

Israel Divestiture Forum – IDF

Committed to Ending Israel's Occupation
Sacramento California
cyatooma7@yahoo.com

10-0004

RECEIVED

JAN 21 2010

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

January 20, 2010

Dear AG's Office:

This letter is a formal request for you to title and summarize the attached draft ballot initiative. I can be reached at the email address listed above should you have any questions.

Sincerely,

Chris Yatooma
IDF Director

California Public Divest from Israel Act

Initiative Measure to be submitted directly to the voters

The proposed statutory language reads as follows:

Section 1: This act shall be known and may be cited as the California Public Divest from Israel Act.

Section 2: The people of California find and declare the following:

(a) It has been determined that business activities in foreign states such as Israel, which conduct state sponsored terrorism against Palestinians living in territory occupied by Israel since 1949, may materially harm the share value of foreign companies. Shares in these foreign companies may be held in the portfolio of public retirement systems in this state.

(b) Public retirement systems in this state currently invest on behalf of the citizens of California in publicly traded foreign companies that may be at risk due to business ties with foreign states such as Israel.

(c) Excluding companies with business activities in foreign states such as Israel and divesting from public portfolios will help send a clear message that the people of California do not wish to profit from companies that conduct business with Israel.

(d) It is unconscionable for the state of California to invest in foreign companies with business activities benefiting foreign countries such as Israel, which has:

1. Committed egregious violations of human rights against Palestinians living under Israeli occupation.
2. Violated International Law and the Fourth Geneva Convention, which Israel is a signatory to, with regard to the transfer and settlement of its own people in land occupied as a result of the 1967 war and which includes the Palestinian West Bank and the Syrian Golan Heights.
3. Ignored numerous United Nation Security Council and General Assembly Resolutions demanding Israel remove its settlements and end its occupation of Palestine.
4. Maintained a brutal military occupation in Palestine.
5. Sponsored numerous acts of terror against Palestinians and other citizens of the region.
6. Recognized a Jewish right of return to historic Palestine but denies millions of Palestinian Arabs a similar right of return to historic Palestine.

Furthermore, the people of California ask the federal government to do all the following:

1. Suspend annual grants to Israel, which average over \$3.5 billion annually in U.S. taxpayer funds that are provided to Israel in the form of military and economic aid (totaling over \$120 billion over the past 30 years).
2. Redirect one half of these foreign assistance funds to support federal and state debt reduction and support infrastructure and capital outlay projects in California such as highway and bridge construction, mass transit and school and college construction projects.
3. Redirect one half of these foreign assistance funds to other nations around the world in need of U.S. aid dollars and includes nations in Africa, Asia and Central and South America.

It is the intent of this act to employ the same divestiture and boycott approach used to help bring down the Apartheid Government in South Africa. The United States in general and the state of California in particular should not support the state of Israel as long as it continues to maintain illegal settlements in Palestine and we should, in the same manner the United States supported Nelson Mandela and the African National Congress in its struggle for freedom and equality, support Palestinians in their half-century struggle to form a state free of Israeli control and domination. It's ironic that the Jewish nation, after spending 2,000 years suffering in a world marked by Jewish prejudice, is now engaged in similarly shameful conduct that belies cherished Jewish ideals centered on a common respect for humanity and the rule of law.

Below are statements written by South African President Nelson Mandela that explains and showcases the parallel struggles for freedom and equality between Palestinians and black South Africans and reinforces why all Californians should support this act and ultimately support a state for Palestinians that is free of Israel's occupation.

"The Palestinian-Israeli conflict is not just an issue of military occupation and Israel is not a country that was established "normally" and happened to occupy another country in 1967. Palestinians are not struggling for a "state" but for freedom, liberation and equality, just like we were struggling for freedom in South Africa.

Apartheid is a crime against humanity. Israel has deprived millions of Palestinians of their liberty and property. It has perpetuated a system of gross racial discrimination and inequality. It has systematically incarcerated and tortured thousands of Palestinians, contrary to the rules of international law. It has, in particular, waged a war against a civilian population, in particular children."

Section 3: The following section is added to Government Code, 7513.75

Section 7513.75(a) As used in this section, the following definitions shall apply:

(1) "Board" means the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board of the State Teachers' Retirement System, as applicable.

(2) "Business operations" means maintaining, selling, or leasing equipment, facilities, personnel, or any other apparatus of business or commerce in Israel, including the ownership or possession of real or personal property located in Israel.

(3) "Company" means a sole proprietorship, organization, association, corporation, partnership, venture, or other entity, its subsidiary or affiliate that exists for profit making purposes or to otherwise secure economic advantage. "Company" also means a company owned or controlled, either directly or indirectly, by the government of Israel, that is established or organized under the laws of or has its principal place of business in Israel.

(4) "Government of Israel" means the government of Israel or its instrumentalities or political subdivisions.

(5) "Invest" or "investment" means the purchase, ownership, or control of stock of a company, association, or corporation, the capital stock of a mutual water company or corporation, bonds issued by the government or a political subdivision of Israel, corporate bonds or other debt instruments issued by a company, or the commitment of funds or other assets to a company, including a loan or extension of credit to that company.

(6) "Israel" means the State of Israel or a territory under the administration or control of Israel.

(7) "Military equipment" means weapons, arms, or military defense supplies.

(8) "Public employee retirement funds" means the Public Employees' Retirement Fund described in Section 20062 of this code, and the Teachers' Retirement Fund described in Section 22167 of the Education Code.

(9) "Substantial action" means a boycott of the government of Israel, curtailing business in Israel until that time described in subdivision (m), or selling company assets, equipment, or real and personal property located in Israel.

