

SENATE BILL NO. 228—SENATORS BUCK, HANSEN, STONE
AND TITUS

MARCH 8, 2023

Referred to Committee on Government Affairs

SUMMARY—Revises provisions relating to governmental financial administration. (BDR 23-945)

FISCAL NOTE: Effect on Local Government: May have Fiscal Impact.
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets [omitted material] is material to be omitted.

AN ACT relating to governmental financial administration; prohibiting the Public Employees’ Retirement Board from investing, providing investment advice or engaging in shareholder proxy voting for any purpose other than the financial interest of the Public Employees’ Retirement System; prohibiting, under certain circumstances, certain governmental entities from contracting with companies that engage in economic boycotts; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

1 Section 2 of article 9 of the Nevada Constitution requires that any money paid
2 for the purpose of funding and administering the Public Employees’ Retirement
3 System must never be used for any other purposes other than funding and
4 administering the System. (Nev. Const. Art. 9, §2) **Section 2** of this bill prohibits
5 the Public Employees’ Retirement Board from investing the money in its funds for
6 any purpose other than funding and administering the System, including any social,
7 political or ideological purpose.

8 Existing law authorizes the Board to employ investment counsel and certain
9 other investment services to ensure the Board invests effectively and to safeguard
10 the money in the System. (NRS 286.680) **Section 1** of this bill requires that any
11 person employed by the Board as investment counsel, proxy advisor, service
12 provider or to provide shareholder proxy voting services must agree in writing that
13 the person will only provide advice or vote based solely on the financial interest of
14 the System and not for any social, political or ideological purpose. **Section 1** also
15 authorizes the Attorney General to bring a civil action against any person who
16 violates such a written agreement for a civil penalty in an amount equal to three
17 times the amount paid by the Board to the person for his or her services.



18 Existing law authorizes contracts between governing bodies of a local
19 government or state agencies within the Executive Department of the State
20 Government and private contractors and sets forth requirements for the
21 procurement of goods and services by those governing bodies and state agencies.
22 (Chapters 332 and 333 of NRS) **Sections 3 and 4** of this bill prohibit the governing
23 body of a local government and the Administrator of the Purchasing Division of the
24 Department of Administration, with certain exceptions, from entering into certain
25 contracts with a company unless the contract includes a written certification that the
26 company is not engaged in, and agrees for the duration of the contract not to engage
27 in, an economic boycott. **Sections 3 and 4** define "economic boycott" as refusing to
28 deal or conduct business with, abstaining from dealing or conducting business with,
29 terminating business or business activities with or performing any other action that
30 is intended to limit commercial relations with a company that: (1) engages in
31 certain activities relating to fossil fuels, timber, mining or agriculture; (2) engages
32 in certain activities relating to firearms, ammunition or component parts and
33 accessories of firearms or ammunition; (3) does not meet, is not expected to meet or
34 does not commit to meet certain environmental standards or disclosure criteria
35 relating to the environment; (4) does not meet, is not expected to meet or does not
36 commit to meet certain employment, composition, compensation or disclosure
37 criteria for the company or company board relating to certain protected
38 characteristics; (5) does not facilitate, is not expected to facilitate or does not
39 commit to facilitate access to abortions, sex or gender change or transgender
40 surgeries; or (6) does business with any such company. **Sections 3 and 4** further
41 authorize a district attorney or the Attorney General, respectively, to bring a civil
42 action against any company that violates an agreement not to engage in an
43 economic boycott to recover a civil penalty in an amount equal to three times the
44 amount paid to the company.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** NRS 286.680 is hereby amended to read as follows:

2 286.680 1. In addition to the provisions of chapter 355 of
3 NRS, the Board may invest and reinvest the money in its funds as
4 provided in this section and NRS 286.682 and may employ
5 investment counsel for that purpose. The Board may also employ
6 investment supervisory services, trust audit services and other
7 related investment services which it deems necessary to invest
8 effectively and safeguard the money in the System's funds.

9 2. No person engaged in business as a broker or dealer in
10 securities or who has a direct pecuniary interest in any such business
11 who receives commissions for transactions performed as agent for
12 the Board is eligible for employment as investment counsel for the
13 Board.

