

Senate Engrossed House Bill

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

**FILED**  
**MICHELE REAGAN**  
**SECRETARY OF STATE**

CHAPTER 46

# **HOUSE BILL 2617**

AN ACT

AMENDING TITLE 35, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 9;  
RELATING TO PUBLIC CONTRACTS AND INVESTMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 35, chapter 2, Arizona Revised Statutes, is amended  
3 by adding article 9, to read:

4 ARTICLE 9. ISRAEL BOYCOTT DIVESTMENTS

5 35-393. Definitions

6 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

7 1. "BOYCOTT" MEANS ENGAGING IN A REFUSAL TO DEAL, TERMINATING BUSINESS  
8 ACTIVITIES OR PERFORMING OTHER ACTIONS THAT ARE INTENDED TO LIMIT COMMERCIAL  
9 RELATIONS WITH ISRAEL OR WITH PERSONS OR ENTITIES DOING BUSINESS IN ISRAEL OR  
10 IN TERRITORIES CONTROLLED BY ISRAEL, IF THOSE ACTIONS ARE TAKEN EITHER:

11 (a) IN COMPLIANCE WITH OR ADHERENCE TO CALLS FOR A BOYCOTT OF ISRAEL  
12 OTHER THAN THOSE BOYCOTTS TO WHICH 50 UNITED STATES CODE SECTION 4607(c)  
13 APPLIES.

14 (b) IN A MANNER THAT DISCRIMINATES ON THE BASIS OF NATIONALITY,  
15 NATIONAL ORIGIN OR RELIGION AND THAT IS NOT BASED ON A VALID BUSINESS REASON.

16 2. "COMPANY" MEANS A SOLE PROPRIETORSHIP, ORGANIZATION, ASSOCIATION,  
17 CORPORATION, PARTNERSHIP, JOINT VENTURE, LIMITED PARTNERSHIP, LIMITED  
18 LIABILITY PARTNERSHIP, LIMITED LIABILITY COMPANY OR OTHER ENTITY OR BUSINESS  
19 ASSOCIATION, AND INCLUDES A WHOLLY OWNED SUBSIDIARY, MAJORITY-OWNED  
20 SUBSIDIARY, PARENT COMPANY OR AFFILIATE.

21 3. "DIRECT HOLDINGS" MEANS ALL PUBLICLY TRADED SECURITIES OF A COMPANY  
22 THAT ARE HELD DIRECTLY BY THE STATE TREASURER OR A RETIREMENT SYSTEM IN AN  
23 ACTIVELY MANAGED ACCOUNT OR FUND IN WHICH THE RETIREMENT SYSTEM OWNS ALL  
24 SHARES OR INTERESTS.

25 4. "INDIRECT HOLDINGS" MEANS ALL SECURITIES OF A COMPANY THAT ARE HELD  
26 IN AN ACCOUNT OR FUND, INCLUDING A MUTUAL FUND, THAT IS MANAGED BY ONE OR  
27 MORE PERSONS WHO ARE NOT EMPLOYED BY THE STATE TREASURER OR A RETIREMENT  
28 SYSTEM, IF THE STATE TREASURER OR RETIREMENT SYSTEM OWNS SHARES OR INTERESTS  
29 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" MEANS THIS STATE, A POLITICAL SUBDIVISION OF THIS  
34 STATE OR AN AGENCY, BOARD, COMMISSION OR DEPARTMENT OF THIS STATE OR A  
35 POLITICAL SUBDIVISION OF THIS STATE.

36 6. "PUBLIC FUND" MEANS THE STATE TREASURER OR A RETIREMENT SYSTEM.

37 7. "RESTRICTED COMPANIES" MEANS COMPANIES THAT BOYCOTT ISRAEL.

38 8. "RETIREMENT SYSTEM" MEANS A RETIREMENT PLAN OR SYSTEM THAT IS  
39 ESTABLISHED BY OR PURSUANT TO TITLE 38.

40 35-393.01. Contracting; procurement; investment; prohibitions

41 A. A PUBLIC ENTITY MAY NOT ENTER INTO A CONTRACT WITH A COMPANY TO  
42 ACQUIRE OR DISPOSE OF SERVICES, SUPPLIES, INFORMATION TECHNOLOGY OR  
43 CONSTRUCTION UNLESS THE CONTRACT INCLUDES A WRITTEN CERTIFICATION THAT THE  
44 COMPANY IS NOT CURRENTLY ENGAGED IN, AND AGREES FOR THE DURATION OF THE  
45 CONTRACT TO NOT ENGAGE IN, A BOYCOTT OF ISRAEL.

