HOUSE BILL NO. HB0279

Wyoming anti boycott, divestment and sanctions.

Sponsored by: Representative(s) Winters, Biteman, Blackburn, Byrd, Clem, Edwards and Jennings and Senator(s) Agar, Christensen and Peterson

A BILL

for

AN ACT relating to public contracts and public funds; prohibiting public contracts with companies that boycott Israel as specified; requiring investment policies to limit investment of state funds and retirement funds in companies that boycott Israel; amending the duties of a trustee of the Wyoming Retirement System; and providing for an effective date.

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

Section 1. W.S. 16-6-122 is created to read:

16-6-122. Prohibition on contracts with companies that boycott Israel; conflict of law.
(a) Except as provided in subsection (b) of this section and subject to constitutional limitations, on and after January 1, 2018 no agency shall enter into a contract with a company for goods or services if the contract price is greater than fifty thousand dollars ($50,000.00) unless the contract contains a written verification from the company that it:

(i) Does not boycott Israel; and

(ii) Will not boycott Israel during the term of the contract.

(b) The administrative head of each agency, in consultation with the attorney general, may excuse from the requirements of subsection (a) of this section any contract for goods or services upon a finding that good cause to excuse the contract exists.

(c) As used in this section:
(i) "Agency" means the state of Wyoming and its branches, agencies, municipalities, counties, school districts, political subdivisions, special districts, community college districts and the University of Wyoming;

(ii) "Boycott Israel" means refusing to deal with, terminating business activities with or otherwise taking any action that is intended to penalize, inflict economic harm on or limit commercial relations specifically with Israel or with a company doing business in Israel or in an Israeli-controlled territory, but does not include any action made for ordinary business purposes.

Section 2. W.S. 9-3-408(b), 9-3-440(a)(iv), (v) and by creating a new paragraph (vi), (b), 9-4-715(d) and by creating a new subsection (p) are amended to read:

9-3-408. Designated custodian of retirement account; disbursements; investment of account monies.

(b) The board, or its designee, which shall be registered under the Investment Advisor's Act of 1940 as amended, or any bank as defined in that act, upon written
authority, shall invest monies in the retirement account, which investments shall not be considered disbursements for the purposes of W.S. 9-4-214 and subsection (a) of this section. Subject to the limitations of W.S. 9-3-440(a)(vi), in investing and managing monies in the retirement account, the board, or its designee, shall exercise the judgment and care that a prudent investor would, in light of the purposes, terms, distribution requirements and all other circumstances surrounding the monies in the retirement account, including risk and return objectives established by the board which are reasonably suitable to the purpose of the Wyoming retirement system.

9-3-440. Duties of trustee in investing and managing assets of retirement system.

(a) In investing and managing assets of a retirement system pursuant to W.S. 9-3-439, a trustee with authority to invest and manage assets:

(iv) May invest in any kind of property or type of investment consistent with this act; and
(v) May consider benefits created by an investment in addition to investment return only if the trustee determines that the investment providing these collateral benefits would be prudent even without the collateral benefits; and

(vi) On and after January 1, 2018, pursuant to the statement of investment objectives and policies required by W.S. 9-3-440(b), shall exercise reasonable efforts to ensure no assets of a retirement system are invested in a company known to boycott Israel, as defined in W.S. 16-6-122(c)(ii). This paragraph shall not apply to any assets invested before January 1, 2018 or any assets exempted from the requirements of the statement of investment objectives and policies. Any act or omission performed in compliance with this paragraph shall not be considered a breach of fiduciary duty or a violation of any other standard of care required under the Wyoming Retirement Act.

(b) A trustee with authority to invest and manage assets of a retirement system shall adopt a statement of investment objectives and policies for each retirement
program or appropriate grouping of programs. The statement shall include the desired rate of return on assets overall, the desired rates of return and acceptable levels of risk for each asset class, asset-allocation goals, guidelines for the delegation of authority and information on the types of reports to be used to evaluate investment performance. At least annually, the trustee shall review the statement and change or reaffirm it. **The statement of investment objectives and policies shall specify that on and after January 1, 2018 any investment manager providing investment services to a retirement system is discouraged from investing in companies known to boycott Israel, as defined in W.S. 16-6-122(c)(ii).** The statement of investment objectives and policies may exempt from the requirements of this subsection any assets invested in accordance with a passive investment strategy or any assets invested in a commingled or index fund.

9-4-715. **Permissible investments.**

(d) **Subject to the limitations of subsection (p) of this section,** when approving, acquiring, investing, reinvesting, exchanging, retaining, selling and managing
investments of the state of Wyoming, the members of the board, the state treasurer, designees of the state treasurer or any other fiduciary appointed by the state treasurer or the board shall exercise the judgment and care of a prudent investor as specified by the Uniform Prudent Investor Act, W.S. 4-10-901 through 4-10-913.

(p) Notwithstanding any other provision of law, on and after January 1, 2018, pursuant to the investment policy statements adopted by the board, reasonable efforts shall be made to ensure no assets of the state of Wyoming held in custody or managed by the state treasurer are invested in any company known to boycott Israel, as defined in W.S. 16-6-122(b)(ii). The investment policy statements adopted pursuant to this subsection may exempt from the requirements of this subsection any assets invested in accordance with a passive investment strategy or any assets invested in a commingled or index fund. Any act or omission performed in compliance with this subsection shall not be considered a breach of fiduciary duty or a violation of the Uniform Prudent Investor Act, W.S. 4-10-901 through 4-10-913.
Section 3.

(a) Nothing in this act shall be construed to apply to, modify or impair:

(i) Any existing contracts executed by the state of Wyoming prior to January 1, 2018; or

(ii) Any existing investment of public funds made prior to January 1, 2018.

Section 4. This act is effective July 1, 2017.