
36 the exemptions in subsection (4) of this section is applicable to the  
37 requirements of subsection (3) or (6) of this section;

38 (b) Be placed on the agenda as an informational item, specifically  
39 noting the public entity has previously determined an exemption is ap-  
40 plicable, at the next regularly scheduled public meeting agenda of the  
41 board of examiners or public entity's governing body, as applicable;  
42 and

43 (c) Be maintained pursuant to the records retention schedule of the  
44 public entity and the board of examiners or public entity's governing  
45 body, as applicable.

46 (6) Public entities shall not disfavor a company because the company:

47 (a) Engages in or supports the exploration, production, utilization,  
48 transportation, sale, or manufacture of fossil fuel-based energy, tim-  
49 ber, minerals, hydroelectric power, nuclear energy, or agriculture; or

1 (b) Engages in or supports the manufacture, distribution, sale, or use  
2 of firearms, as defined in section 18-3302(2)(d), Idaho Code.

3 (7) A company not selected for a contract may assert noncompliance with  
4 this section as a basis to challenge the award of the contract under the ad-  
5 ministrative and legal processes otherwise applicable to the award of the  
6 contract.

7 SECTION 2. An emergency existing therefor, which emergency is hereby  
8 declared to exist, this act shall be in full force and effect on and after  
9 July 1, 2023.