

VETO MESSAGE: No

GOVERNOR'S PRESS RELEASE ON SIGNING: Yes

FOLLOWING WERE PRINTED:

To check for circulating copies, contact New Jersey State Government Publications at the State Library (609) 278-2640 ext.103 or <mailto:refdesk@njstatelib.org>

REPORTS: No

HEARINGS: No

NEWSPAPER ARTICLES: Yes

"Christie signs bill requiring anti-Israel firms divestment," Associated Press State Wire: New Jersey, August 16, 2016

"Christie signs bill banning N.J. investments with companies boycotting Israel," northjersey.com, August 16, 2016

"Signed bill encourages boycott," Hunterdon County Democrat, August 18, 2016

RWH/JA

P.L.2016, CHAPTER 24, *approved August 16, 2016*
Senate, No. 1923 (*First Reprint*)

1 AN ACT concerning the investment of State pension and annuity
2 funds in companies that boycott Israel or Israeli businesses and
3 supplementing P.L.1950, c.270 (C.52:18A-79).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. The Legislature finds and declares that:
9 Israel and the United States are allies sharing a common bond
10 rooted in the values of freedom, democracy, and equal rights.

11 The State of New Jersey is committed to supporting Israel and
12 maintaining the strong New Jersey-Israel relationship that has
13 existed since the founding of the Jewish state in 1948, recognizing
14 that the United States and Israel have mutually benefitted from
15 being allies, including economic cooperation, which Congress has
16 determined materially benefits the United States.

17 The State is deeply concerned about the Boycott, Divestment and
18 Sanctions (BDS) effort to boycott Israeli goods, products, and
19 businesses which is contrary to federal policy articulated in
20 numerous laws.

21 The State and Israel have a long history of friendship based on
22 economic, cultural, intellectual, and political cooperation and
23 exchange, and the elected representatives of New Jersey recognize
24 and support Israel's right to exist as a Jewish state.

25 More than \$1.3 billion in goods and services are traded annually
26 between New Jersey and Israel, and the two trading partners
27 continue to look for and find new opportunities to enhance
28 cooperation and initiatives of mutual economic benefit.

29 Boycotts, divestments, and sanctions place economic and
30 political pressure on business entities, and other organizations and
31 institutions to influence their behavior against Israel.

32 It is fitting and appropriate that the State of New Jersey reaffirm
33 its interest in viable trade and exchange with an ally of the United
34 State and a vibrant economic partner of the State.

35 Economic cooperation and political reconciliation are necessary
36 for building mutual trust and foundations for a lasting peace in the
37 Middle East.

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹Assembly floor amendments adopted June 16, 2016.

1 Both Israelis and Palestinians have the right to live safely and
2 securely in their homes, free from fear and violence, with mutual
3 recognition, trade, and normalization of relations as neighbors.

4 The strengthening of New Jersey-Israel cooperation recognizes
5 the beneficial economic and technological value of that cooperation
6 including for improving the competitive capabilities in global
7 markets for both New Jersey and Israel.

8 Nationality-based boycott actions are often veiled discrimination,
9 and it is against the public policy of New Jersey to support such
10 discrimination.

11 Boycotts, such as those against Israel, do not make for effective
12 business decision making, prevent a business from making the best
13 use of the resources available to it and should be opposed as an
14 impairment to the soundness of commercial contracting
15 performance.

16 It is important to the economic well-being of New Jersey that
17 persons or entities conducting commercial trade and doing business
18 in the State do not engage in boycotts of a legitimate and viable
19 partner with whom New Jersey can enjoy open trade contracting.

20 Therefore, it is in the best interest of this State that a statutory
21 prohibition be enacted to prohibit the investment of public
22 employee retirement funds in companies boycotting Israel.

23

24 2. a. Notwithstanding any provision of law to the contrary, no
25 assets of any pension or annuity fund under the jurisdiction of the
26 Division of Investment in the Department of the Treasury, or its
27 successor, shall be invested in any company that boycotts the
28 goods, products, or businesses of Israel, boycotts those doing
29 business with Israel, or boycotts companies operating in Israel or
30 Israeli-controlled territory. This section shall not apply to those
31 boycotts organized by foreign governments pursuant to 50 U.S.C.
32 s.4607(c). The activities of any company solely providing
33 humanitarian aid to the Palestinian people through either a
34 governmental or non-governmental organization shall not render the
35 company subject to the provisions of this act, P.L. , c. (C.)
36 (pending before the Legislature as this bill) unless it is also
37 engaging in the prohibited boycotts or otherwise discriminating
38 against goods, products, or businesses of Israel, or entities operating
39 in Israel or Israeli-controlled territory.

40 b. The State Investment Council and the Director of the
41 Division of Investment shall take appropriate action to sell, redeem,
42 divest, or withdraw any investment held in violation of subsection
43 a. of this section. This section shall not be construed to require the
44 premature or otherwise imprudent sale, redemption, divestment, or
45 withdrawal ¹[or] of¹ an investment, but such sale, redemption,
46 divestment, or withdrawal shall be completed not later than ¹[18]
47 24¹ months following the effective date of this act.

1 c. Within ¹~~60~~ ¹²⁰ days after the effective date of this act,
2 the Director of the Division of Investment shall file with the
3 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
4 19.1), a report of all investments held as of the effective date that
5 are in violation of subsection a. of this section. The State
6 Investment Council and the Director of the Division of Investment
7 shall use its best efforts to identify all companies that boycott Israel
8 and these efforts shall include, but are not limited ¹~~to~~¹, the
9 following, as appropriate in the judgment of the State Investment
10 Council and the Director of the Division of Investment:

11 (1) reviewing and relying on publicly available information
12 regarding companies that boycott Israel, including information
13 provided by non-profit organizations, research firms, and
14 government entities;

15 (2) contacting other institutional investors that have divested
16 from companies that boycott Israel; and

17 (3) retaining an independent research firm to identify companies
18 that boycott Israel.

19 One year thereafter, and every subsequent year on the
20 anniversary of the effective date of this act, the director shall report
21 on all investments sold, redeemed, divested, or withdrawn in
22 compliance with subsection b. of this section. The report shall
23 provide a description of the progress that the division has made
24 since the previous report and since the effective date of this act in
25 implementing subsection b. of this section.

26 d. The members of the State Investment Council, jointly and
27 individually, and State officers and employees involved therewith,
28 shall be indemnified and held harmless by the State of New Jersey
29 from all claims, demands, suits, actions, damages, judgments, costs,
30 charges, and expenses, including court costs and attorney's fees,
31 and against all liability, losses, and damages that these council
32 members, and State officers and employees, may sustain by reason
33 of any decision to restrict, reduce, or eliminate investments
34 pursuant to this act.

35 e. As used in this act, "humanitarian aid" means the provision
36 of goods and services intended to relieve human suffering or to
37 promote general welfare and health; "Boycott, Divestment, and
38 Sanctions" (BDS) refers to the encouragement of boycotts,
39 divestments and sanctions that place economic and political
40 pressure on states, business entities, and other organizations and
41 institutions to influence their behavior against Israel; "boycott"
42 means engaging in actions that are ¹~~politically motivated and are~~¹
43 intended to penalize, inflict economic harm on, or otherwise limit
44 commercial relations with another state or nation; "divestment"
45 means to sell ¹~~,~~¹ redeem, or withdraw all holdings of a company
46 from the investment portfolio of another company or of a
47 governmental entity; and "sanctions" means the attempts by
48 national governments, multilateral organizations and other

S1923 [1R]

4

1 international bodies or their subdivisions to limit or ban trade or
2 other relations with a state or nation.

3 f. The provisions of this act are severable. If any phrase,
4 clause, sentence, provision or section is declared to be invalid or
5 preempted by federal law or regulation, the validity of the
6 remainder of this act shall not be affected thereby.

7

8 ¹~~[4.]~~ 3.¹ This act shall take effect immediately.

