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

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**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
SB0097S02 compared with SB0097

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

ENACTS:

63G-27-202, Utah Code Annotated 1953

REPEALS:

63G-27-101, 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
(c) does not meet or commit to meet corporate board, or employment, composition, compensation, or disclosure criteria that incorporates race, color, sex, religion, ancestry, or national origin:

(d) 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

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

(3) "Company" means a corporation, partnership, limited liability company, or similar entity.

(b) "Company" includes any wholly-owned subsidiary, majority-owned subsidiary, parent company, or affiliate of an entity described in Subsection (3)(a).

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

(a) engaging in a boycott action targeting a company that:

   (a) engages in the exploration, production, utilization, transportation, sale, or manufacture of fossil fuels or fossil fuel byproducts;
   (b) engages in production agriculture; or
   (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.

(5):

(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.

"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), 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 environmental boycott;

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

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

This section does not:

(a) apply to:

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

(ii) a contract with a company that has fewer than 10 full-time employees.

(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.