1 B. A PUBLIC ENTITY MAY NOT ADOPT A PROCUREMENT, INVESTMENT OR OTHER  
2 POLICY THAT HAS THE EFFECT OF INDUCING OR REQUIRING A PERSON OR COMPANY TO  
3 BOYCOTT ISRAEL.

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

6 A. ON OR BEFORE APRIL 1 OF EACH YEAR, EACH PUBLIC FUND SHALL PREPARE A  
7 LIST OF RESTRICTED COMPANIES AND SHALL PROVIDE A COPY OF THE LIST ON REQUEST.

8 B. IN PREPARING THE LIST OF RESTRICTED COMPANIES, THE PUBLIC FUND MAY  
9 CONSIDER AT LEAST THE FOLLOWING:

10 1. PUBLICLY AVAILABLE INFORMATION, INCLUDING INFORMATION PROVIDED BY  
11 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 OF  
15 ISRAEL OR THAT IT HAS TAKEN A BOYCOTT ACTION AT THE REQUEST OF, IN COMPLIANCE  
16 WITH OR IN FURTHERANCE OF CALLS FOR A BOYCOTT OF ISRAEL.

17 C. THE PUBLIC FUND SHALL NOTIFY EACH COMPANY THAT IS INCLUDED ON THE  
18 LIST OF RESTRICTED COMPANIES THAT THE COMPANY IS SUBJECT TO DIVESTMENT BY THE  
19 STATE TREASURER AND THE RETIREMENT SYSTEMS.

20 D. IF A COMPANY THAT RECEIVES NOTICE PURSUANT TO SUBSECTION C OF THIS  
21 SECTION SUBMITS A WRITTEN CERTIFICATION TO THE PUBLIC FUND THAT IT HAS CEASED  
22 ITS BOYCOTT OF ISRAEL AND WILL NOT ENGAGE IN A BOYCOTT OF ISRAEL FOR THE  
23 PERIOD OF TIME THAT THE STATE TREASURER OR A RETIREMENT SYSTEM INVESTS IN THE  
24 COMPANY, THE PUBLIC FUND SHALL REMOVE THE COMPANY FROM THE RESTRICTED LIST.

25 E. EACH PUBLIC FUND SHALL:

26 1. SELL, REDEEM, DIVEST OR WITHDRAW ALL DIRECT HOLDINGS OF A  
27 RESTRICTED COMPANY FROM THE ASSETS UNDER ITS MANAGEMENT IN AN ORDERLY AND  
28 FIDUCIALLY RESPONSIBLE MANNER WITHIN THREE MONTHS AFTER PREPARING THE LIST OF  
29 RESTRICTED COMPANIES PURSUANT TO SUBSECTION A OF THIS SECTION. ON OR BEFORE  
30 AUGUST 1 OF EACH YEAR, THE STATE TREASURER AND EACH RETIREMENT SYSTEM SHALL  
31 POST ON THEIR WEBSITES A LIST OF INVESTMENTS THAT ARE SOLD, REDEEMED,  
32 DIVESTED OR WITHDRAWN PURSUANT TO THIS PARAGRAPH.

33 2. NOT ACQUIRE SECURITIES OF A RESTRICTED COMPANY AS PART OF ITS  
34 DIRECT HOLDINGS.

35 3. REQUEST THAT MANAGERS OF ITS INDIRECT HOLDINGS CONSIDER SELLING,  
36 REDEEMING, DIVESTING OR WITHDRAWING HOLDINGS OF A RESTRICTED COMPANY FROM THE  
37 ASSETS UNDER ITS MANAGEMENT.

38 F. WITH RESPECT TO ANY ACTION PERFORMED PURSUANT TO THIS SECTION, THE  
39 STATE TREASURER, EACH RETIREMENT SYSTEM AND ANY PERSON ACTING ON BEHALF OF  
40 THE STATE TREASURER OR THE RETIREMENT SYSTEM:

41 1. ARE EXEMPT FROM ANY CONFLICTING STATUTORY OR COMMON LAW OBLIGATION  
42 OR FIDUCIARY DUTIES WITH RESPECT TO CHOICE OF ASSET MANAGERS, INVESTMENT  
43 FUNDS OR INVESTMENTS.

44 2. ARE SUBJECT TO TITLE 12, CHAPTER 7, ARTICLE 2 REGARDING IMMUNITY  
45 FOR ACTS AND OMISSIONS.

