

STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1512

By: Strohm

AS INTRODUCED

An Act relating to public finance; making legislative findings; defining terms; prohibiting certain contracts related to boycott of Israel; providing exception; establishing the Oklahoma Investment Policy Board; providing for membership; prescribing terms; imposing duties on the Oklahoma Investment Policy Board; imposing duties on certain retirement systems; providing exception for certain indirect holdings; providing that certain actions taken in good faith; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10001 of Title 62, unless there is created a duplication in numbering, reads as follows:

The Legislature finds that:

1. Boycotts and related tactics have become a tool of economic warfare that threatens the sovereignty and security of key allies and trade partners of the United States;

2. The State of Israel is the most prominent target of such boycott activity, which began with but has not been limited to the

1 Arab League Boycott adopted in 1945, even before Israel's
2 declaration of independence as the reestablished national state of
3 the Jewish people;

4 3. Companies that refuse to deal with U.S. trade partners such
5 as Israel, or entities that do business with and/or in such
6 countries, make discriminatory decisions on the basis of national
7 origin that impair those companies' commercial soundness;

8 4. It is the public policy of the United States, as enshrined
9 in several federal acts, to oppose boycotts against Israel (see,
10 e.g., 50 App. U.S.C. § 2407; 26 U.S.C.A. § 999), and Congress has
11 concluded as a matter of national trade policy that cooperation with
12 Israel materially benefits U.S. companies and improves American
13 competitiveness (see, e.g., 19 U.S.C. § 2112 note; 19 U.S.C. §
14 4201(b)(20));

15 5. Israel in particular is known for its dynamic and innovative
16 approach in many business sectors, and therefore a company's
17 decision to discriminate against Israel, Israeli entities or
18 entities that do business with and/or in Israel, is an unsound
19 business practice making such a company an unduly risky contracting
20 partner or vehicle for investment; and

21 6. Oklahoma seeks to act to implement Congress's announced
22 policy of "examining a company's promotion or compliance with
23 unsanctioned boycotts, divestment from, or sanctions against Israel
24 as part of its consideration in awarding grants and contracts and

1 supports the divestment of state assets from companies that support
2 or promote actions to boycott, divest from, or sanction Israel".
3 (See S.1269, Sec. 914(8)).

4 SECTION 2. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 10002 of Title 62, unless there
6 is created a duplication in numbering, reads as follows:

7 As used in this act:

8 1. "Boycott Israel" and "boycott of Israel" means engaging in
9 refusals to deal, terminating business activities, or other actions
10 that are intended to limit commercial relations with Israel, or
11 persons or entities doing business in Israel or in Israeli-
12 controlled territories, in a discriminatory manner. "Boycott" for
13 the purposes of this section shall not include those boycotts to
14 which 50 App. U.S.C. § 2407(c) applies;

15 2. A company's statement that it is participating in boycotts
16 of Israel, or that it has taken the boycott action at the request,
17 in compliance with, or in furtherance of calls for a boycott of
18 Israel, can be considered by the Oklahoma Investment Policy Board as
19 one type of evidence, among others, that a company is participating
20 in a boycott of Israel;

21 3. "Company" means any sole proprietorship, organization,
22 association, corporation, partnership, joint venture, limited
23 partnership, limited liability partnership, limited liability
24 company, or other entity or business association, including all

1 wholly owned subsidiaries, majority-owned subsidiaries, parent
2 companies, or affiliates of those entities or business associations;

3 4. "Direct holdings" in a company means all publicly traded
4 securities of that company that are held directly by the retirement
5 system in an actively managed account or fund in which the
6 retirement system owns all shares or interests;

7 5. "Indirect holdings" in a company means all securities of
8 that company that are held in an account or fund, such as a mutual
9 fund, managed by one or more persons not employed by the retirement
10 system, in which the retirement system owns shares or interests
11 together with other investors not subject to the provisions of this
12 act or that are held in an index fund;

13 6. "Public entity" means the state, or any political
14 subdivision of the state, including all boards, commissions,
15 agencies, institutions, authorities, and bodies politic and
16 corporate of the state, created by or in accordance with state law
17 or regulations, and does include colleges, universities, public
18 employee retirement systems, and institutions under the Oklahoma
19 State Regents for Higher Education as well as all units of local and
20 municipal government;

21 7. "Restricted companies" means companies that boycott Israel,
22 as defined in paragraph 1 of this section; and

23 8. "Retirement system" means:
24

- a. the Oklahoma Firefighters Pension and Retirement System,
- b. the Oklahoma Police Pension and Retirement System,
- c. the Uniform Retirement System for Justices and Judges,
- d. the Oklahoma Law Enforcement Retirement System,
- e. the Teachers' Retirement System of Oklahoma, and
- f. the Oklahoma Public Employees Retirement System.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10003 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. A public entity may not enter into a contract with a company to acquire or dispose of services, supplies, information technology or construction unless the contract includes a written certification that the person or company is not currently engaged in, and agrees for the duration of the contract not to engage in, a boycott of Israel.

