

South Carolina General Assembly
124th Session, 2021-2022

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H. 4917

STATUS INFORMATION

General Bill

Sponsors: Reps. Bernstein, Crawford, Rutherford, Fry, Brittain, Hewitt, Bailey, W. Newton, Weeks, West, Hayes, McCravy, Rose, Finlay, J.E. Johnson, Simrill, G.M. Smith, Stavrinakis, Thayer and Wheeler

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Introduced in the House on February 3, 2022

Currently residing in the House Committee on **Ways and Means**

Summary: Divestment from companies the boycott Israel

HISTORY OF LEGISLATIVE ACTIONS

Date	Body	Action Description with journal page number
2/3/2022	House	Introduced and read first time (House Journal-page 12)
2/3/2022	House	Referred to Committee on Ways and Means (House Journal-page 12)

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VERSIONS OF THIS BILL

[2/3/2022](#)

(Text matches printed bills. Document has been reformatted to meet World Wide Web specifications.)

A BILL

TO AMEND SECTION [9-16-55](#), CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO DIVESTMENT BY THE STATE FROM COMPANIES THAT "BOYCOTT ISRAEL", SO AS TO PROVIDE THAT THE RETIREMENT SYSTEM INVESTMENT COMMISSION MAY NOT INVEST PUBLIC EMPLOYEE RETIREMENT FUNDS IN A SCRUTINIZED COMPANY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section [9-16-55](#) of the 1976 Code is amended to read:

"Section [9-16-55](#). (A) As used in this section:

(1) 'Boycott Israel' or 'boycotts Israel' means engaging in refusals to deal, terminating business activities, or other commercial actions specifically against persons or companies located in or doing business with the State of Israel or territories under its control (Israel), when such action is taken in substantial part because of the boycotted person or company's relationship with, location in, or connection to Israel; or that is taken in compliance with or at the request of calls for a boycott of Israel. A company's statement that it is engaging in

such a boycott is evidence of the matter, though mere statements, without commercial boycott action does not constitute a 'boycott'. In the absence of such a statement, a company is determined to be boycotting Israel when the totality of available information warrants such a conclusion.

(2) 'Active business operations' means a company engaged in business operations that provide revenue to the government of Sudan or a company engaged in oil-related activities.

(2)(3) 'Business operations' means maintaining, selling, or leasing equipment, facilities, personnel, or any other apparatus of business or commerce in Sudan, including the ownership or possession of real or personal property located in Sudan.

(3)(4) 'Commission' means the Retirement System Investment Commission.

(4)(5) 'Company' means ~~a sole proprietorship, organization, association, corporation, partnership, venture, or other entity, its subsidiary or affiliate that exists for profit-making purposes or to otherwise secure economic advantage~~ any for-profit or not-for-profit organization, sole proprietorship, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all wholly owned subsidiaries, majority-owned subsidiaries, parent companies, or affiliates of those entities or business associations. In the context of provisions in this section concerning boycotts of Israel, 'company' does not include not-for-profit organizations, sole proprietorships, or entities with under ten full-time employees. In the context of provisions in this section concerning companies scrutinized due to their ties to Sudan, 'company' also means a company owned or controlled, either directly or indirectly, by the government of Sudan, that is established or organized under the laws of or has its principal place of business in the Republic of the Sudan.

(6) 'Scrutinized company' means a company that:

(a) boycotts Israel; or

(b) is engaged in active business operations in Sudan; or

(c) is not engaged in oil-related activities and lacks significant business operations in the eastern, southern, and western regions of Sudan; and

(d) is engaged in oil-related activities or energy or power-related operations, or contracts with another company with business operations in the oil, energy, and power sectors of Sudan, and the company has failed to take substantial action related to the government of Sudan because of the Darfur genocide; or

(e) has demonstrated complicity in the Darfur genocide.

(5)(7) 'Government of Sudan' means the government of Sudan or its instrumentalities as further defined in the Darfur Peace and Accountability Act of 2006.

