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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2023	.	
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The Committee on Appropriations (Hooper) recommended the following:

Senate Amendment (with title amendment)

Between lines 247 and 248

insert:

Section 5. Section 215.4725, Florida Statutes, is amended to read:

215.4725 Prohibited investments by the State Board of Administration; companies that boycott Israel.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Boycott Israel" or "boycott of Israel" means refusing



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11 to deal, terminating business activities, or taking other
12 actions to limit commercial relations with Israel, or persons or
13 entities doing business in Israel or in Israeli-controlled
14 territories, in a discriminatory manner. A statement by a
15 company that it is participating in a boycott of Israel, or that
16 it has initiated a boycott in response to a request for a
17 boycott of Israel or in compliance with, or in furtherance of,
18 calls for a boycott of Israel, may be considered by the State
19 Board of Administration to be evidence that a company is
20 participating in a boycott of Israel. The term includes taking
21 adverse action, including changes to published commercial
22 financial ratings, risk ratings, and controversy ratings based
23 on non-pecuniary factors, to inflict economic harm on Israel or
24 persons or entities doing business in Israel or in Israeli-
25 controlled territories. ~~The term does not include restrictive~~
26 ~~trade practices or boycotts fostered or imposed by foreign~~
27 ~~countries against Israel.~~

28 (b) "Company" means a sole proprietorship, organization,
29 association, corporation, partnership, joint venture, limited
30 partnership, limited liability partnership, limited liability
31 company, or other entity or business association, including all
32 wholly owned subsidiaries, majority-owned subsidiaries, and
33 parent companies, that exists for the purpose of making profit.

34 (c) "Direct holdings" in a company means all securities of
35 that company that are held directly by the public fund or in an
36 account or fund in which the public fund owns all shares or
37 interests.

38 (d) "Indirect holdings" in a company means all securities
39 of that company that are held in a commingled fund or other



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40 collective investment, such as a mutual fund, in which the
41 public fund owns shares or interests, together with other
42 investors not subject to this section or which are held in an
43 index fund.

44 (e) "Public fund" means all funds, assets, trustee, and
45 other designates under the State Board of Administration
46 pursuant to part I of chapter 121.

47 (f) "Scrutinized companies" means companies that boycott
48 Israel or engage in a boycott of Israel.

49 (2) IDENTIFICATION OF COMPANIES.—

50 (a) The public fund shall make its best efforts to identify
51 all scrutinized companies in which the public fund has direct or
52 indirect holdings or could possibly have such holdings in the
53 future. Such efforts include:

54 1. To the extent that the public fund finds it appropriate,
55 reviewing and relying on publicly available information
56 regarding companies that boycott Israel, including information
57 provided by nonprofit organizations, research firms,
58 international organizations, and government entities;

59 2. Contacting asset managers contracted by the public fund
60 for information regarding companies that boycott Israel; or

61 3. Contacting other institutional investors that prohibit
62 such investments or that have engaged with companies that
63 boycott Israel.

64 (b) By the first meeting of the public fund following the
65 identification of scrutinized companies in accordance with
66 paragraph (a), the public fund shall compile and make available
67 the "Scrutinized Companies that Boycott Israel List."

68 (c) The public fund shall update and make publicly



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69 available quarterly the Scrutinized Companies that Boycott
70 Israel List based on evolving information from, among other
71 sources, those listed in paragraph (a).

72 (3) REQUIRED ACTIONS.—The public fund shall adhere to the
73 following procedures for assembling companies on the Scrutinized
74 Companies that Boycott Israel List.

75 (a) *Engagement.*—

76 1. The public fund shall immediately determine the
77 companies on the Scrutinized Companies that Boycott Israel List
78 in which the public fund owns direct or indirect holdings.

79 2. For each company newly identified under this paragraph,
80 the public fund shall send a written notice informing the
81 company of its scrutinized company status and that it may become
82 subject to investment prohibition or divestment by the public
83 fund. The notice must inform the company of the opportunity to
84 clarify its activities regarding the boycott of Israel and
85 encourage the company to cease the boycott of Israel within 90
86 days in order to avoid qualifying for investment prohibition or
87 divestment.

88 3. If, within 90 days after the public fund's first
89 engagement with a company pursuant to this paragraph, the
90 company ceases a boycott of Israel, the company shall be removed
91 from the Scrutinized Companies that Boycott Israel List, and the
92 provisions of this section shall cease to apply to that company
93 unless that company resumes a boycott of Israel.

94 (b) *Divestment.*—

95 1. If, after 90 days following the public fund's first
96 engagement with a company pursuant to paragraph (a), the company
97 continues to boycott Israel, the public fund shall sell, redeem,



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98 divest, or withdraw all publicly traded securities of the
99 company from the public fund within 12 months after the
100 company's most recent appearance on the Scrutinized Companies
101 that Boycott Israel List.