B. This section does not apply if a company fails to meet the requirements of subsection A of this section but offers to provide the goods or services for at least twenty percent (20%) less than the lowest certifying business. Also, this section does not apply to contracts with a total potential value of less than One Thousand Dollars (\$1,000.00).

C. A public entity may not itself engage in boycotts of Israel.

1 SECTION 4. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 10004 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A. There shall be established an Oklahoma Investment Policy
5 Board.

6 B. Each board of a pension fund or investment board as defined
7 by paragraph 8 of Section 2 of this act shall appoint one member,
8 and the Governor shall appoint five members, to the Oklahoma
9 Investment Policy Board.

10 C. Membership on the Oklahoma Investment Policy Board shall be
11 for a term of two (2) years beginning January 1, 2018, and renewable
12 without limitation.

13 D. The Oklahoma Investment Policy Board shall make its best
14 efforts to identify all companies that boycott Israel and assemble
15 those identified companies into a list of restricted companies to be
16 distributed to each retirement system.

17 1. The Oklahoma Investment Policy Board's efforts to identify
18 companies that boycott Israel may include, but are not limited to,
19 the following, as appropriate:

20 a. reviewing and relying on publicly available
21 information,

22 b. reviewing and relying on information provided by
23 nonprofit organizations, research firms and government
24 entities, and

1 c. retaining an independent research firm.

2 2. The Oklahoma Investment Policy Board shall review the list
3 of restricted companies on an annual basis and distribute any
4 updates to the list of restricted companies to the retirement
5 systems.

6 a. For each company newly identified and added to the
7 list of restricted companies, the Oklahoma Investment
8 Policy Board shall send a written notice informing the
9 company of its status and that it may become subject
10 to divestment by the retirement systems.

11 b. If, following the Oklahoma Investment Policy Board's
12 engagement pursuant to subparagraph a of this
13 paragraph with a restricted company, that company
14 ceases activity that designates it as a restricted
15 company, and submits a written certification to the
16 Oklahoma Investment Policy Board that it shall not
17 reengage in such activity for the duration of any
18 investment by the retirement systems, the company
19 shall be removed from the restricted companies list.

20 c. The Oklahoma Investment Policy Board shall keep and
21 maintain the list of restricted companies and all
22 written certifications from restricted and previously
23 restricted companies.

1 E. The retirement systems shall adhere to the following
2 procedures for companies on the list of restricted companies:

3 1. Each retirement system shall identify those companies on the
4 list of restricted companies in which the retirement system owns
5 direct holdings and indirect holdings;

6 2. The retirement system shall instruct its investment advisors
7 to sell, redeem, divest or withdraw all direct holdings of
8 restricted companies from the retirement system's assets under
9 management in an orderly and fiduciarily responsible manner within
10 six (6) months after the company's appearance on the list of
11 restricted companies;

12 3. The retirement system may not acquire securities of
13 restricted companies as part of direct holdings; and

14 4. Upon request from the Oklahoma Investment Policy Board, and
15 at least annually by January 5 of each year, each retirement system
16 shall provide the Oklahoma Investment Policy Board with information
17 regarding investments sold, redeemed, divested or withdrawn in
18 compliance with this section.

19 F. The provisions of subsection E of this section do not apply
20 to the retirement system's indirect holdings or private market
21 funds. The Oklahoma Investment Policy Board shall submit letters to
22 the managers of those investment funds identifying restricted
23 companies and requesting that those investment funds consider
24 removing the investments in the restricted companies from the funds.

1 G. With respect to actions taken in compliance with this
2 section, including all good-faith determinations regarding companies
3 as required by this section, the retirement system and the Oklahoma
4 Investment Policy Board are exempt from any conflicting statutory or
5 common law obligations including any fiduciary duties as provided by
6 law and any obligations with respect to choice of asset managers,
7 investment funds or investments for the retirement systems'
8 portfolios.

9 SECTION 5. This act shall become effective November 1, 2017.
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January 18, 2017

Representative Chuck Stroh
Room 302A

Re: RBH No. 6690

RBH No. 6690 creates the Oklahoma Investment Policy Board (Board). The Board is to compile a list of organizations that boycott Israel. The retirement systems may not enter into any contracts with the organizations identified by the Board.

RBH No. 6690 is a non fiscal bill as defined by the Oklahoma Pension Legislation Analysis Act because the amendment does not contain a benefit increase nor create liability.

I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Thomas E. Cummins

Thomas E. Cummins, MAAA