(b) The board shall not invest public employee retirement funds in a company which has business operations in Israel as identified by the board through, as the board deems appropriate, publicly available information including, but not limited to, information provided by nonprofit and other organizations and government entities, that meets either of the following criteria:

(c) Within a two year period after voter approval of the Divest from Israel Act, the board shall determine which companies are subject to divestment.

(d) After the determination described in subdivision (c), the board shall determine, by the next applicable board meeting, if a company meets the criteria described in subdivision (b). If the board plans to invest or has investments in a company that meets the criteria described in subdivision (b), that planned or existing investment shall be subject to subdivisions (g) and (h).

(e) Investments of the board in a company that does not meet the criteria described in subdivision (b) are not subject to subdivision (h) if the company does not subsequently meet the criteria described in subdivision (b). The board shall identify the reasons why that company does not satisfy the criteria described in subdivision (b) in the report to the Legislature described in subdivision (i).

(f) (1) Notwithstanding subdivisions (d) and (e), if the board's investment in a company described in subdivision (b) is limited to investment via an externally and actively managed commingled fund, the board shall contact that fund manager in writing and request that the fund manager remove that company from the fund as described in subdivision (h). Within a

three year period after voter approval of the Divest from Israel Act, if the fund or account manager creates a fund or account devoid of companies described in subdivision (b), the transfer of board investments from the prior fund or account to the fund or account devoid of companies with business operations in Israel shall be deemed to satisfy subdivision (h).

(2) If the board's investment in a company described in subdivision (b) is limited to an alternative fund or account, the alternative fund or account manager creates an actively managed commingled fund that excludes companies described in subdivision (b), and the new fund or account is deemed to be financially equivalent to the existing fund or account, the transfer of board investments from the existing fund or account to the new fund or account shall be deemed to satisfy subdivision (h). If the board determines that the new fund or account is not financially equivalent to the existing fund, the board shall include the reasons for that determination in the report described in subdivision (i).

(3) The board shall make a good faith effort to identify any private equity investments that involve companies described in subdivision (b), or are linked to the government of Israel. If the board determines that a private equity investment clearly involves a company described in subdivision (b), or is linked to the government of Israel, the board shall consider, at its discretion, if those private equity investments shall be subject to subdivision (h). If the board determines that a private equity investment clearly involves a company described in subdivision (b), or is linked to the government of Israel and the board does not take action as described in subdivision (h), the board shall include the reasons for its decision in the report described in subdivision (i).

(g) Except as described in subdivisions (e) and (f), the board, in the board's capacity of shareholder or investor, shall notify any company described in subdivision (d) that the company is subject to subdivision (h) and permit that company to respond to the board. The board shall request that the company take substantial action no later than 90 days from the date the board notified the company under this subdivision. If the board determines that a company has taken substantial action or has made sufficient progress towards substantial action before the expiration of that 90-day period, that company shall not be subject to subdivision (h). The board shall, at intervals not to exceed 90 days, continue to monitor and review the progress of the company until that company has taken substantial action in Israel. A company that fails to complete substantial action within one year from the date of the initial notice by the board shall be subject to subdivision (h).

(h) If a company described in subdivision (d) fails to complete substantial action by the time described in subdivision (g), the board shall take the following actions:

(1) The board shall not make additional or new investments or renew existing investments in that company.

(2) The board shall liquidate the investments of the board in that company no later than 18 months after this subdivision applies to that company. The board shall liquidate those investments in a manner to address the need for companies to take substantial action in Israel and consistent with the board's fiduciary responsibilities as described in Section 17 of Article XVI of the California Constitution.

(i) On January 1 of each year and starting four years after voter approval of the Divest from Israel Act, the board shall file a report with the Legislature. The report shall describe the following:

(1) A list of investments the board has in companies with business operations that satisfy the criteria in subdivision (b), including, but not limited to, the issuer, by name, of the stock, bonds, securities, and other evidence of indebtedness.

(2) A detailed summary of the business operations a company described in paragraph (1) has in Israel.

(3) Whether the board has reduced its investments in a company that satisfies the criteria in subdivision (b).

(4) If the board has not completely reduced its investments in a company that satisfies the criteria in subdivision (b), when the board anticipates that the board will reduce all investments in that company or the reasons why a sale or transfer of investments is inconsistent with the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution.

(5) Any information described in subdivisions (d) and (e).

(6) A detailed summary of investments that were transferred to funds or accounts devoid of companies with business operations in Israel as described in subdivision (f).

(7) An annual calculation of any costs or investment losses or other financial results incurred in compliance with the provisions of this section.

(j) If the board voluntarily sells or transfers all of its investments in a company with business operations in Israel, this section shall not apply except that the board shall file a report with the Legislature related to that company as described in subdivision (i).

(k) Nothing in this section shall require the board to take action as described in this section unless the board determines, in good faith, that the action described in this section is consistent with the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution.

(l) Subdivision (h) shall not apply to any of the following:

(1) Investments in a company that is primarily engaged in supplying goods or services intended to relieve human suffering in Israel.

(2) Investments in a company that promotes health, education, or journalistic, religious, or welfare activities in Israel.

(3) Investments in a United States company that is authorized by the federal government to have business operations in Israel.

(m) This section shall cease to be operative if one of the following apply:

(1) Israel removes its illegal settlements and settlers from the territories occupied by Israel since 1967.

(2) Israel and the Palestinians conclude a peace treaty that leads to the establishment of a Palestinian state in Palestine that is recognized by the United States Government.