102 2. If a company that ceased a boycott of Israel following
103 engagement pursuant to paragraph (a) resumes such activities,
104 this paragraph immediately applies, and the board shall send a
105 written notice to the company. The company shall also be
106 immediately reintroduced onto the Scrutinized Companies that
107 Boycott Israel List, as applicable.

108 (c) ~~(b)~~ Prohibition.—The public fund is prohibited from
109 acquiring ~~may not acquire~~ securities of companies on the
110 Scrutinized Companies that Boycott Israel List, except as
111 provided in paragraph (c) and subsection (6).

112 (d) ~~(e)~~ Excluded securities.—Notwithstanding the provisions
113 of this section, paragraph (b) does not apply to:

114 1. Indirect holdings. However, the public fund shall submit
115 letters to the managers of such investment funds containing
116 companies that boycott Israel requesting that they consider
117 removing such companies from the fund or create a similar fund
118 having indirect holdings devoid of such companies. If the
119 manager creates a similar fund, the public fund shall replace
120 all applicable investments with investments in the similar fund
121 in an expedited timeframe consistent with prudent investing
122 standards. For the purposes of this section, an alternative
123 investment, as the term is defined in s. 215.4401, and
124 securities that are not publicly traded are deemed to be
125 indirect holdings.

126 2. Exchange-traded funds.



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127 (4) REPORTING.—

128 (a) The public fund shall file a report with each member of
129 the Board of Trustees of the State Board of Administration, the
130 President of the Senate, and the Speaker of the House of
131 Representatives which includes the Scrutinized Companies that
132 Boycott Israel List within 30 days after the list is created.
133 This report shall be made available to the public.

134 (b) At each quarterly meeting of the Board of Trustees
135 thereafter, the public fund shall file a report, which shall be
136 made available to the public and to each member of the Board of
137 Trustees of the State Board of Administration, the President of
138 the Senate, and the Speaker of the House of Representatives,
139 which includes:

140 1. A summary of correspondence with companies engaged by
141 the public fund under subparagraph (3) (a)2.;

142 2. All prohibited investments under paragraph (3) (c) ~~(b)~~;

143 3. Any progress made under paragraph (3) (d) ~~(e)~~; and

144 4. A list of all publicly traded securities held directly
145 by the public fund.

146 (5) INVESTMENT POLICY STATEMENT OBLIGATIONS.—The public
147 fund's actions taken in compliance with this section, including
148 all good faith determinations regarding companies as required by
149 this act, shall be adopted and incorporated into the public
150 fund's investment policy statement as provided in s. 215.475.

151 (6) INVESTMENT AND REINVESTMENT IN CERTAIN SCRUTINIZED
152 COMPANIES.—Notwithstanding any other provision of this section,
153 the public fund may invest in, cease divesting from, or reinvest
154 in, certain scrutinized companies if clear and convincing
155 evidence shows that the value of all assets under management by



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156 the public fund becomes equal to or less than 99.50 percent, or
157 50 basis points, of the hypothetical value of all assets under
158 management by the public fund, assuming no investment
159 prohibition or divestment for any company had occurred under
160 paragraph (3) (b). Cessation of the investment prohibition,
161 divestment, reinvestment, or~~and~~ any new investment in a
162 scrutinized company is limited to the minimum steps necessary to
163 avoid the contingency described in this subsection. For any
164 cessation of the investment prohibition, divestment,
165 reinvestment, or~~and~~ new investment authorized by this
166 subsection, the public fund shall provide a written report to
167 each member of the Board of Trustees of the State Board of
168 Administration, the President of the Senate, and the Speaker of
169 the House of Representatives in advance of the divestment,
170 reinvestment, or new investment, updated semiannually thereafter
171 as applicable, setting forth the reasons and justification,
172 supported by clear and convincing evidence, for its decisions to
173 cease the investment prohibition, divestment, or reinvestment in
174 scrutinized companies.

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177 ===== T I T L E A M E N D M E N T =====

178 And the title is amended as follows:

179 Delete line 38

180 and insert:

181 investments; amending s. 215.4725, F.S.; amending the
182 definition of the terms "Boycott Israel" or "boycott
183 of Israel"; requiring the public fund to notify
184 companies it places on the Scrutinized Companies that



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185 Boycott Israel List that they may be subject to
186 divestment; providing a timeframe for the public
187 fund's divestment from companies that boycott Israel,
188 and processes for the companies' reintroduction on the
189 Scrutinized Companies that Boycott Israel List in
190 certain circumstances; authorizing the public fund to
191 cease its divestment from or reinvest in certain
192 scrutinized companies if the value of all assets under
193 management by the public fund becomes equal to or less
194 than a specified amount, pursuant to specified
195 procedures; reenacting ss. 112.661(5)(a),