9

10

11

12

13 _____
14 Prohibits investment of pension and annuity funds by State in
companies that boycott Israel or Israeli businesses.

SENATE, No. 1923

STATE OF NEW JERSEY

217th LEGISLATURE

INTRODUCED MARCH 10, 2016

Sponsored by:

Senator JAMES BEACH
District 6 (Burlington and Camden)
Senator LORETTA WEINBERG
District 37 (Bergen)

Co-Sponsored by:

Senators Bateman, Whelan, Gordon, T.Kean, Kyrillos, Sweeney, Codey, Cruz-Perez, Gill, Greenstein, Lesniak, Madden, Pennacchio, Singer, B.Smith and Vitale

SYNOPSIS

Prohibits investment of pension and annuity funds by State in companies that boycott Israel or Israeli businesses.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 5/10/2016)

S1923 BEACH, WEINBERG

2

1 AN ACT concerning the investment of State pension and annuity
2 funds in companies that boycott Israel or Israeli businesses and
3 supplementing P.L.1950, c.270 (C.52:18A-79).

4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7

8 1. The Legislature finds and declares that:

9 Israel and the United States are allies sharing a common bond
10 rooted in the values of freedom, democracy, and equal rights.

11 The State of New Jersey is committed to supporting Israel and
12 maintaining the strong New Jersey-Israel relationship that has
13 existed since the founding of the Jewish state in 1948, recognizing
14 that the United States and Israel have mutually benefitted from
15 being allies, including economic cooperation, which Congress has
16 determined materially benefits the United States.

17 The State is deeply concerned about the Boycott, Divestment and
18 Sanctions (BDS) effort to boycott Israeli goods, products, and
19 businesses which is contrary to federal policy articulated in
20 numerous laws.

21 The State and Israel have a long history of friendship based on
22 economic, cultural, intellectual, and political cooperation and
23 exchange, and the elected representatives of New Jersey recognize
24 and support Israel's right to exist as a Jewish state.

25 More than \$1.3 billion in goods and services are traded annually
26 between New Jersey and Israel, and the two trading partners
27 continue to look for and find new opportunities to enhance
28 cooperation and initiatives of mutual economic benefit.

29 Boycotts, divestments, and sanctions place economic and
30 political pressure on business entities, and other organizations and
31 institutions to influence their behavior against Israel.

32 It is fitting and appropriate that the State of New Jersey reaffirm
33 its interest in viable trade and exchange with an ally of the United
34 State and a vibrant economic partner of the State.

35 Economic cooperation and political reconciliation are necessary
36 for building mutual trust and foundations for a lasting peace in the
37 Middle East.

38 Both Israelis and Palestinians have the right to live safely and
39 securely in their homes, free from fear and violence, with mutual
40 recognition, trade, and normalization of relations as neighbors.

41 The strengthening of New Jersey-Israel cooperation recognizes
42 the beneficial economic and technological value of that cooperation
43 including for improving the competitive capabilities in global
44 markets for both New Jersey and Israel.

45 Nationality-based boycott actions are often veiled discrimination,
46 and it is against the public policy of New Jersey to support such
47 discrimination.

1 Boycotts, such as those against Israel, do not make for effective
2 business decision making, prevent a business from making the best
3 use of the resources available to it and should be opposed as an
4 impairment to the soundness of commercial contracting
5 performance.

6 It is important to the economic well-being of New Jersey that
7 persons or entities conducting commercial trade and doing business
8 in the State do not engage in boycotts of a legitimate and viable
9 partner with whom New Jersey can enjoy open trade contracting.

10 Therefore, it is in the best interest of this State that a statutory
11 prohibition be enacted to prohibit the investment of public
12 employee retirement funds in companies boycotting Israel.

13

14 2. a. Notwithstanding any provision of law to the contrary, no
15 assets of any pension or annuity fund under the jurisdiction of the
16 Division of Investment in the Department of the Treasury, or its
17 successor, shall be invested in any company that boycotts the
18 goods, products, or businesses of Israel, boycotts those doing
19 business with Israel, or boycotts companies operating in Israel or
20 Israeli-controlled territory. This section shall not apply to those
21 boycotts organized by foreign governments pursuant to 50 U.S.C.
22 s.4607(c). The activities of any company solely providing
23 humanitarian aid to the Palestinian people through either a
24 governmental or non-governmental organization shall not render the
25 company subject to the provisions of this act, P.L. , c. (C.)
26 (pending before the Legislature as this bill) unless it is also
27 engaging in the prohibited boycotts or otherwise discriminating
28 against goods, products, or businesses of Israel, or entities operating
29 in Israel or Israeli-controlled territory.

30 b. The State Investment Council and the Director of the
31 Division of Investment shall take appropriate action to sell, redeem,
32 divest, or withdraw any investment held in violation of subsection
33 a. of this section. This section shall not be construed to require the
34 premature or otherwise imprudent sale, redemption, divestment, or
35 withdrawal or an investment, but such sale, redemption, divestment,
36 or withdrawal shall be completed not later than 18 months
37 following the effective date of this act.

38 c. Within 60 days after the effective date of this act, the
39 Director of the Division of Investment shall file with the
40 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
41 19.1), a report of all investments held as of the effective date that
42 are in violation of subsection a. of this section. The State
43 Investment Council and the Director of the Division of Investment
44 shall use its best efforts to identify all companies that boycott Israel
45 and these efforts shall include, but are not limited, the following, as
46 appropriate in the judgment of the State Investment Council and the
47 Director of the Division of Investment:

S1923 BEACH, WEINBERG

1 (1) reviewing and relying on publicly available information
2 regarding companies that boycott Israel, including information
3 provided by non-profit organizations, research firms, and
4 government entities;

5 (2) contacting other institutional investors that have divested
6 from companies that boycott Israel; and

7 (3) retaining an independent research firm to identify companies
8 that boycott Israel.

9 One year thereafter, and every subsequent year on the
10 anniversary of the effective date of this act, the director shall report
11 on all investments sold, redeemed, divested, or withdrawn in
12 compliance with subsection b. of this section. The report shall
13 provide a description of the progress that the division has made
14 since the previous report and since the effective date of this act in
15 implementing subsection b. of this section.

16 d. The members of the State Investment Council, jointly and
17 individually, and State officers and employees involved therewith,
18 shall be indemnified and held harmless by the State of New Jersey
19 from all claims, demands, suits, actions, damages, judgments, costs,
20 charges, and expenses, including court costs and attorney's fees,
21 and against all liability, losses, and damages that these council
22 members, and State officers and employees, may sustain by reason
23 of any decision to restrict, reduce, or eliminate investments
24 pursuant to this act.

25 e. As used in this act, "humanitarian aid" means the provision
26 of goods and services intended to relieve human suffering or to
27 promote general welfare and health; "Boycott, Divestment, and
28 Sanctions" (BDS) refers to the encouragement of boycotts,
29 divestments and sanctions that place economic and political
30 pressure on states, business entities, and other organizations and
31 institutions to influence their behavior against Israel; "boycott"
32 means engaging in actions that are politically motivated and are
33 intended to penalize, inflict economic harm on, or otherwise limit
34 commercial relations with another state or nation; "divestment"
35 means to sell redeem, or withdraw all holdings of a company from
36 the investment portfolio of another company or of a governmental
37 entity; and "sanctions" means the attempts by national
38 governments, multilateral organizations and other international
39 bodies or their subdivisions to limit or ban trade or other relations
40 with a state or nation.

41 f. The provisions of this act are severable. If any phrase,
42 clause, sentence, provision or section is declared to be invalid or
43 preempted by federal law or regulation, the validity of the
44 remainder of this act shall not be affected thereby.

45

46 4. This act shall take effect immediately.

STATEMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

This bill would prohibit the investment of New Jersey public employee retirement funds in any company that boycotts, divests from, or sanctions Israel or Israeli businesses, or boycotts those doing business with Israel, or boycotts companies operating in Israel or Israeli-controlled territory.

