LEGISLATURE OF THE STATE OF IDAHO
Sixty-fourth Legislature Second Regular Session – 2018

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 569

BY LOCAL GOVERNMENT COMMITTEE

AN ACT
RELATING TO STATE GOVERNMENT; PROVIDING LEGISLATIVE INTENT; AMENDING CHAPTER 13, TITLE 59, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 59-1399A, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE THAT THE BOARD SHALL IDENTIFY CERTAIN SCRUTINIZED COMPANIES AND TO PROVIDE REPORTING REQUIREMENTS; AMENDING CHAPTER 12, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-1230, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE THAT THE TREASURER SHALL IDENTIFY CERTAIN SCRUTINIZED COMPANIES, TO PROVIDE REPORTING REQUIREMENTS, TO PROVIDE THAT THE TREASURER SHALL TAKE CERTAIN ACTIONS REGARDING SCRUTINIZED COMPANIES AND TO PROVIDE THAT THE TREASURER SHALL PROMULGATE CERTAIN RULES; AND AMENDING CHAPTER 23, TITLE 67, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 67-2359, IDAHO CODE, TO DEFINE TERMS AND TO PROVIDE THAT THE STATE OF IDAHO AND POLITICAL SUBDIVISIONS SHALL NOT ENTER INTO CONTRACTS UNLESS IT INCLUDES CERTIFICATION THAT THE COMPANY IS NOT ENGAGED IN A BOYCOTT OF ISRAEL.

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

SECTION 1. LEGISLATIVE INTENT. It is the intent of the Legislature to reinforce Idaho's political and economic bond with the State of Israel. Israel has become a prominent target of boycotts and related tactics that have become a tool of economic warfare that threaten the sovereignty and security of key allies and trade partners of the United States. It is the policy of Idaho and the United States, as enshrined in several federal acts, including 50 U.S.C. 4607, to oppose such boycotts and embrace Israel's dynamic and innovative approach in many business sectors.

SECTION 2. That Chapter 13, Title 59, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 59-1399A, Idaho Code, and to read as follows:

59-1399A. LIST OF SCRUTINIZED COMPANIES -- REPORTING. (1) As used in this section:
(a) "Boycott of Israel" means refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with, or performing any other action that is intended to limit commercial relations with Israel or a person or entity doing business in Israel or in territories controlled by Israel, if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion. "Boycott of Israel" does not mean an action that:
(i) Is based on a bona fide business or economic reason;
(ii) Is taken pursuant to a boycott against a public entity of Israel if the boycott is applied in a nondiscriminatory manner; or
(iii) Is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. 4607 or any other federal or state law.

(b) "Company" means any domestic or foreign sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other domestic or foreign entity or business association, including, without limitation, any wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of such an entity or business association that exists for the purpose of making a profit.

(c) "Direct holdings" means all publicly traded equity securities of a company that are held directly by the fund or in an account in which the fund owns all shares or interests.

(d) "Fund" means the public employee retirement fund as defined in section 59-1302, Idaho Code.

(e) "Scrubitized company" means any company that engages in a boycott of Israel.

(2) The board shall identify each scrutinized company in which it has direct holdings. In making the identification, the board shall review and rely on publicly available information regarding which companies are engaging in a boycott of Israel including, without limitation, information provided by nonprofit organizations, research firms, international organizations and governmental entities.

(3) The board shall create a list of all scrutinized companies identified pursuant to subsection (2) of this section.

(4) The board shall update the list on an annual basis with the information provided by and received from those entities listed in subsection (2) of this section.

(5) The board shall prepare an annual report of investments of moneys from the fund in scrutinized companies as identified pursuant to this section. The report must include the amount of moneys allocated in such investments and other data and statistics designed to explain the past and current extent to which moneys are invested in scrutinized companies.

(6) The board shall submit a copy of the report prepared pursuant to subsection (5) of this section to the governor and the director of the legislative services office for distribution to the legislature on or before February 1 of each year.

SECTION 3. That Chapter 12, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-1230, Idaho Code, and to read as follows:

67-1230. LIST OF SCRUTINIZED COMPANIES -- REPORTING -- DIVESTITURE -- RULES. (1) As used in this section:

(a) "Boycott of Israel" means refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with, or performing any other action that is intended to limit commercial relations with Israel or a person or entity doing business in Israel or in territories controlled by Israel, if such an action is taken in a manner that discriminates on the
basis of nationality, national origin or religion. "Boycott of Israel"
does not mean an action that:

(i) Is based on a bona fide business or economic reason;
(ii) Is taken pursuant to a boycott against a public entity of Is-
rael if the boycott is applied in a nondiscriminatory manner; or
(iii) Is taken in compliance with or adherence to calls for a boy-
cott of Israel if that action is authorized in 50 U.S.C. 4607 or any
other federal or state law.

