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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  

Utah Code Sections Affected:  
AMENDS:  
- 63G-27-102, as enacted by Laws of Utah 2021, Chapter 347  
- 63G-27-201, as enacted by Laws of Utah 2021, Chapter 347
Be it enacted by the Legislature of the state of Utah:

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

CHAPTER 27. PUBLIC CONTRACT BOYCOTT RESTRICTIONS


As used in this chapter:

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

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

(a) the State of Israel; and

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

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

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

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

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

(c) does not meet or commit to meet environmental standards, including standards for eliminating, reducing, offsetting, or disclosing greenhouse gas- emissions, beyond applicable state and federal law requirements; or

(d) does not facilitate or commit to facilitate access to abortion or sex characteristic surgical procedures.

[3] (4) (a) "Company" means a corporation, partnership, limited liability company, or
(b) "Company" includes any wholly-owned subsidiary, majority-owned subsidiary, parent company, or affiliate of an entity described in Subsection [(3)(a)] (4)(a).

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

(a) engaging in a boycott action targeting:

(i) a boycotted company; or

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

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

(i) a boycotted company; or

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

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

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

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

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


(1) Except as provided in Subsection [(2)] (3), a public entity may not enter into a contract with a company to acquire or dispose of a good or service, including supplies, information technology, or construction services, unless:

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

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

(ii) an economic boycott; [and]

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

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

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

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

(a) apply to:

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

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

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

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

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

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

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

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

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

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

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

Section 4. Repealer.

This bill repeals:

Section 63G-27-101, Title.