The State of New Jersey reaffirms its interest in viable trade and exchange with allies of the United States and vibrant economic partners of the United States and the State and in finding new opportunities for the State to enhance cooperation and initiatives of mutual economic benefit.

The bill does not apply to the activities of any company providing humanitarian aid to the Palestinian people through either a governmental or non-governmental organization unless that company boycotts the goods, products, or businesses of Israel, or discriminates against people doing business with Israel and entities owned or controlled by the government of Israel, or entities operating in Israel or Israeli-controlled territory.

The bill would require the State Investment Council and the Director of the Division of Investment to take appropriate action to identify companies that violate the prohibition and to divest any investment held in violation of the prohibition. Progress reports by the division regarding these divestments would be required by the bill.

Illinois's legislature recently passed similar legislation restricting investment of its pension fund in companies that boycott Israel.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

SENATE, No. 1923

STATE OF NEW JERSEY

DATED: MAY 19, 2016

The Assembly State and Local Government Committee reports favorably Senate Bill No. 1923.

This bill would prohibit the investment of New Jersey public employee retirement funds in any company that boycotts, divests from, or sanctions Israel or Israeli businesses, or boycotts those doing business with Israel, or boycotts companies operating in Israel or Israeli-controlled territory.

The State of New Jersey reaffirms its interest in viable trade and exchange with allies of the United States and vibrant economic partners of the United States and the State and in finding new opportunities for the State to enhance cooperation and initiatives of mutual economic benefit.

The bill does not apply to the activities of any company providing humanitarian aid to the Palestinian people through either a governmental or non-governmental organization unless that company boycotts the goods, products, or businesses of Israel, or discriminates against people doing business with Israel and entities owned or controlled by the government of Israel, or entities operating in Israel or Israeli-controlled territory.

The bill would require the State Investment Council and the Director of the Division of Investment to take appropriate action to identify companies that violate the prohibition and to divest any investment held in violation of the prohibition. Progress reports by the division regarding these divestments would be required by the bill.

Illinois's legislature recently passed similar legislation restricting investment of its pension fund in companies that boycott Israel.

SENATE STATE GOVERNMENT, WAGERING, TOURISM &
HISTORIC PRESERVATION COMMITTEE

STATEMENT TO

SENATE, No. 1923

STATE OF NEW JERSEY

DATED: MAY 5, 2016

Senate State Government, Wagering, Tourism and Historic Preservation Committee reports favorably Senate Bill No. 1923.

This bill would prohibit the investment of New Jersey public employee retirement funds in any company that boycotts, divests from, or sanctions Israel or Israeli businesses, or boycotts those doing business with Israel, or boycotts companies operating in Israel or Israeli-controlled territory.

The bill does not apply to the activities of any company providing humanitarian aid to the Palestinian people through either a governmental or non-governmental organization unless that company boycotts the goods, products, or businesses of Israel, or discriminates against people doing business with Israel and entities owned or controlled by the government of Israel, or entities operating in Israel or Israeli-controlled territory.

The bill would require the State Investment Council and the Director of the Division of Investment to take appropriate action to identify companies that violate the prohibition and to divest any investment held in violation of the prohibition. Progress reports by the division regarding these divestments would be required by the bill.

At present, more than 20 states are considering or have passed legislation targeting companies that comply with the Boycott, Divestment and Sanctions movement against Israel.

FOR YOUR INFORMATION

According to the sponsor's statement, the State of New Jersey reaffirms its interest in viable trade and exchange with allies of the United States, and in vibrant economic partners of the United States and the State and in finding new opportunities for the State to enhance cooperation and initiatives of mutual economic benefit.

STATEMENT TO
SENATE, No. 1923

with Assembly Floor Amendments
(Proposed by Assemblywoman VAINIERI HUTTLE)

ADOPTED: JUNE 16, 2016

These General Assembly floor amendments change from 18 to 24 months following the effective date of this act the time period during which the State Investment Council and the Director of the Division of Investment must take appropriate action to sell, redeem, divest, or withdraw any investment held in violation of subsection this bill. They also change from 60 to 120 days following the effective date of this act the time period during which the Director of the Division of Investment must file with the Legislature a report of all investments held as of the effective date that are in violation of this bill. The amendments remove political motivation from the definition of boycott, and also make other minor technical changes.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 1923
STATE OF NEW JERSEY
217th LEGISLATURE

DATED: MAY 12, 2016

SUMMARY

Synopsis: Prohibits investment of pension and annuity funds by State in companies that boycott Israel or Israeli businesses.

Type of Impact: Potential expenditure decrease or increase to the State and local governments.

Agencies Affected: Department of the Treasury.
Local Subdivisions of State Government.

Office of Legislative Services Estimate

Fiscal Impact	<u>Fiscal Year 2016</u>	<u>Fiscal Year 2017</u>	<u>Fiscal Year 2018</u>
State Employer Contributions	Potential Decrease or Increase		
Local Employer Contributions	Depending on Investment Performance		
State Cost	Indeterminate minimal increase – Dependent on Contract with Independent Research Firm		

- The Office of Legislative Services (OLS) cannot reliably assess the ramifications on State and local government finances of prohibiting investments of pension and annuity funds in companies that boycott the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory. The bill has the potential to directly alter pension and annuity fund investment returns either positively or negatively. If it does, it could, in turn, indirectly affect the amount of actuarially determined employer contributions to the funds by the State and local governments.
- On three grounds the OLS cannot determine the difference between future pension and annuity fund investment returns with and without the bill’s prohibition. First, for reasons stated below, it is unclear to what extent pension and annuity funds are currently placed in investments prohibited by the bill. Second, it is equally unclear when the Division of Investment in the Department of the Treasury would sell any prohibited holdings, as the bill allows an 18-month period for the divestment. Third, it would be highly speculative for the OLS to make assumptions on future changes in financial markets and the division’s future investment decisions with and without the bill’s prohibition.

- The reporting requirements set forth by the bill, including the requirement to retain an independent research firm, have been required of the Division of Investment before for other investment prohibitions. The current annual cost to have the similar report furnished by an independent research firm is \$7,500. This cost, however, does not include any internal costs to the division.

BILL DESCRIPTION

Senate Bill No. 1923 of 2016 prohibits the State of New Jersey from investing any assets of any pension or annuity fund under the management of the Division of Investment in the Department of the Treasury in companies that boycott the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory. The prohibition does not apply to: a) boycotts organized by foreign governments pursuant to 50 U.S.C. s.4607(c); and b) the activities of any company providing humanitarian aid to the Palestinian people through either a governmental or non-governmental organization, unless it is also engaging in the prohibited boycotts or otherwise discriminating against goods, products, or businesses of Israel, or entities operating in Israel or Israeli-controlled territory.

The bill also requires the State Investment Council and the Director of the Division of Investment to take appropriate action to identify companies that violate the prohibition and to divest any investment held in violation of the prohibition. The division has up to 18 months to disengage from any existing investment that violates the prohibition. Further, progress reports by the division regarding these divestments would be required by the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS cannot reliably assess the ramifications on State and local government finances of prohibiting investments of pension and annuity funds in companies that boycott the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory. The bill has the potential to directly alter pension and annuity fund investment returns either positively or negatively. If it does, it could, in turn, indirectly affect the amount of actuarially determined employer contributions to the funds by the State and local governments.

Conceptual Considerations: The bill's fiscal impact will equal the difference in the pension and annuity funds' future investment performance with and without the bill's prohibition on investments in companies boycotting the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory.

The bill will have no impact if investment returns remain identical with and without the bill's prohibition. This scenario might materialize, for example, if the division never intended to

invest pension and annuity funds in companies boycotting the goods, products or businesses of Israel with or without the bill's prohibition.

In contrast, the bill will generate a gain to the pension and annuity funds, and potentially a reduction in State and local government employer contributions thereto, if investment returns are greater with the bill's prohibition than without it. This scenario would materialize if absent this bill the division were to invest pension and annuity fund resources in companies boycotting the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory, and if the ensuing returns were to be inferior to the returns of other investments the division would make with the prohibition.