14 3. The Board shall not engage investment counsel unless:

15 (a) The principal business of the person selected by the Board
16 consists of giving continuous advice as to the investment of money
17 on the basis of the individual needs of each client;



1 (b) The person and the person's predecessors have been
2 continuously engaged in such a business for a period of 5 or more
3 years;

4 (c) The person is registered as an investment adviser under the
5 laws of the United States as from time to time in effect, or is a bank
6 or an investment management subsidiary of a bank; ~~and~~

7 (d) The contract between the Board and the investment counsel
8 is of no specific duration and is voidable at any time by either party
9 ~~to~~; and

10 (e) *The person agrees in writing to provide advice as to the*
11 *investment of money that is solely based on the financial interest*
12 *of the System and, in accordance with NRS 286.682, not for any*
13 *social, political or ideological purpose.*

14 4. *The Board shall not:*

15 (a) *Grant shareholder proxy voting authority to any person,*
16 *unless the person agrees in writing to follow the guidelines of the*
17 *Board to act solely in the financial interest of the System and, in*
18 *accordance with NRS 286.682, not for any social, political or*
19 *ideological purpose; or*

20 (b) *Follow the recommendations of a proxy advisor or other*
21 *service provider for voting unless the advisor or provider agrees in*
22 *writing to provide recommendations that are solely based on the*
23 *financial interest of the System and, in accordance with NRS*
24 *286.682, not for any social, political or ideological purpose.*

25 5. The Board and its individual members are not liable for
26 investment decisions made by investment counsel if they obtain
27 qualified investment counsel, establish proper objectives and
28 policies for investments, and issue appropriate interim directives.
29 Investment counsel is liable for any investment decision that is not
30 made in accordance with the objectives and policies established by
31 the Board and any applicable interim directives.

32 ~~5.1~~ 6. The expenses incurred in obtaining and reviewing
33 services pursuant to the provisions of this section and the
34 reimbursements to employees for their expenses incurred in
35 connection with investment decisions must be paid out of the Public
36 Employees' Retirement Fund and the Police and Firefighters'
37 Retirement Fund in proportion to their respective assets.

38 ~~6.1~~ 7. The Board shall tender invitations to banks and credit
39 unions for commercial banking and trust services, consider
40 proposals submitted by interested banks and credit unions, and
41 consider contracts for commercial banking and trust services at least
42 every 5 years.

43 8. *The Board shall post annually on the Internet website of*
44 *the Board a report of all proxy votes taken on behalf of the Board,*
45 *which must include, without limitation:*



- 1 (a) *The vote taken;*
- 2 (b) *The recommendation of the Board; and*
- 3 (c) *The recommendation of the proxy advisor, if any.*

4 9. *If, after an investigation, the Attorney General has*
5 *reasonable cause to believe that a person has violated a written*
6 *agreement to act solely in the financial interest of the System and,*
7 *in accordance with NRS 286.682, not for any social, political or*
8 *ideological purpose, the Attorney General may bring an action to*
9 *recover a civil penalty in an amount equal to three times the*
10 *money paid to the person for the services provided by the person to*
11 *the Board.*

12 **Sec. 2.** NRS 286.682 is hereby amended to read as follows:

13 286.682 1. The Board may invest the money in its funds in
14 every kind of investment which persons of prudence, discretion and
15 intelligence acquire or retain for their own account.

16 2. *The Board shall not invest the money in its funds for any*
17 *purpose other than funding and administering the System,*
18 *including, without limitation, any social, political or ideological*
19 *purpose:*

20 (a) *To eliminate, reduce, offset or disclose greenhouse gas*
21 *emissions;*

22 (b) *To institute or assess the employment, composition,*
23 *compensation or disclosure criteria of a company or company*
24 *board on the basis of criteria relating to race, religious creed,*
25 *color, age, sex, disability, sexual orientation, gender identity or*
26 *expression or national origin or ancestry;*

27 (c) *To divest from, limit investment in or limit the activities or*
28 *investments of any company for failing or not committing to meet*
29 *environmental standards or disclosures;*

30 (d) *Relating to access to abortions, sex or gender change or*
31 *transgender surgeries; or*

32 (e) *To divest from, limit investment in or limit the activities or*
33 *investments of any company that engages in, facilitates or*
34 *supports the manufacture, import, distribution, marketing,*
35 *advertising, sale or lawful use of firearms, ammunition or*
36 *components, parts and accessories of firearms or ammunition.*

37 **Sec. 3.** NRS 332.065 is hereby amended to read as follows:

38 332.065 1. Except as otherwise provided by specific statute,
39 if the estimated annual amount required to perform a contract is
40 more than \$100,000, the governing body or its authorized
41 representative:

42 (a) Shall advertise the contract in the manner prescribed in NRS
43 332.045; and

44 (b) May issue a solicitation for the contract.



