

PUBLIC CONTRACT REQUIREMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Chris H. Wilson

House Sponsor: Rex P. Shipp

LONG TITLE

General Description:

This bill addresses public entity contract requirements.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ subject to exceptions, prohibits a public entity from entering into a contract with a company that engages in certain boycott actions;
- ▶ prohibits a person from penalizing a company that agrees not to engage in certain boycott actions while under contract with a public entity;
- ▶ provides that a person who penalizes a company for agreeing not to engage in certain boycott actions while under contract with a public entity interferes with the state's interest in administering state programs and maintaining commercial relationships; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

63G-27-102, as enacted by Laws of Utah 2021, Chapter 347

63G-27-201, as enacted by Laws of Utah 2021, Chapter 347

30 ENACTS:

31 **63G-27-202**, Utah Code Annotated 1953

32 REPEALS:

33 **63G-27-101**, as enacted by Laws of Utah 2021, Chapter 347



35 *Be it enacted by the Legislature of the state of Utah:*

36 Section 1. Section **63G-27-102** is amended to read:

37 **CHAPTER 27. PUBLIC CONTRACT BOYCOTT RESTRICTIONS**

38 **63G-27-102. Definitions.**

39 As used in this chapter:

40 (1) "Boycott action" means refusing to deal, terminating business activities, or limiting
41 commercial relations.

42 (2) "Boycott of the State of Israel" means engaging in a boycott action targeting:

43 (a) the State of Israel; and

44 (b) (i) companies or individuals doing business in or with the State of Israel; or

45 (ii) companies authorized by, licensed by, or organized under the laws of the State of
46 Israel to do business.

47 (3) "Boycotted company" means a company that:

48 (a) engages in the exploration, production, utilization, transportation, sale, or
49 manufacture of fossil fuel-based energy, timber, mining, or agriculture;

50 (b) engages in, facilitates, or supports the manufacture, distribution, sale, or use of
51 firearms;

52 (c) does not meet or commit to meet environmental standards, including standards for
53 eliminating, reducing, offsetting, or disclosing greenhouse gas-emissions, beyond applicable
54 state and federal law requirements; or

55 (d) does not facilitate or commit to facilitate access to abortion or sex characteristic
56 surgical procedures.

57 [~~3~~] (4) (a) "Company" means a corporation, partnership, limited liability company, or

58 similar entity.

59 (b) "Company" includes any wholly-owned subsidiary, majority-owned subsidiary,
60 parent company, or affiliate of an entity described in Subsection [~~(3)~~(a)] (4)(a).

61 (5) "Economic boycott" means, without an ordinary business purpose:

62 (a) engaging in a boycott action targeting:

63 (i) a boycotted company; or

64 (ii) another company because the company does business with a boycotted company; or

65 (b) taking an action intended to penalize, inflict economic harm to, or change or limit

66 the activities of:

67 (i) a boycotted company; or

68 (ii) another company because the company does business with a boycotted company.

69 (6) (a) "Ordinary business purpose" means a purpose that is related to business

70 operations.

71 (b) "Ordinary business purpose" does not include a purpose that is solely related to

72 furthering social, political, or ideological interests.

73 [~~(4)~~] (7) "Public entity" means the state or a political subdivision of the state, including
74 each department, division, office, board, commission, council, authority, or institution of the
75 state or a political subdivision of the state.

76 Section 2. Section **63G-27-201** is amended to read:

77 **63G-27-201. Prohibition on contracting.**

78 (1) Except as provided in Subsection [~~(2)~~] (3), a public entity may not enter into a
79 contract with a company to acquire or dispose of a good or service, including supplies,
80 information technology, or construction services, unless:

81 (a) the contract includes a written certification that the company is not currently
82 engaged in:

83 (i) a boycott of the State of Israel; or

84 (ii) an economic boycott; [~~and~~]

85 (b) the company agrees not to engage in a boycott of the State of Israel for the duration

86 of the contract[-]; and

87 (c) the company agrees to notify the public entity in writing if the company begins
88 engaging in an economic boycott.

89 (2) A company's notice under Subsection (1)(c) may be grounds for termination of the
90 contract.

91 [~~2~~] (3) This section does not:

92 (a) apply to:

93 [~~a~~] (i) a contract with a total value of less than \$100,000; or

94 [~~b~~] (ii) a contract with a company that has fewer than 10 full-time employees[-]; or

95 (b) prohibit a public entity from entering into a contract with a company that engages
96 in an economic boycott if:

97 (i) there is no economically practicable alternative available to the public entity to:

98 (A) acquire or dispose of the good or service; or

99 (B) meet the public entity's legal duties to issue, incur, or manage debt obligations, or
100 deposit, keep custody of, manage, borrow, or invest funds; or

101 (ii) the company engages in the economic boycott to comply with federal law.

102 Section 3. Section **63G-27-202** is enacted to read:

103 **63G-27-202. Prohibition on interference with state programs and commercial**
104 **relationships.**

105 (1) A person may not take action to penalize or threaten to penalize a company because
106 the company enters into a contract that complies with Subsections [63G-27-201](#)(1)(a)(ii) or (c).

107 (2) A person who takes an action or makes a threat in violation of Subsection (1)
108 interferes with the state's interest in administering state programs and maintaining commercial
109 relationships.

110 Section 4. **Repealer.**

111 This bill repeals:

112 Section **[63G-27-101](#)**, Title.