Conversely, the bill will produce a loss to the pension and annuity funds, and potentially an increase in State and local government employer contributions thereto, if investment returns are smaller with the bill's prohibition than without it. This scenario would materialize if absent this bill the division were to invest pension fund resources in companies boycotting the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory and if the resultant returns wound up superior to the returns of other investments the division would make with the prohibition.

Impediments: Three unknown variables preclude the OLS from quantifying the difference between future pension and annuity fund investment returns with and without the bill's prohibition.

First, it is unclear to what extent pension and annuity fund resources are currently placed in investments outlawed by the bill. It may even be impossible for the State to identify all investments in prohibited companies with absolute certainty. This is so because of the unpredictability of investing in hedge funds and private equity firms, which generally treat their investments and investment strategies as proprietary information that they do not share with investors. It is therefore possible for the division to inadvertently place pension and annuity fund moneys indirectly in companies boycotting the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory through the conduit of its hedge fund and private equity holdings. Irrespective of this source of uncertainty, Illinois may provide a rough indication of the number of investments New Jersey may find to be in violation of this bill. In July 2015, Illinois became the first State to enact legislation similar to this bill. The Executive Director of the Illinois State Board of Investment preliminarily estimated that Illinois' State-funded retirement systems' existing placements in some 25 to 30 companies could run afoul of the prohibition on pension fund investments in companies boycotting Israel ("Illinois Passes Bill for Pension Funds to Divest from Companies Boycotting Israel." *Pensions & Investments*, May 19, 2015.). On March 21, 2016, the Illinois Investment Policy Board published its list of 11 companies which were found to be in violation of the Illinois law and were therefore prohibited from investment.

Second, it is equally unclear when the division would divest from any prohibited holdings, as the bill allows an 18-month window for the divestment.

Third, it would be highly speculative for the OLS to make assumptions on future changes in financial markets and the division's future investment decisions with and without the bill's prohibition.

Reporting: The bill requires the State Investment Council and the Director of the Division of Investment to identify all companies that boycott Israel and are required to take the following efforts: 1) review and rely on publicly available information regarding companies that boycott Israel, including information provided by non-profit organizations, research firms, and government entities; 2) contacting other institutional investors that have divested from companies that boycott Israel; and 3) retaining an independent research firm to identify companies that boycott Israel.

The reporting requirements set forth by the bill, including the requirement to retain an independent research firm, have been required of the Division of Investment before for other investment prohibitions. Specifically, the division is required to publish a report annually to the Legislature regarding the adherence of U.S. companies and their subsidiaries doing business in Northern Ireland, in which the assets of any state pension or annuity fund are invested. According to the Department of the Treasury, the current annual cost to have the Northern Ireland Report furnished by an independent research firm is \$7,500. This cost, however, does not include any internal costs to the division, such as the amount of time spent reviewing the report before it is published, since these costs are generally unquantifiable and absorbed into the division's existing budget.

Section: Revenue, Finance and Appropriations

*Analyst: Jordan M. DiGiovanni
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 1923 STATE OF NEW JERSEY 217th LEGISLATURE

DATED: JUNE 27, 2016

SUMMARY

- Synopsis:** Prohibits investment of pension and annuity funds by State in companies that boycott Israel or Israeli businesses.
- Type of Impact:** Potential expenditure decrease or increase to the State and local governments.
- Agencies Affected:** Department of the Treasury.
Local Subdivisions of State Government.

Office of Legislative Services Estimate

Fiscal Impact	<u>Fiscal Year 2016</u>	<u>Fiscal Year 2017</u>	<u>Fiscal Year 2018</u>
State Employer Contributions	Potential Decrease or Increase		
Local Employer Contributions	Depending on Investment Performance		
State Cost	Indeterminate minimal increase – Dependent on Contract with Independent Research Firm		

- The Office of Legislative Services (OLS) cannot reliably assess the ramifications on State and local government finances of prohibiting investments of pension and annuity funds in companies that boycott the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory. The bill has the potential to directly alter pension and annuity fund investment returns either positively or negatively. If it does, it could, in turn, indirectly affect the amount of actuarially determined employer contributions to the funds by the State and local governments.
- On three grounds the OLS cannot determine the difference between future pension and annuity fund investment returns with and without the bill's prohibition. First, for reasons stated below, it is unclear to what extent pension and annuity funds are currently placed in investments prohibited by the bill. Second, it is equally unclear when the Division of Investment in the Department of the Treasury would sell any prohibited holdings, as the bill allows a 24-month period for the divestment. Third, it would be highly speculative for the OLS to make assumptions on future changes in financial markets and the division's future investment decisions with and without the bill's prohibition.

- The reporting requirements set forth by the bill, including the requirement to retain an independent research firm, have been requested of the Division of Investment before for other investment prohibitions. The current annual cost to have the similar report furnished by an independent research firm is \$7,500. This cost, however, does not include any internal costs to the division.

BILL DESCRIPTION

Senate Bill No. 1923 (1R) of 2016 prohibits the State of New Jersey from investing any assets of any pension or annuity fund under the management of the Division of Investment in the Department of the Treasury in companies that boycott the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory. The prohibition does not apply to: a) boycotts organized by foreign governments pursuant to 50 U.S.C. s.4607(c); and b) the activities of any company providing humanitarian aid to the Palestinian people through either a governmental or non-governmental organization, unless it is also engaging in the prohibited boycotts or otherwise discriminating against goods, products, or businesses of Israel, or entities operating in Israel or Israeli-controlled territory.

The bill also requires the State Investment Council and the Director of the Division of Investment to take appropriate action to identify companies that violate the prohibition and to divest any investment held in violation of the prohibition. The division has up to 24-months to disengage from any existing investment that violates the prohibition. Further, progress reports by the division regarding these divestments would be required by the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS cannot reliably assess the ramifications on State and local government finances of prohibiting investments of pension and annuity funds in companies that boycott the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory. The bill has the potential to directly alter pension and annuity fund investment returns either positively or negatively. If it does, it could, in turn, indirectly affect the amount of actuarially determined employer contributions to the funds by the State and local governments.

Conceptual Considerations: The bill's fiscal impact will equal the difference in the pension and annuity funds' future investment performance with and without the bill's prohibition on investments in companies boycotting the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory.

The bill will have no impact if investment returns remain identical with and without the bill's prohibition. This scenario might materialize, for example, if the division never intended to invest pension and annuity funds in companies boycotting the goods, products or businesses of Israel with or without the bill's prohibition.

In contrast, the bill will generate a gain to the pension and annuity funds, and potentially a reduction in State and local government employer contributions thereto, if investment returns are greater with the bill's prohibition than without it. This scenario would materialize if absent this bill the division were to invest pension and annuity fund resources in companies boycotting the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory, and if the ensuing returns were to be inferior to the returns of other investments the division would make with the prohibition.

Conversely, the bill will produce a loss to the pension and annuity funds, and potentially an increase in State and local government employer contributions thereto, if investment returns are smaller with the bill's prohibition than without it. This scenario would materialize if absent this bill the division was to invest pension fund resources in companies boycotting the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory and if the resultant returns wound up superior to the returns of other investments the division would make with the prohibition.

Impediments: Three unknown variables preclude the OLS from quantifying the difference between future pension and annuity fund investment returns with and without the bill's prohibition.