(b) "Company" means any domestic or foreign sole proprietorship, or-
organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other domestic or foreign entity or business association, including, without limitation, any wholly owned subsidiary, major-
ity-owned subsidiary, parent company or affiliate of such an entity or
business association that exists for the purpose of making a profit.
(c) "Direct holdings" means all publicly traded equity securities of
a company that are held directly by the public fund or in an account in
which the public fund owns all shares or interests.
(d) "Indirect holdings" means all publicly traded securities of a com-
pany that are held by the treasurer in an account or fund that is managed
by one (1) or more persons who are not employed by the treasurer and in
which the public fund owns shares or interests, together with other in-
vestors who are not subject to the provisions of this section.
(e) "Public fund" means a trust fund administered by the treasurer.
(f) "Scrutinized company" means any company that engages in a boycott
of Israel.

(2) The treasurer shall identify each scrutinized company in which he
has direct holdings or indirect holdings. In making the identification, the
treasurer shall review and rely on publicly available information regarding
which companies are engaging in a boycott of Israel including, without lim-
itation, information provided by nonprofit organizations, research firms, international organizations and governmental entities.

(3) The treasurer shall create a list of all scrutinized companies
identified pursuant to subsection (2) of this section.

(4) The treasurer shall update the list on an annual basis with the in-
formation provided by and received from those entities listed in subsection
(2) of this section.

(5) The treasurer shall prepare an annual report of investments of mon-
ey from the public fund in scrutinized companies as identified pursuant to
this section. The report must include the amount of moneys allocated in such
investments and other data and statistics designed to explain the past and
current extent to which moneys are invested in scrutinized companies.

(6) The treasurer shall submit a copy of the report prepared pursuant to
subsection (5) of this section to the governor and the director of the legis-
slative services office for distribution to the legislature on or before
February 1 of each year.

(7) Except as provided in subsection (8) of this section, the treasurer
shall:

(a) Sell, redeem, divest or withdraw all direct holdings of a scru-
tinized company from the assets under his management within three (3)
months after preparing a list of scrutinized companies, pursuant to subsection (3) of this section, which includes that scrutinized company;
(b) On or before June 30 of each year, post on the website of the treasurer a list that includes each investment that was sold, redeemed, divested or withdrawn pursuant to paragraph (a) of this subsection;
(c) Not acquire securities of a scrutinized company as part of the direct holdings of the office of the state treasurer; and
(d) Request that the manager of the indirect holdings of any public fund consider selling, redeeming, divesting or withdrawing holdings of a scrutinized company from the assets under his management.
Nothing in this subsection shall require the treasurer to take action as described in this subsection unless the treasurer determines and adopts findings, in good faith and based on credible information available to the public, that the action described in this subsection is consistent with the fiduciary responsibilities of the treasurer.

(8) The treasurer shall promulgate rules:
(a) Establishing a process for giving notice to a company of the inclusion of that company on the list of scrutinized companies created pursuant to subsection (3) of this section;
(b) Establishing the process for the removal of a company from the list of scrutinized companies created pursuant to subsection (3) of this section; and
(c) Deemed necessary by the treasurer to carry out the provisions of this section.

SECTION 4. That Chapter 23, Title 67, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW SECTION, to be known and designated as Section 67-2359, Idaho Code, and to read as follows:

67-2359. CONTRACTING WITH CERTAIN COMPANIES PROHIBITED. (1) As used in this section:
(a) "Boycott of Israel" means refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with, or performing any other action that is intended to limit commercial relations with Israel or a person or entity doing business in Israel or in territories controlled by Israel, if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion. "Boycott of Israel" does not mean an action that:
   (i) Is based on a bona fide business or economic reason;
   (ii) Is taken pursuant to a boycott against a public entity of Israel if the boycott is applied in a nondiscriminatory manner; or
   (iii) Is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. 4607 or any other federal or state law.
(b) "Company" means any domestic or foreign sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other domestic or foreign entity or business association, including, without limitation, any wholly owned subsidiary, major-
ity-owned subsidiary, parent company or affiliate of such an entity or
business association that exists for the purpose of making a profit.

(2) The state of Idaho and any political subdivision in the state shall
not enter into a contract with a company unless the contract includes a writ-
ten certification that the company is not currently engaged in, and agrees
for the duration of the contract not to engage in, a boycott of Israel.