1 2. If the estimated annual amount to perform a contract is more
2 than \$100,000 and the method for obtaining the contract designated
3 in the solicitation is an invitation to bid, the governing body or its
4 authorized representative must, except as otherwise provided by
5 specific statute, award the contract to the lowest responsive and
6 responsible bidder. The lowest responsive and responsible bidder
7 may be judged on the basis of:

8 (a) Price;

9 (b) Conformance to specifications;

10 (c) Qualifications of the bidder, including, without limitation:

11 (1) The possession of or limit on any required license of the
12 bidder;

13 (2) The financial responsibility of the bidder;

14 (3) The experience of the bidder; and

15 (4) The ability of the bidder to perform the contract;

16 (d) Adequacy of the equipment of the bidder;

17 (e) Past performance;

18 (f) Performance schedule or delivery date;

19 (g) If the contract requires the delivery of goods, the total cost of
20 ownership of the goods;

21 (h) If the contract requires the delivery of goods, the purpose for
22 which the goods to be supplied are required;

23 (i) The best interests of the public; and

24 (j) Such other criteria as may be set forth by the governing body
25 or its authorized representative in the advertisement or solicitation,
26 as applicable, that pertains to the contract.

27 ➔ If after the lowest responsive and responsible bidder has been
28 awarded the contract, during the term of the contract he or she does
29 not perform in accordance with the bid specifications, or if he or she
30 repudiates the contract, the governing body or its authorized
31 representative may reaward the contract to the next lowest
32 responsive and responsible bidder without requiring that new bids
33 be submitted. Reawarding the contract to the next lowest responsive
34 and responsible bidder is not a waiver of any liability of the initial
35 bidder awarded the contract.

36 3. Except as otherwise provided by specific statute, if the
37 estimated annual amount to perform a contract is more than
38 \$100,000 and the method for obtaining the contract designated in
39 the solicitation is a method other than an invitation to bid, the
40 governing body or its authorized representative shall award such a
41 contract taking into account the minimum requirements for a
42 responding offeror prescribed in the solicitation pursuant to NRS
43 332.043 and the method prescribed in that solicitation for awarding
44 the contract.



1 4. A governing body or its authorized representative shall not
2 enter into a contract pursuant to this section with a company unless
3 the contract includes a written certification that the company is not
4 currently engaged in, and agrees for the duration of the contract not
5 to engage in ~~[-, a]~~:

6 (a) A boycott of Israel ~~[-]~~; or

7 (b) *Except as otherwise provided in subsection 6, an economic*
8 *boycott.*

9 5. *For the purposes of determining whether a company is*
10 *engaged in an economic boycott pursuant to paragraph (b) of*
11 *subsection 4, evidence indicating a purpose other than an ordinary*
12 *business purpose, including, without limitation, a social, political*
13 *or ideological purpose may include, without limitation:*

14 (a) *Branding, advertising, statements, explanations, reports,*
15 *letters to clients, communications with portfolio companies,*
16 *statements of principle or commitments; or*

17 (b) *Participating in, affiliating with or status as a signatory to*
18 *any coalition, initiative, joint statement of principles or agreement.*

19 6. *The provisions of paragraph (b) of subsection 4 do not*
20 *apply:*

21 (a) *To a company with less than 10 full-time employees; or*

22 (b) *If the governing body or its authorized representative*
23 *determines that such provisions would:*

24 (1) *Interfere with any statutory duty of the governing body*
25 *relating to the issuance, incurrence or management of debt*
26 *obligations or the deposit, custody, management, borrowing or*
27 *investment of money;*

28 (2) *Prevent the governing body from entering into a*
29 *contract in an economically practicable manner; or*