First, it is unclear to what extent pension and annuity fund resources are currently placed in investments outlawed by the bill. It may even be impossible for the State to identify all investments in prohibited companies with absolute certainty. This is so because of the unpredictability of investing in hedge funds and private equity firms, which generally treat their investments and investment strategies as proprietary information that they do not share with investors. It is therefore possible for the division to inadvertently place pension and annuity fund moneys indirectly in companies boycotting the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory through the conduit of its hedge fund and private equity holdings. Irrespective of this source of uncertainty, Illinois may provide a rough indication of the number of investments New Jersey may find to be in violation of this bill. In July 2015, Illinois became the first State to enact legislation similar to this bill. The Executive Director of the Illinois State Board of Investment preliminarily estimated that Illinois' State-funded retirement systems' existing placements in some 25 to 30 companies could run afoul of the prohibition on pension fund investments in companies boycotting Israel ("Illinois Passes Bill for Pension Funds to Divest from Companies Boycotting Israel." *Pensions & Investments*, May 19, 2015.). On March 21, 2016, the Illinois Investment Policy Board published its list of 11 companies which were found to be in violation of the Illinois law and were therefore prohibited from investment.

Second, it is equally unclear when the division would divest from any prohibited holdings, as the bill allows a 24-month window for the divestment.

Third, it would be highly speculative for the OLS to make assumptions on future changes in financial markets and the division's future investment decisions with and without the bill's prohibition.

Reporting: The bill requires the State Investment Council and the Director of the Division of Investment to identify all companies that boycott Israel and are required to take the following efforts: 1) review and rely on publicly available information regarding companies that boycott Israel, including information provided by non-profit organizations, research firms, and government entities; 2) contacting other institutional investors that have divested from companies that boycott Israel; and 3) retaining an independent research firm to identify companies that boycott Israel.

The reporting requirements set forth by the bill, including the requirement to retain an independent research firm, have been requested of the Division of Investment before for other

investment prohibitions. Specifically, the division is required to publish a report annually to the Legislature regarding the adherence of U.S. companies and their subsidiaries doing business in Northern Ireland, in which the assets of any state pension or annuity fund are invested. According to the Department of the Treasury, the current annual cost to have the Northern Ireland Report furnished by an independent research firm is \$7,500. This cost, however, does not include any internal costs to the division, such as the amount of time spent reviewing the report before it is published, since these costs are generally unquantifiable and absorbed into the division's existing budget.

Section: Revenue, Finance and Appropriations

Analyst: Jordan M. DiGiovanni
Assistant Fiscal Analyst

Approved: Frank W. Haines III
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

ASSEMBLY, No. 925

STATE OF NEW JERSEY

217th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 2016 SESSION

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Assemblyman CHRIS A. BROWN

District 2 (Atlantic)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Co-Sponsored by:

Assemblymen S.Kean, Johnson, Assemblywomen Muoio, Caride, Assemblymen Taliaferro, Diegnan, Assemblywomen Handlin, Jasey, Assemblyman Benson, Assemblywoman Chaparro, Assemblymen Burzichelli, Zwicker, McKeon, Holley, Gusciora, Peterson, Dancer, Bramnick, Eustace, Assemblywoman Schepisi, Assemblyman Wisniewski and Assemblywoman Spencer

SYNOPSIS

Prohibits investment by State of pension and annuity funds in companies that boycott Israel or Israeli businesses.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.

(Sponsorship Updated As Of: 5/20/2016)

1 AN ACT concerning the investment by the State of pension and
2 annuity funds in companies that boycott Israel or Israeli
3 businesses and supplementing P.L.1950, c.270 (C.52:18A-79 et
4 seq.).

5

6 **BE IT ENACTED** *by the Senate and General Assembly of the State*
7 *of New Jersey:*

8

9 1. The Legislature finds and declares that:

10 Israel and the United States are allies sharing a common bond
11 rooted in the values of freedom, democracy, and equal rights.

12 The State of New Jersey is committed to supporting Israel and
13 maintaining the strong New Jersey-Israel relationship that has
14 existed since the founding of the Jewish state in 1948, recognizing
15 that United States and Israel have mutually benefitted from being
16 allies.

17 The State is deeply concerned about the Boycott, Divestment and
18 Sanctions (BDS) effort to boycott Israeli goods, products, and
19 businesses and ultimately to delegitimize Israel.

20 The State and Israel have a long history of friendship based on
21 economic, cultural, intellectual and political cooperation and
22 exchange, and the elected representatives of New Jersey recognize
23 and support Israel's right to exist as a Jewish state.

24 "Boycott Divestment Sanctions" (BDS) refers to the
25 encouragement of boycotts, divestments and sanctions that place
26 economic and political pressure on business entities, and other
27 organizations and institutions to influence their behavior against
28 Israel.

29 Calls for boycott, divestment and sanctions against Israel have
30 been made in New Jersey and other communities nationwide on
31 university campuses to academic and professional associations,
32 church movements, the cultural sector, and in other contexts.

33 Calls for academic boycotts against Israeli academic institutions
34 have been condemned by many of our nation's largest academic
35 associations, over 250 university presidents, and many leading
36 scholars as a violation of the bedrock principle of academic
37 freedom.

38 Punitive economic measures targeting Israel do not contribute to
39 the economic cooperation and political reconciliation between
40 Israelis and Palestinians, both of which are necessary for building
41 mutual trust and foundations for a lasting peace in the Middle East.

42 Both Israelis and Palestinians have the right to live in their own
43 safe and secure states, free from fear and violence, with mutual
44 recognition, trade, and normalization.

45 The BDS effort, according to proponents, seeks to advance
46 human rights. However, the actual goal is a thinly disguised
47 attempt to demonize Israel. While atrocities against human rights
48 are carried out in other countries, the BDS effort seeks to portray

1 Israel, the only true democracy in the Middle East, in a one-sided
2 and false manner as a repressive country with no regard for such
3 rights.

4 Therefore, it is in the best interest of this State that a statutory
5 prohibition be enacted to prohibit the investment of public
6 employee retirement funds in companies boycotting Israel.

7
8 2. a. Notwithstanding any provision of law to the contrary, no
9 assets of any pension or annuity fund under the jurisdiction of the
10 Division of Investment in the Department of the Treasury, or its
11 successor, shall be invested in any company that boycotts the
12 goods, products or businesses of Israel. This prohibition shall not
13 apply to the activities of any company providing humanitarian aid
14 to the Palestinian people through either a governmental or non-
15 governmental organization.

16 b. The State Investment Council and the Director of the
17 Division of Investment shall take appropriate action to sell, redeem,
18 divest, or withdraw any investment held in violation of subsection
19 a. of this section. This section shall not be construed to require the
20 premature or otherwise imprudent sale, redemption, divestment, or
21 withdrawal of an investment, but such sale, redemption, divestment
22 or withdrawal shall be completed not later than 18 months
23 following the effective date of this act, P.L. , c. (C.)
24 (pending before the Legislature as this bill).

25 c. Within 60 days after the effective date of this act, the
26 Director of the Division of Investment shall file with the
27 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
28 19.1), a report of all investments held as of the effective date that
29 are in violation of subsection a. of this section. One year thereafter,
30 and every subsequent year on the anniversary of the effective date
31 of P.L. , c. (C.) (pending before the Legislature as this
32 bill), the director shall report on all investments sold, redeemed,
33 divested, or withdrawn in compliance with subsection b. of this
34 section. The report shall provide a description of the progress that
35 the division has made since the previous report and since the
36 effective date of this act in implementing subsection b. of this
37 section.

38 d. The members of the State Investment Council, jointly and
39 individually, and State officers and employees involved therewith,
40 shall be indemnified and held harmless by the State of New Jersey
41 from all claims, demands, suits, actions, damages, judgments, costs,
42 charges, and expenses, including court costs and attorney's fees,
43 and against all liability, losses, and damages that these council
44 members, and State officers and employees, may sustain by reason
45 of any decision to restrict, reduce, or eliminate investments
46 pursuant to this act.