1           3. ARE INDEMNIFIED AND HELD HARMLESS BY THIS STATE FROM CLAIMS,  
2 DEMANDS, SUITS, ACTIONS, DAMAGES, JUDGMENTS, COSTS, CHARGES AND EXPENSES,  
3 INCLUDING ATTORNEY FEES, AND AGAINST ALL LIABILITY, LOSSES AND DAMAGES  
4 BECAUSE OF A DECISION TO SELL, REDEEM, DIVEST OR WITHDRAW HOLDINGS OF A  
5 RESTRICTED COMPANY MADE PURSUANT TO THIS SECTION.

6           G. THIS SECTION DOES NOT APPLY TO INVESTMENTS THAT ARE MADE BY THE  
7 STATE TREASURER PURSUANT TO SECTION 35-314.01.

8           35-393.03. Severability

9           IF ANY PROVISION OF THIS ARTICLE OR ITS APPLICATION TO ANY PERSON OR  
10 CIRCUMSTANCE IS HELD INVALID, THE INVALIDITY DOES NOT AFFECT ANY OTHER  
11 PROVISION OR APPLICATION OF THIS ARTICLE THAT CAN BE GIVEN EFFECT WITHOUT THE  
12 INVALID PROVISION OR APPLICATION, AND TO THIS END THE PROVISIONS OF THIS  
13 ARTICLE ARE SEVERABLE.

14           Sec. 2. Legislative findings

15           A. Boycotts and related tactics have become a tool of economic warfare  
16 that threaten the sovereignty and security of key allies and trade partners  
17 of the United States.

18           B. The state of Israel is the most prominent target of such boycott  
19 activity, beginning with the Arab League Boycott adopted in 1945, even before  
20 Israel's declaration of independence as the reestablished national state of  
21 the Jewish people.

22           C. Companies that refuse to deal with United States trade partners  
23 such as Israel, or entities that do business with or in such countries, make  
24 discriminatory decisions on the basis of national origin that impair those  
25 companies' commercial soundness.

26           D. It is the public policy of the United States, as enshrined in  
27 several federal acts, including 50 United States Code section 4607, to oppose  
28 such boycotts, and Congress has concluded as a matter of national trade  
29 policy that cooperation with Israel materially benefits United States  
30 companies and improves American competitiveness.

31           E. Israel in particular is known for its dynamic and innovative  
32 approach in many business sectors, and a company's decision to discriminate  
33 against Israel, Israeli entities or entities that do business with Israel or  
34 in Israel is an unsound business practice making the company an unduly risky  
35 contracting partner or vehicle for investment.

36           F. This state seeks to implement Congress's announced policy of  
37 "examining a company's promotion or compliance with unsanctioned boycotts,  
38 divestment from, or sanctions against Israel as part of its consideration in  
39 awarding grants and contracts and supports the divestment of State assets  
40 from companies that support or promote actions to boycott, divest from, or  
41 sanction Israel."

APPROVED BY THE GOVERNOR MARCH 17, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 18, 2016.

Passed the House February 17, 2016

Passed the Senate March 10, 20 16

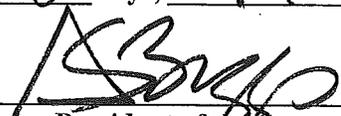
by the following vote: 46 Ayes,

by the following vote: 23 Ayes,

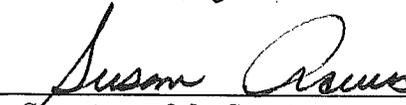
14 Nays, 0 Not Voting

6 Nays, 1 Not Voting

  
\_\_\_\_\_  
Speaker of the House

  
\_\_\_\_\_  
President of the Senate

  
\_\_\_\_\_  
Chief Clerk of the House

  
\_\_\_\_\_  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill received by the Governor this

\_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary to the Governor

Approved this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this \_\_\_\_\_ day of \_\_\_\_\_, 20 \_\_\_\_\_

at \_\_\_\_\_ o'clock \_\_\_\_\_ M.

\_\_\_\_\_  
Secretary of State

H.B. 2617

HOUSE CONCURS IN SENATE  
AMENDMENTS AND FINAL PASSAGE

March 14, 2016,

by the following vote: 42 Ayes,

16 Nays, 2 Not Voting

Don M. [Signature]  
Speaker of the House

Jim Drake  
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this  
14<sup>th</sup> day of March, 2016,

at 3:30 o'clock P. M.

Austa Lynnman  
Secretary to the Governor

Approved this 17<sup>th</sup> day of

March, 2016,

at 3:15 o'clock P. M.

George E. Duje  
Governor of Arizona

H.B. 2617

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State  
this 18 day of March, 2016,

at 9:16 o'clock A. M.

Michael Reagan  
Secretary of State