

## CHAPTER 24

**AN ACT** concerning the investment of State pension and annuity funds in companies that boycott Israel or Israeli businesses and supplementing P.L.1950, c.270 (C.52:18A-79).

**BE IT ENACTED** *by the Senate and General Assembly of the State of New Jersey:*

C.52:18A-89.13 Findings, declarations relative to investment of State funds in companies boycotting Israel.

1. The Legislature finds and declares that:

Israel and the United States are allies sharing a common bond rooted in the values of freedom, democracy, and equal rights.

The State of New Jersey is committed to supporting Israel and maintaining the strong New Jersey-Israel relationship that has existed since the founding of the Jewish state in 1948, recognizing that the United States and Israel have mutually benefitted from being allies, including economic cooperation, which Congress has determined materially benefits the United States.

The State is deeply concerned about the Boycott, Divestment and Sanctions (BDS) effort to boycott Israeli goods, products, and businesses which is contrary to federal policy articulated in numerous laws.

The State and Israel have a long history of friendship based on economic, cultural, intellectual, and political cooperation and exchange, and the elected representatives of New Jersey recognize and support Israel's right to exist as a Jewish state.

More than \$1.3 billion in goods and services are traded annually between New Jersey and Israel, and the two trading partners continue to look for and find new opportunities to enhance cooperation and initiatives of mutual economic benefit.

Boycotts, divestments, and sanctions place economic and political pressure on business entities, and other organizations and institutions to influence their behavior against Israel.

It is fitting and appropriate that the State of New Jersey reaffirm its interest in viable trade and exchange with an ally of the United States and a vibrant economic partner of the State.

Economic cooperation and political reconciliation are necessary for building mutual trust and foundations for a lasting peace in the Middle East.

Both Israelis and Palestinians have the right to live safely and securely in their homes, free from fear and violence, with mutual recognition, trade, and normalization of relations as neighbors.

The strengthening of New Jersey-Israel cooperation recognizes the beneficial economic and technological value of that cooperation including for improving the competitive capabilities in global markets for both New Jersey and Israel.

Nationality-based boycott actions are often veiled discrimination, and it is against the public policy of New Jersey to support such discrimination.

Boycotts, such as those against Israel, do not make for effective business decision making, prevent a business from making the best use of the resources available to it and should be opposed as an impairment to the soundness of commercial contracting performance.

It is important to the economic well-being of New Jersey that persons or entities conducting commercial trade and doing business in the State do not engage in boycotts of a legitimate and viable partner with whom New Jersey can enjoy open trade contracting.

Therefore, it is in the best interest of this State that a statutory prohibition be enacted to prohibit the investment of public employee retirement funds in companies boycotting Israel.

C.52:18A-89.14 Investment in companies which boycott Israel prohibited.

2. a. Notwithstanding any provision of law to the contrary, no assets of any pension or annuity fund under the jurisdiction of the Division of Investment in the Department of the Treasury, or its successor, shall be invested in any company that boycotts the goods, products, or businesses of Israel, boycotts those doing business with Israel, or boycotts companies operating in Israel or Israeli-controlled territory. This section shall not apply to those boycotts organized by foreign governments pursuant to 50 U.S.C. s.4607(c). The activities of any company solely providing humanitarian aid to the Palestinian people through either a governmental or non-governmental organization shall not render the company subject to the provisions of this act, P.L.2016, c.24 (C.52:18A-89.13 et seq.) unless it is also engaging in the prohibited boycotts or otherwise discriminating against goods, products, or businesses of Israel, or entities operating in Israel or Israeli-controlled territory.

b. The State Investment Council and the Director of the Division of Investment shall take appropriate action to sell, redeem, divest, or withdraw any investment held in violation of subsection a. of this section. This section shall not be construed to require the premature or otherwise imprudent sale, redemption, divestment, or withdrawal of an investment, but such sale, redemption, divestment, or withdrawal shall be completed not later than 24 months following the effective date of this act.

c. Within 120 days after the effective date of this act, the Director of the Division of Investment shall file with the Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-19.1), a report of all investments held as of the effective date that are in violation of subsection a. of this section. The State Investment Council and the Director of the Division of Investment shall use its best efforts to identify all companies that boycott Israel and these efforts shall include, but are not limited to, the following, as appropriate in the judgment of the State Investment Council and the Director of the Division of Investment:

(1) reviewing and relying on publicly available information regarding companies that boycott Israel, including information provided by non-profit organizations, research firms, and government entities;

(2) contacting other institutional investors that have divested from companies that boycott Israel; and

(3) retaining an independent research firm to identify companies that boycott Israel.

One year thereafter, and every subsequent year on the anniversary of the effective date of this act, the director shall report on all investments sold, redeemed, divested, or withdrawn in compliance with subsection b. of this section. The report shall provide a description of the progress that the division has made since the previous report and since the effective date of this act in implementing subsection b. of this section.

d. The members of the State Investment Council, jointly and individually, and State officers and employees involved therewith, shall be indemnified and held harmless by the State of New Jersey from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney's fees, and against all liability, losses, and damages that these council members, and State officers and employees, may sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to this act.

e. As used in this act, "humanitarian aid" means the provision of goods and services intended to relieve human suffering or to promote general welfare and health; "Boycott, Divestment, and Sanctions" (BDS) refers to the encouragement of boycotts, divestments and sanctions that place economic and political pressure on states, business entities, and other organizations and institutions to influence their behavior against Israel; "boycott" means engaging in actions that are intended to penalize, inflict economic harm on, or otherwise

limit commercial relations with another state or nation; “divestment” means to sell, redeem, or withdraw all holdings of a company from the investment portfolio of another company or of a governmental entity; and “sanctions” means the attempts by national governments, multilateral organizations and other international bodies or their subdivisions to limit or ban trade or other relations with a state or nation.

f. The provisions of this act are severable. If any phrase, clause, sentence, provision or section is declared to be invalid or preempted by federal law or regulation, the validity of the remainder of this act shall not be affected thereby.

3. This act shall take effect immediately.

Approved August 16, 2016.