47 e. As used in P.L. , c. (C.) (pending before the
48 Legislature as this bill), "humanitarian aid" means the provision of

1 goods and services intended to relieve human suffering or to
2 promote general welfare and health; “Boycott Divestment
3 Sanctions” (BDS) refers to the encouragement of boycotts,
4 divestments and sanctions that place economic and political
5 pressure on states, business entities, and other organizations and
6 institutions to influence their behavior against Israel; “boycott”
7 means engaging in actions that are politically motivated and are
8 intended to penalize, inflict economic harm on, or otherwise limit
9 commercial relations with another state or nation; “divestment”
10 means to sell, redeem, or withdraw all holdings of a company from
11 the investment portfolio of another company or of a governmental
12 entity; and “sanctions” means the attempts by national
13 governments, multilateral organizations and other international
14 bodies or their subdivisions to limit or ban trade or other relations
15 with a state or nation.

16

17 3. This act shall take effect immediately.

18

19

20

STATEMENT

21

22 This bill prohibits the investment of New Jersey public employee
23 retirement funds in any company that boycotts, divests, or sanctions
24 Israel or Israeli businesses.

25 The bill does not apply to the activities of any company
26 providing humanitarian aid to the Palestinian people through either
27 a governmental or non-governmental organization.

28 The bill requires the State Investment Council and the Director
29 of the Division of Investment to take appropriate action to divest
30 any investment held in violation of the prohibition. Progress
31 reports by the division regarding these divestments are required by
32 this bill.

33 Illinois’s legislature recently passed similar legislation restricting
34 investment of its pension fund in companies that boycott Israel.

ASSEMBLY STATE AND LOCAL GOVERNMENT
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 925

STATE OF NEW JERSEY

DATED: MAY 19, 2016

The Assembly State and Local Government Committee reports favorably Assembly Bill No. 925.

This bill prohibits the investment of New Jersey public employee retirement funds in any company that boycotts, divests, or sanctions Israel or Israeli businesses.

The bill does not apply to the activities of any company providing humanitarian aid to the Palestinian people through either a governmental or non-governmental organization.

The bill requires the State Investment Council and the Director of the Division of Investment to take appropriate action to divest any investment held in violation of the prohibition. Progress reports by the division regarding these divestments are required by this bill.

Illinois's legislature recently passed similar legislation restricting investment of its pension fund in companies that boycott Israel.

This bill was prefiled for introduction in the 2016-2017 session pending technical review. As reported the bill includes the changes required by technical review, which has been performed.

ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 925

STATE OF NEW JERSEY
217th LEGISLATURE

ADOPTED MAY 26, 2016

Sponsored by:

Assemblywoman VALERIE VAINIERI HUTTLE

District 37 (Bergen)

Assemblyman GARY S. SCHAER

District 36 (Bergen and Passaic)

Assemblywoman NANCY J. PINKIN

District 18 (Middlesex)

Assemblyman CHRIS A. BROWN

District 2 (Atlantic)

Assemblyman RAJ MUKHERJI

District 33 (Hudson)

Assemblywoman PAMELA R. LAMPITT

District 6 (Burlington and Camden)

Assemblyman VINCENT MAZZEO

District 2 (Atlantic)

Co-Sponsored by:

Assemblymen S.Kean, Johnson, Assemblywomen Muoio, Caride, Assemblymen Taliaferro, Diegnan, Assemblywomen Handlin, Jasey, Assemblyman Benson, Assemblywoman Chaparro, Assemblymen Burzichelli, Zwicker, McKeon, Holley, Gusciora, Peterson, Dancer, Bramnick, Eustace, Assemblywoman Schepisi, Assemblyman Wisniewski, Assemblywomen Spencer, Jones, Assemblymen Russo, Rumana, Kennedy, Assemblywoman N.Munoz, Assemblymen A.M.Bucco, Giblin, DiMaio, Assemblywoman Mosquera, Assemblymen Chiaravalloti and Egan

SYNOPSIS

Prohibits investment of pension and annuity funds by State in companies that boycott Israel or Israeli businesses.

CURRENT VERSION OF TEXT

Substitute as adopted by the General Assembly.

(Sponsorship Updated As Of: 6/17/2016)

1 AN ACT concerning the investment of State pension and annuity
2 funds in companies that boycott Israel or Israeli businesses and
3 supplementing P.L.1950, c.270 (C.52:18A-79).
4

5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:
7

8 1. The Legislature finds and declares that:

9 Israel and the United States are allies sharing a common bond
10 rooted in the values of freedom, democracy, and equal rights.

11 The State of New Jersey is committed to supporting Israel and
12 maintaining the strong New Jersey-Israel relationship that has
13 existed since the founding of the Jewish state in 1948, recognizing
14 that the United States and Israel have mutually benefitted from
15 being allies, including economic cooperation, which Congress has
16 determined materially benefits the United States.

17 The State is deeply concerned about the Boycott, Divestment and
18 Sanctions (BDS) effort to boycott Israeli goods, products, and
19 businesses which is contrary to federal policy articulated in
20 numerous laws.

21 The State and Israel have a long history of friendship based on
22 economic, cultural, intellectual, and political cooperation and
23 exchange, and the elected representatives of New Jersey recognize
24 and support Israel's right to exist as a Jewish state.

25 More than \$1.3 billion in goods and services are traded annually
26 between New Jersey and Israel, and the two trading partners
27 continue to look for and find new opportunities to enhance
28 cooperation and initiatives of mutual economic benefit.

29 Boycotts, divestments, and sanctions place economic and
30 political pressure on business entities, and other organizations and
31 institutions to influence their behavior against Israel.

32 It is fitting and appropriate that the State of New Jersey reaffirm
33 its interest in viable trade and exchange with an ally of the United
34 State and a vibrant economic partner of the State.

35 Economic cooperation and political reconciliation are necessary
36 for building mutual trust and foundations for a lasting peace in the
37 Middle East.

38 Both Israelis and Palestinians have the right to live safely and
39 securely in their homes, free from fear and violence, with mutual
40 recognition, trade, and normalization of relations as neighbors.

41 The strengthening of New Jersey-Israel cooperation recognizes
42 the beneficial economic and technological value of that cooperation
43 including for improving the competitive capabilities in global
44 markets for both New Jersey and Israel.

45 Nationality-based boycott actions are often veiled discrimination,
46 and it is against the public policy of New Jersey to support such
47 discrimination.

1 Boycotts, such as those against Israel, do not make for effective
2 business decision making, prevent a business from making the best
3 use of the resources available to it and should be opposed as an
4 impairment to the soundness of commercial contracting
5 performance.

6 It is important to the economic well-being of New Jersey that
7 persons or entities conducting commercial trade and doing business
8 in the State do not engage in boycotts of a legitimate and viable
9 partner with whom New Jersey can enjoy open trade contracting.

10 Therefore, it is in the best interest of this State that a statutory
11 prohibition be enacted to prohibit the investment of public
12 employee retirement funds in companies boycotting Israel.

13

14 2. a. Notwithstanding any provision of law to the contrary, no
15 assets of any pension or annuity fund under the jurisdiction of the
16 Division of Investment in the Department of the Treasury, or its
17 successor, shall be invested in any company that boycotts the
18 goods, products, or businesses of Israel, boycotts those doing
19 business with Israel, or boycotts companies operating in Israel or
20 Israeli-controlled territory. This section shall not apply to those
21 boycotts organized by foreign governments pursuant to 50 U.S.C.
22 s.4607(c). The activities of any company solely providing
23 humanitarian aid to the Palestinian people through either a
24 governmental or non-governmental organization shall not render the
25 company subject to the provisions of this act, P.L. ,
26 c. (C.) (pending before the Legislature as this bill)
27 unless it is also engaging in the prohibited boycotts or otherwise
28 discriminating against goods, products, or businesses of Israel, or
29 entities operating in Israel or Israeli-controlled territory.

30 b. The State Investment Council and the Director of the
31 Division of Investment shall take appropriate action to sell, redeem,
32 divest, or withdraw any investment held in violation of subsection
33 a. of this section. This section shall not be construed to require the
34 premature or otherwise imprudent sale, redemption, divestment, or
35 withdrawal or an investment, but such sale, redemption, divestment,
36 or withdrawal shall be completed not later than 18 months
37 following the effective date of this act.