30 (3) *Interfere with any contracts entered into by the*
31 *governing body.*

32 7. *If, after an investigation, the district attorney has*
33 *reasonable cause to believe that a company has violated the*
34 *requirements of paragraph (b) of subsection 4, the district attorney*
35 *may bring an action to recover a civil penalty in an amount equal*
36 *to three times the money paid to the company for the contract.*

37 8. As used in this section:

38 (a) "Boycott of Israel":

39 (1) Means, except as otherwise provided in subparagraph (2),
40 refusing to deal or conduct business with, abstaining from dealing or
41 conducting business with, terminating business or business activities
42 with or performing any other action that is intended to limit
43 commercial relations with:

44 (I) Israel; or



1 (II) A person or entity doing business in Israel or in
2 territories controlled by Israel,
3 ➔ if such an action is taken in a manner that discriminates on the
4 basis of nationality, national origin or religion.

5 (2) Does not include an action that is described in
6 subparagraph (1) if the action:

7 (I) Is based on a bona fide business or economic reason;

8 (II) Is taken pursuant to a boycott against a public entity
9 of Israel if the boycott is applied in a nondiscriminatory manner; or

10 (III) Is taken in compliance with or adherence to calls for
11 a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or
12 any other federal or state law.

13 (b) "Company" means any domestic or foreign sole
14 proprietorship, organization, association, corporation, partnership,
15 joint venture, limited partnership, limited-liability partnership,
16 limited-liability company, or other domestic or foreign entity or
17 business association, including, without limitation, any wholly
18 owned subsidiary, majority owned subsidiary, parent company or
19 affiliate of such an entity or business association, that exists for the
20 purpose of making a profit.

21 (c) *"Economic boycott" means, without an ordinary business*
22 *purpose, refusing to deal or conduct business with, abstaining*
23 *from dealing or conducting business with, terminating business or*
24 *business activities with or performing any other action that is*
25 *intended to limit commercial relations with a company that,*
26 *without violating any provision of federal or state law:*

27 (1) *Engages in the exploration, production, utilization,*
28 *transportation, sale or manufacturing of fossil fuel-based energy,*
29 *timber, mining or agriculture;*

30 (2) *Engages in, facilitates or supports the manufacture,*
31 *import, distribution, marketing, advertising or sale of the lawful*
32 *use of firearms, ammunition or component parts and accessories*
33 *of firearms or ammunition;*

34 (3) *Does not meet, is not expected to meet or does not*
35 *commit to meet environmental standards or disclosure criteria*
36 *relating to environmental standards, including, without limitation,*
37 *standards or criteria to eliminate, reduce, offset or disclose*
38 *greenhouse gas emissions;*

39 (4) *Does not meet, is not expected to meet or does not*
40 *commit to meet any criteria relating to race, religious creed, color,*
41 *age, sex, disability, sexual orientation, gender identity or*
42 *expression or national origin or ancestry for the employment,*
43 *composition, compensation or disclosure criteria of the company*
44 *or the board of the company;*



1 (5) Does not facilitate, is not expected to facilitate or does
2 not commit to facilitate access to abortions, sex or gender change
3 or transgender surgeries; or

4 (6) Does business with a company described in
5 subparagraphs (1) to (5), inclusive.

6 (d) "Ordinary business purpose":

7 (1) Means an action that is based on a bona fide business
8 or economic reason.

9 (2) Does not include an action that is taken to further
10 social, political or ideological purposes.

11 (e) "Total cost of ownership" includes, without limitation:

12 (1) The history of maintenance and repair of the goods;

13 (2) The cost of routine maintenance and repair of the goods;

14 (3) Any warranties provided in connection with the goods;

15 (4) The cost of replacement parts for the goods; and

16 (5) The value of the goods as used goods when given in trade
17 on a subsequent purchase.

18 **Sec. 4.** NRS 333.338 is hereby amended to read as follows:

19 333.338 1. The Administrator shall not enter into a contract
20 with a company unless the contract includes a written certification
21 that the company is not currently engaged in, and agrees for the
22 duration of the contract not to engage in ~~[-a-]~~:

23 (a) A boycott of Israel ~~[-]~~; or

24 (b) Except as otherwise provided in subsection 3, an economic
25 boycott.