(6)(8) 'Invest' or 'investment' means the purchase, ownership, or control of stock of a company, association, or corporation, the capital stock of a mutual water company or corporation, bonds issued by the government or a political subdivision of Sudan, corporate bonds, or other debt instruments issued by a company. It does not include indirect beneficial ownership through index funds, commingled funds, limited partnerships, derivative instruments, or the like.

(7)(9) 'Military equipment' means weapons, arms, or military defense supplies.

(8)(10) 'Oil-related activities' means, but is not limited to, the export of oil, extracting or producing oil, exploration for oil, or the construction or maintenance of a pipeline, refinery, or other oil field infrastructure.

(9)(11) 'Public employee retirement funds' means those assets as defined in Section [9-16-10\(1\)](#).

~~(10)~~(12). 'Substantial action' means a boycott of either Israel or the government of Sudan, curtailing business in Sudan until that time described in subsection ~~(E)~~(F), selling company assets, equipment, or real and personal property located in Sudan, or undertaking significant humanitarian efforts in the eastern, southern, or western regions of Sudan.

~~(H)~~(13). 'Sudan' means the Republic of the Sudan, a territory under the administration or control of the government of Sudan, including, but not limited to, the Darfur region, or an individual, company, or public agency located in Khartoum, northern Sudan, or the Nile River Valley that supports the Republic of the Sudan.

(B) The commission shall not invest public employee retirement funds in a ~~company with business operations in Sudan if:~~ scrutinized company.

~~(1)(a) the company is engaged in active business operations in Sudan; or~~

~~(b) the company is not engaged in oil-related activities and lacks significant business operations in the eastern, southern, and western regions of Sudan; and~~

~~(2)(a) the company is engaged in oil-related activities or energy or power-related operations, or contracts with another company with business operations in the oil, energy, and power sectors of Sudan, and the company has failed to take substantial action related to the government of Sudan because of the Darfur genocide; or~~

~~(b) the company has demonstrated complicity in the Darfur genocide.~~

(C) Notwithstanding subsection (B), the commission shall not invest public employee retirement funds in a company that supplies military equipment within the borders of Sudan. If a company provides equipment within the borders of Sudan that may be readily used for military purposes, including, but not limited to, radar systems and military-grade transport vehicles, there is a strong presumption against investing in that company unless that company implements safeguards to prevent the use of that equipment for military purposes.

~~(D)~~(4) Nothing in this section requires the commission to take action as described in this section unless the commission determines, in good faith, that the action described in this section is consistent with the fiduciary responsibilities of the commission as described in this chapter and there are appropriated funds of the State to absorb the expenses of the commission to implement this section.

~~(E)~~(2) Subsection (B) does not apply to:

(1) in the case of the Israeli boycott provisions, to boycotts to which 50 U.S.C. Section 4842(c) applies, or any boycotts specifically authorized by federal or state law;

(2) to investments made in a company whose scrutinized status solely derives from its complicity with the government of Sudan in the Darfur genocide, if:

(a) investments in a company that is primarily engaged in supplying goods or services intended to relieve human suffering in Sudan;

(b) investments in a company that promotes health, education, journalistic, or religious activities in or welfare in the western, eastern, or southern regions of Sudan;

(c) investments in a United States company that is authorized by the federal government to have business operations in Sudan.

~~(F)~~(E). The restrictions provided for in this section apply only until:

(1) the government of Sudan halts the genocide in Darfur for twelve months as determined by both the Department of State and the Congress of the United States; or

(2) the United States revokes its current sanctions against Sudan.

~~(F)~~(G) Present and former board members, officers, and employees of the State Fiscal Accountability Authority, present, future, and former directors, officers, and employees of the South Carolina Public Employee Benefit Authority, the Retirement System Investment Commission, and contract investment managers retained by the commission must be indemnified from the general fund of the State and held harmless by the State 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 of any nature whatsoever that these present, future, or former board members, officers, employees, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to this section."

SECTION 2. This act takes effect upon approval by the Governor.

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