38 c. Within 60 days after the effective date of this act, the
39 Director of the Division of Investment shall file with the
40 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
41 19.1), a report of all investments held as of the effective date that
42 are in violation of subsection a. of this section. The State
43 Investment Council and the Director of the Division of Investment
44 shall use its best efforts to identify all companies that boycott Israel
45 and these efforts shall include, but are not limited, the following, as
46 appropriate in the judgment of the State Investment Council and the
47 Director of the Division of Investment:

1 (1) reviewing and relying on publicly available information
2 regarding companies that boycott Israel, including information
3 provided by non-profit organizations, research firms, and
4 government entities;

5 (2) contacting other institutional investors that have divested
6 from companies that boycott Israel; and

7 (3) retaining an independent research firm to identify companies
8 that boycott Israel.

9 One year thereafter, and every subsequent year on the
10 anniversary of the effective date of this act, the director shall report
11 on all investments sold, redeemed, divested, or withdrawn in
12 compliance with subsection b. of this section. The report shall
13 provide a description of the progress that the division has made
14 since the previous report and since the effective date of this act in
15 implementing subsection b. of this section.

16 d. The members of the State Investment Council, jointly and
17 individually, and State officers and employees involved therewith,
18 shall be indemnified and held harmless by the State of New Jersey
19 from all claims, demands, suits, actions, damages, judgments, costs,
20 charges, and expenses, including court costs and attorney's fees,
21 and against all liability, losses, and damages that these council
22 members, and State officers and employees, may sustain by reason
23 of any decision to restrict, reduce, or eliminate investments
24 pursuant to this act.

25 e. As used in this act, "humanitarian aid" means the provision
26 of goods and services intended to relieve human suffering or to
27 promote general welfare and health; "Boycott, Divestment, and
28 Sanctions" (BDS) refers to the encouragement of boycotts,
29 divestments and sanctions that place economic and political
30 pressure on states, business entities, and other organizations and
31 institutions to influence their behavior against Israel; "boycott"
32 means engaging in actions that are politically motivated and are
33 intended to penalize, inflict economic harm on, or otherwise limit
34 commercial relations with another state or nation; "divestment"
35 means to sell redeem, or withdraw all holdings of a company from
36 the investment portfolio of another company or of a governmental
37 entity; and "sanctions" means the attempts by national
38 governments, multilateral organizations and other international
39 bodies or their subdivisions to limit or ban trade or other relations
40 with a state or nation.

41 f. The provisions of this act are severable. If any phrase,
42 clause, sentence, provision or section is declared to be invalid or
43 preempted by federal law or regulation, the validity of the
44 remainder of this act shall not be affected thereby.

45

46 4. This act shall take effect immediately.

STATEMENT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

This Assembly floor substitute would prohibit the investment of New Jersey public employee retirement funds in any company that boycotts, divests from, or sanctions Israel or Israeli businesses, or boycotts those doing business with Israel, or boycotts companies operating in Israel or Israeli-controlled territory.

The State of New Jersey reaffirms its interest in viable trade and exchange with allies of the United States and vibrant economic partners of the United States and the State and in finding new opportunities for the State to enhance cooperation and initiatives of mutual economic benefit.

The substitute does not apply to the activities of any company providing humanitarian aid to the Palestinian people through either a governmental or non-governmental organization unless that company boycotts the goods, products, or businesses of Israel, or discriminates against people doing business with Israel and entities owned or controlled by the government of Israel, or entities operating in Israel or Israeli-controlled territory.

The substitute would require the State Investment Council and the Director of the Division of Investment to take appropriate action to identify companies that violate the prohibition and to divest any investment held in violation of the prohibition. Progress reports by the division regarding these divestments would be required by the bill.

Illinois's legislature recently passed similar legislation restricting investment of its pension fund in companies that boycott Israel.

This substitute is identical to Senate Bill No. 1923 of 2016-2017.

STATEMENT TO

ASSEMBLY SUBSTITUTE FOR
ASSEMBLY, No. 925

with Assembly Floor Amendments
(Proposed by Assemblywoman VAINIERI HUTTLE)

ADOPTED: JUNE 16, 2016

These General Assembly floor amendments change from 18 to 24 months following the effective date of this act the time period during which the State Investment Council and the Director of the Division of Investment must take appropriate action to sell, redeem, divest, or withdraw any investment held in violation of subsection this bill. They also change from 60 to 120 days following the effective date of this act the time period during which the Director of the Division of Investment must file with the Legislature a report of all investments held as of the effective date that are in violation of this bill. The amendments remove political motivation from the definition of boycott, and also make other minor technical changes.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

ASSEMBLY SUBSTITUTE FOR

ASSEMBLY, No. 925

STATE OF NEW JERSEY

217th LEGISLATURE

DATED: JUNE 24, 2016

SUMMARY

- Synopsis:** Prohibits investment of pension and annuity funds by State in companies that boycott Israel or Israeli businesses.
- Type of Impact:** Potential expenditure decrease or increase to the State and local governments.
- Agencies Affected:** Department of the Treasury.
Local Subdivisions of State Government.

Office of Legislative Services Estimate

Fiscal Impact	<u>Fiscal Year 2016</u>	<u>Fiscal Year 2017</u>	<u>Fiscal Year 2018</u>
State Employer Contributions	Potential Decrease or Increase		
Local Employer Contributions	Depending on Investment Performance		
State Cost	Indeterminate minimal increase – Dependent on Contract with Independent Research Firm		

- The Office of Legislative Services (OLS) cannot reliably assess the ramifications on State and local government finances of prohibiting investments of pension and annuity funds in companies that boycott the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory. The bill has the potential to directly alter pension and annuity fund investment returns either positively or negatively. If it does, it could, in turn, indirectly affect the amount of actuarially determined employer contributions to the funds by the State and local governments.
- On three grounds the OLS cannot determine the difference between future pension and annuity fund investment returns with and without the bill's prohibition. First, for reasons stated below, it is unclear to what extent pension and annuity funds are currently placed in investments prohibited by the bill. Second, it is equally unclear when the Division of Investment in the Department of the Treasury would sell any prohibited holdings, as the bill allows a 24-month period for the divestment. Third, it would be highly speculative for the

OLS to make assumptions on future changes in financial markets and the division's future investment decisions with and without the bill's prohibition.

- The reporting requirements set forth by the bill, including the requirement to retain an independent research firm, have been requested of the Division of Investment before for other investment prohibitions. The current annual cost to have the similar report furnished by an independent research firm is \$7,500. This cost, however, does not include any internal costs to the division.

BILL DESCRIPTION

The First Reprint of the Assembly Substitute for Assembly Bill No. 925 of 2016 prohibits the State of New Jersey from investing any assets of any pension or annuity fund under the management of the Division of Investment in the Department of the Treasury in companies that boycott the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory. The prohibition does not apply to: a) boycotts organized by foreign governments pursuant to 50 U.S.C. s.4607(c); and b) the activities of any company providing humanitarian aid to the Palestinian people through either a governmental or non-governmental organization, unless it is also engaging in the prohibited boycotts or otherwise discriminating against goods, products, or businesses of Israel, or entities operating in Israel or Israeli-controlled territory.

The bill also requires the State Investment Council and the Director of the Division of Investment to take appropriate action to identify companies that violate the prohibition and to divest any investment held in violation of the prohibition. The division has up to 24 months to disengage from any existing investment that violates the prohibition. Further, progress reports by the division regarding these divestments would be required by the bill.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The OLS cannot reliably assess the ramifications on State and local government finances of prohibiting investments of pension and annuity funds in companies that boycott the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory. The bill has the potential to directly alter pension and annuity fund investment returns either positively or negatively. If it does, it could, in turn, indirectly affect the amount of actuarially determined employer contributions to the funds by the State and local governments.

