

Senator Chris H. Wilson proposes the following substitute bill:

PUBLIC CONTRACT REQUIREMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Chris H. Wilson

House Sponsor: Rex P. Shipp

LONG TITLE

General Description:

This bill addresses public entity contract requirements.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **63G-27-102**, as enacted by Laws of Utah 2021, Chapter 347

29 **63G-27-201**, as enacted by Laws of Utah 2021, Chapter 347

30 ENACTS:

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

32 REPEALS:

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



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

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

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

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

39 As used in this chapter:

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

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

43 (a) the State of Israel; and

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

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

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

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

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

52 (c) ~~H→ [does not meet or commit to meet corporate board, or employment, composition,~~
53 ~~compensation, or disclosure criteria that incorporates race, color, sex, religion, ancestry, or~~
54 ~~national origin;~~

55 ~~——(d) ←H~~ does not meet or commit to meet environmental standards, including standards for
56 eliminating, reducing, offsetting, or disclosing greenhouse gas-emissions, beyond applicable

57 state and federal law requirements; or

58 ~~H~~→ [(e)] (d) ←H does not facilitate or commit to facilitate access to abortion or sex
 58a characteristic
 59 surgical procedures.

60 [~~3~~] (4) (a) "Company" means a corporation, partnership, limited liability company, or
 61 similar entity.

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

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

65 (a) engaging in a boycott action targeting:

66 (i) a boycotted company; or

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

68 (b) taking an action intended to penalize, inflict economic harm to, or change or limit
 69 the activities of:

70 (i) a boycotted company; or

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

72 (6) (a) "Ordinary business purpose" means a purpose that is related to business
 73 operations.

74 (b) "Ordinary business purpose" does not include a purpose that is solely related to
 75 furthering social, political, or ideological interests.

76 [~~4~~] (7) "Public entity" means the state or a political subdivision of the state, including
 77 each department, division, office, board, commission, council, authority, or institution of the
 78 state or a political subdivision of the state.

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

80 **63G-27-201. Prohibition on contracting.**

81 (1) Except as provided in Subsection ~~S~~→ [(2)] (3) ←S , a public entity may not enter into a
 81a contract

82 with a company to acquire or dispose of a good or service, including supplies, information
 83 technology, or construction services, unless:

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

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

87 (ii) an economic boycott; [and]

88 (b) the company agrees not to engage in a boycott of the State of Israel for the duration
89 of the contract[-]; and

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

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

94 [~~2~~] (3) This section does not:

95 (a) apply to:

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

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

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

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

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

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

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

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

106 **63G-27-202. Prohibition on interference with state programs and commercial**
107 **relationships.**

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

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

113 Section 4. **Repealer.**

114 This bill repeals:

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