

**Sixty-eighth Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1368
(Representatives K. Anderson, Bellew, M. Ruby, Strinden, Timmons, Tveit)
(Senators Clemens, Kannianen, Myrdal)

AN ACT to create and enact a new section to chapter 54-06 and a new section to chapter 54-44.4 of the North Dakota Century Code, relating to contracts with companies that boycott Israel and a prohibition on investments.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 54-06 of the North Dakota Century Code is created and enacted as follows:

Investments - Prohibition - Israel boycott.

1. As used in this section "boycott Israel" means engaging in refusals to deal, terminating business activities, or other similar commercial actions intended to limit commercial relations with persons doing business in Israel or in Israeli-controlled territories when the actions are taken:
 - a. In compliance or adherence to calls for a boycott of Israel, other than those boycotts under Public Law No. 96-72 [50 U.S.C. 2407(c)]; or
 - b. In a manner that discriminates on the basis of nationality, national origin, or religion.
2. Notwithstanding any other provision of law, the state may not adopt any investment policy that would have the effect of requiring or inducing any person to boycott Israel.
3. If the state receives evidence that a company boycotts Israel, the state shall determine whether the company boycotts Israel. If accompanied by the conduct described under subsection 1, a company statement that indicates the company is participating in a boycott of Israel or has taken boycott action at the request, in compliance with, or in furtherance of calls for a boycott of Israel, may be considered as one type of evidence that the company is participating in a boycott of Israel. An expressive activity, alone, directed at a specific person or a governmental action may not be considered evidence of a boycott of Israel.

SECTION 2. A new section to chapter 54-44.4 of the North Dakota Century Code is created and enacted as follows:

Purchasing contracts - Prohibition - Israel boycott.

1. As used in this section:
 - a. "Boycott Israel" means engaging in refusals to deal, terminating business activities, or other similar commercial actions intended to limit commercial relations with persons doing business in Israel or in Israeli-controlled territories when the actions are taken:
 - (1) In compliance or adherence to calls for a boycott of Israel, other than those boycotts under Public Law No. 96-72 [50 U.S.C. 2407(c)]; or
 - (2) In a manner that discriminates on the basis of nationality, national origin, or religion.
 - b. "Company" means any organization, association, corporation, partnership, joint venture, limited partnership, limited liability company, or other entity or business association,

including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate.

2. A state entity that enters a contract that includes a provision prohibiting discrimination shall require the contract to include a provision prohibiting a party to the contract from boycotting Israel for the duration of the contract. The office of management and budget or purchasing agency may waive the requirement in this subsection if the waiver is in the best interest of the state. A waiver under this subsection may not affect the enforceability of a contract.
3. If the state receives evidence that a company boycotts Israel, the state shall determine whether the company boycotts Israel. If accompanied by the conduct described under subsection 1, a company statement that indicates the company is participating in a boycott of Israel or has taken boycott action at the request, in compliance with, or in furtherance of calls for a boycott of Israel, may be considered as one type of evidence that the company is participating in a boycott of Israel. An expressive activity, alone, directed at a specific person or a governmental action may not be considered evidence of a boycott of Israel.
4. This section does not apply to:
 - a. A contract with a value of less than one hundred thousand dollars; or
 - b. A contract with a company that has fewer than ten full-time employees.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1368.

House Vote: Yeas 87 Nays 4 Absent 3

Senate Vote: Yeas 43 Nays 3 Absent 1

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2023.

Approved at _____ M. on _____, 2023.

Governor

Filed in this office this _____ day of _____, 2023,

at _____ o'clock _____ M.

Secretary of State