26 2. For the purposes of determining whether a company is
27 engaged in an economic boycott pursuant to paragraph (b) of
28 subsection 1, evidence indicating a purpose other than an ordinary
29 business purpose, including, without limitation, a social, political
30 or ideological purpose may include, without limitation:

31 (a) Branding, advertising, statements, explanations, reports,
32 letters to clients, communications with portfolio companies,
33 statements of principle or commitments; or

34 (b) Participating in, affiliating with or status as a signatory to
35 any coalition, initiative, joint statement of principles or agreement.

36 3. The provisions of paragraph (b) of subsection 1 do not
37 apply:

38 (a) To a company with less than 10 full-time employees;

39 (b) If the Administrator determines that such provisions
40 would:

41 (1) Interfere with any statutory duty of the State relating to
42 the issuance, incurrence or management of debt obligations or the
43 deposit, custody, management, borrowing or investment of money;

44 (2) Prevent the State from entering into a contract in an
45 economically practicable manner; or



1 (3) *Interfere with any contracts entered into by the State.*

2 4. *If, after an investigation, the Attorney General has*
3 *reasonable cause to believe that a company has violated the*
4 *requirements of paragraph (b) of subsection 1, the Attorney*
5 *General may bring an action to recover a civil penalty in an*
6 *amount equal to three times the money paid to the company for*
7 *the contract.*

8 ~~3.1~~ 5. The Administrator shall adopt regulations as necessary
9 to carry out the provisions of this section.

10 6. As used in this section:

11 (a) "Boycott of Israel":

12 (1) Means, except as otherwise provided in subparagraph (2),
13 refusing to deal or conduct business with, abstaining from dealing or
14 conducting business with, terminating business or business activities
15 with or performing any other action that is intended to limit
16 commercial relations with:

17 (I) Israel; or

18 (II) A person or entity doing business in Israel or in
19 territories controlled by Israel,

20 ↳ if such an action is taken in a manner that discriminates on the
21 basis of nationality, national origin or religion.

22 (2) Does not include an action that is described in
23 subparagraph (1) if the action:

24 (I) Is based on a bona fide business or economic reason;

25 (II) Is taken pursuant to a boycott against a public entity
26 of Israel if the boycott is applied in a nondiscriminatory manner; or

27 (III) Is taken in compliance with or adherence to calls for
28 a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or
29 any other federal or state law.

30 (b) "Company" means any domestic or foreign sole
31 proprietorship, organization, association, corporation, partnership,
32 joint venture, limited partnership, limited-liability partnership,
33 limited-liability company, or other domestic or foreign entity or
34 business association, including, without limitation, any wholly
35 owned subsidiary, majority owned subsidiary, parent company or
36 affiliate of such an entity or business association, that exists for the
37 purpose of making a profit.

38 (c) *"Economic boycott" means, without an ordinary business*
39 *purpose, refusing to deal or conduct business with, abstaining*
40 *from dealing or conducting business with, terminating business or*
41 *business activities with or performing any other action that is*
42 *intended to limit commercial relations with a company that,*
43 *without violating any provision of federal or state law:*



1 (1) Engages in the exploration, production, utilization,
2 transportation, sale or manufacturing of fossil fuel-based energy,
3 timber, mining or agriculture;

4 (2) Engages in, facilitates or supports the manufacture,
5 import, distribution, marketing, advertising or sale of the lawful
6 use of firearms, ammunition or component parts and accessories
7 of firearms or ammunition;

8 (3) Does not meet, is not expected to meet or does not
9 commit to meet environmental standards or disclosure criteria
10 relating to environmental standards, including, without limitation,
11 standards or criteria to eliminate, reduce, offset or disclose
12 greenhouse gas emissions;

13 (4) Does not meet, is not expected to meet or does not
14 commit to meet any criteria relating to race, religious creed, color,
15 age, sex, disability, sexual orientation, gender identity or
16 expression or national origin or ancestry for the employment,
17 composition, compensation or disclosure criteria of the company
18 or the board of the company;

19 (5) Does not facilitate, is not expected to facilitate or does
20 not commit to facilitate access to abortions, sex or gender change
21 or transgender surgeries; or

22 (6) Does business with a company described in
23 subparagraphs (1) to (5), inclusive.

24 (d) "Ordinary business purpose":

25 (1) Means an action that is based on a bona fide business
26 or economic reason.

27 (2) Does not include an action that is taken to further
28 social, political or ideological purposes.