Conceptual Considerations: The bill's fiscal impact will equal the difference in the pension and annuity funds' future investment performance with and without the bill's prohibition on investments in companies boycotting the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory.

The bill will have no impact if investment returns remain identical with and without the bill's prohibition. This scenario might materialize, for example, if the division never intended to invest pension and annuity funds in companies boycotting the goods, products or businesses of Israel with or without the bill's prohibition.

In contrast, the bill will generate a gain to the pension and annuity funds, and potentially a reduction in State and local government employer contributions thereto, if investment returns are greater with the bill's prohibition than without it. This scenario would materialize if absent this bill the division were to invest pension and annuity fund resources in companies boycotting the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory, and if the ensuing returns were to be inferior to the returns of other investments the division would make with the prohibition.

Conversely, the bill will produce a loss to the pension and annuity funds, and potentially an increase in State and local government employer contributions thereto, if investment returns are smaller with the bill's prohibition than without it. This scenario would materialize if absent this bill the division were to invest pension fund resources in companies boycotting the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory and if the resultant returns wound up superior to the returns of other investments the division would make with the prohibition.

Impediments: Three unknown variables preclude the OLS from quantifying the difference between future pension and annuity fund investment returns with and without the bill's prohibition.

First, it is unclear to what extent pension and annuity fund resources are currently placed in investments outlawed by the bill. It may even be impossible for the State to identify all investments in prohibited companies with absolute certainty. This is so because of the unpredictability of investing in hedge funds and private equity firms, which generally treat their investments and investment strategies as proprietary information that they do not share with investors. It is therefore possible for the division to inadvertently place pension and annuity fund moneys indirectly in companies boycotting the goods, products or businesses of Israel, those doing business with Israel, or companies operating in Israel or Israeli-controlled territory through the conduit of its hedge fund and private equity holdings. Irrespective of this source of uncertainty, Illinois may provide a rough indication of the number of investments New Jersey may find to be in violation of this bill. In July 2015, Illinois became the first State to enact legislation similar to this bill. The Executive Director of the Illinois State Board of Investment preliminarily estimated that Illinois' State-funded retirement systems' existing placements in some 25 to 30 companies could run afoul of the prohibition on pension fund investments in companies boycotting Israel ("Illinois Passes Bill for Pension Funds to Divest from Companies Boycotting Israel." *Pensions & Investments*, May 19, 2015.). On March 21, 2016, the Illinois Investment Policy Board published its list of 11 companies which were found to be in violation of the Illinois law and were therefore prohibited from investment.

Second, it is equally unclear when the division would divest from any prohibited holdings, as the bill allows a 24-month window for the divestment.

Third, it would be highly speculative for the OLS to make assumptions on future changes in financial markets and the division's future investment decisions with and without the bill's prohibition.

Reporting: The bill requires the State Investment Council and the Director of the Division of Investment to identify all companies that boycott Israel and are required to take the following efforts: 1) review and rely on publicly available information regarding companies that boycott Israel, including information provided by non-profit organizations, research firms, and government entities; 2) contacting other institutional investors that have divested from

companies that boycott Israel; and 3) retaining an independent research firm to identify companies that boycott Israel.

The reporting requirements set forth by the bill, including the requirement to retain an independent research firm, have been requested of the Division of Investment before for other investment prohibitions. Specifically, the division is required to publish a report annually to the Legislature regarding the adherence of U.S. companies and their subsidiaries doing business in Northern Ireland, in which the assets of any state pension or annuity fund are invested. According to the Department of the Treasury, the current annual cost to have the Northern Ireland Report furnished by an independent research firm is \$7,500. This cost, however, does not include any internal costs to the division, such as the amount of time spent reviewing the report before it is published, since these costs are generally unquantifiable and absorbed into the division's existing budget.

Section: Revenue, Finance and Appropriations

*Analyst: Jordan M. DiGiovanni
Assistant Fiscal Analyst*

*Approved: Frank W. Haines III
Legislative Budget and Finance Officer*

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).

[Home](#) [Newsroom](#) [Media](#) [Administration](#) [NJ's Priorities](#) [Contact Us](#)

[Press Releases](#) [Public Addresses](#) [Executive Orders](#) [Press Kit](#) [Reports](#)

[Home](#) > [Newsroom](#) > [Press Releases](#) > 2016

Governor Christie: Unequivocal, Unashamed, Unapologetic Support Of Israel Is The Policy Of NJ

Tuesday, August 16, 2016 Tags: [Bill Action](#)

Stay Connected
with *Social Media*

Stay Connected
with *Email Alerts*

LIKE THIS PAGE? SHARE IT WITH YOUR FRIENDS.



Related Content



Pro-Israel Legislation
Tuesday, August 16, 2016

[View More Photos](#)



Governor Christie: Unequivocal, Unashamed, Unapologetic Support Of Israe...



[Watch The Video Here](#)

Transcript:

Governor Christie: I am further cementing New Jersey's strong and our historic ties to the state of Israel and its people, as I happily sign Senate Bill 1923, which prohibits investment by the state of New Jersey of pension annuity funds in companies that boycott Israel's products, goods, or Israeli businesses. This legislation officially distances New Jersey from the "Boycott, Divestment, and Sanctions" movement that attempts to weaken and overtake Israel by creating economic calamity. Designed as a campaign against Israel's control of the West Bank, the Gaza Strip and the Golan Heights, the boycott is not only contrary to federal policy, and in my view national interests, but it contracts the long history of friendship between New Jersey and Israel. That friendship is not based only on economic and political ties but also longstanding cultural, intellectual, and religious connections. Israel is the beacon of democracy in a region that is constantly in conflict and turmoil. Israel is not just our friend and ally. They are our partners in peace across the world. To let folks in Israel understand that there still are people in the United States, and people of both parties in this state who understand that unequivocal, unashamed, unapologetic support of Israel is the policy of the state of New Jersey and should be the policy of the United States of America and hopefully will be in the years going forward, and so I want to thank the sponsors for their leadership on this from both sides of the aisle. It's extraordinarily important that this be seen and actually be a bipartisan effort in New Jersey, and I'm proud that it is. Happy to add my voice and my signature to this law. I want to thank also the members of the public here who have been regular, regular supporters of policies that encourage democracy, encourage the respect for human rights, and encourage the idea that through

American and Israeli leadership together the world can be a safer place in every respect, not just a lack of violence but safe for people to be able to pursue happiness in their life in the way that they see fit.

###

Press Contact:

Brian Murray
609-777-2600



[Contact Us](#) | [Privacy Notice](#) | [Legal Statement & Disclaimers](#) | [Accessibility Statement](#) | 

Statewide: [NJ Home](#) | [Services A to Z](#) | [Departments/Agencies](#) | [FAQs](#)
Office of the Governor: [Home](#) | [Newsroom](#) | [Media](#) | [Administration](#) | [NJ's Priorities](#) | [Contact Us](#)

Copyright © State of New Jersey, 1996-2017
Office of the Governor
PO Box 001
Trenton, NJ 08625
609-292-6000

Governor Chris Christie Takes Action On Pending Legislation

Tuesday, August 9, 2016 Tags: [Bill Action](#)

Stay Connected
with Social Media

Stay Connected
with Email Alerts

LIKE THIS PAGE? SHARE IT
WITH YOUR FRIENDS.



Trenton, NJ – Governor Chris Christie announced action that has been taken on the following legislation:

BILLS SIGNED:

S-2049/A-3652 (Singer/S. Kean, Ribble) – w/ STATEMENT - Establishes three-year nonpublic school pupil transportation pilot program in Lakewood School District to provide funding to consortium of nonpublic schools that will assume responsibility for district's mandated nonpublic school busing

A-1663wGR/S-1142 (Schaer, Prieto, Sumter, Daniels, Johnson, Mukherji/Turner) - Requires DLPS to establish and make available to law enforcement agencies cultural diversity training materials and online tutorial

A copy of the Governor's statement is attached to the release.

Press Contact:
Brian Murray
609-777-2600

