STATE OF OKLAHOMA

1st Session of the 56th Legislature (2017)

HOUSE BILL 1512

By: Strohm

AS INTRODUCED

An Act relating to public finance; making legislative findings; defining terms; prohibiting certain contracts related to boycott of Israel; providing exception; establishing the Oklahoma Investment Policy Board; providing for membership; prescribing terms; imposing duties on the Oklahoma Investment Policy Board; imposing duties on certain retirement systems; providing exception for certain indirect holdings; providing that certain actions taken in good faith; providing for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10001 of Title 62, unless there is created a duplication in numbering, reads as follows:

The Legislature finds that:

1. Boycotts and related tactics have become a tool of economic warfare that threatens the sovereignty and security of key allies and trade partners of the United States;

2. The State of Israel is the most prominent target of such boycott activity, which began with but has not been limited to the
Arab League Boycott adopted in 1945, even before Israel’s declaration of independence as the reestablished national state of the Jewish people;

3. Companies that refuse to deal with U.S. trade partners such as Israel, or entities that do business with and/or in such countries, make discriminatory decisions on the basis of national origin that impair those companies’ commercial soundness;

4. It is the public policy of the United States, as enshrined in several federal acts, to oppose boycotts against Israel (see, e.g., 50 App. U.S.C. § 2407; 26 U.S.C.A. § 999), and Congress has concluded as a matter of national trade policy that cooperation with Israel materially benefits U.S. companies and improves American competitiveness (see, e.g., 19 U.S.C. § 2112 note; 19 U.S.C. § 4201(b)(20));

5. Israel in particular is known for its dynamic and innovative approach in many business sectors, and therefore a company’s decision to discriminate against Israel, Israeli entities or entities that do business with and/or in Israel, is an unsound business practice making such a company an unduly risky contracting partner or vehicle for investment; and

6. Oklahoma seeks to act to implement Congress’s announced policy of "examining a company’s promotion or compliance with unsanctioned boycotts, divestment from, or sanctions against Israel as part of its consideration in awarding grants and contracts and
supports the divestment of state assets from companies that support or promote actions to boycott, divest from, or sanction Israel".
(See S.1269, Sec. 914(8)).

SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10002 of Title 62, unless there is created a duplication in numbering, reads as follows:

As used in this act:

1. "Boycott Israel" and "boycott of Israel" means engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner. "Boycott" for the purposes of this section shall not include those boycotts to which 50 App. U.S.C. § 2407(c) applies;

2. A company’s statement that it is participating in boycotts of Israel, or that it has taken the boycott action at the request, in compliance with, or in furtherance of calls for a boycott of Israel, can be considered by the Oklahoma Investment Policy Board as one type of evidence, among others, that a company is participating in a boycott of Israel;

3. "Company" means any sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association, including all
wholly owned subsidiaries, majority-owned subsidiaries, parent
companies, or affiliates of those entities or business associations;

4. "Direct holdings" in a company means all publicly traded
securities of that company that are held directly by the retirement
system in an actively managed account or fund in which the
retirement system owns all shares or interests;

5. "Indirect holdings" in a company means all securities of
that company that are held in an account or fund, such as a mutual
fund, managed by one or more persons not employed by the retirement
system, in which the retirement system owns shares or interests
together with other investors not subject to the provisions of this
act or that are held in an index fund;

6. "Public entity" means the state, or any political
subdivision of the state, including all boards, commissions,
agencies, institutions, authorities, and bodies politic and
corporate of the state, created by or in accordance with state law
or regulations, and does include colleges, universities, public
employee retirement systems, and institutions under the Oklahoma
State Regents for Higher Education as well as all units of local and
municipal government;

7. "Restricted companies" means companies that boycott Israel,
as defined in paragraph 1 of this section; and

8. "Retirement system" means:
a. the Oklahoma Firefighters Pension and Retirement System,  
   
b. the Oklahoma Police Pension and Retirement System,  
   
c. the Uniform Retirement System for Justices and Judges,  
   
d. the Oklahoma Law Enforcement Retirement System,  
   
e. the Teachers’ Retirement System of Oklahoma, and  
   
f. the Oklahoma Public Employees Retirement System.

SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 10003 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. A public entity may not enter into a contract with a company to acquire or dispose of services, supplies, information technology or construction unless the contract includes a written certification that the person or company is not currently engaged in, and agrees for the duration of the contract not to engage in, a boycott of Israel.

B. This section does not apply if a company fails to meet the requirements of subsection A of this section but offers to provide the goods or services for at least twenty percent (20%) less than the lowest certifying business. Also, this section does not apply to contracts with a total potential value of less than One Thousand Dollars ($1,000.00).

C. A public entity may not itself engage in boycotts of Israel.
SECTION 4. NEW LAW    A new section of law to be codified in the Oklahoma Statutes as Section 10004 of Title 62, unless there is created a duplication in numbering, reads as follows:

A. There shall be established an Oklahoma Investment Policy Board.

B. Each board of a pension fund or investment board as defined by paragraph 8 of Section 2 of this act shall appoint one member, and the Governor shall appoint five members, to the Oklahoma Investment Policy Board.

C. Membership on the Oklahoma Investment Policy Board shall be for a term of two (2) years beginning January 1, 2018, and renewable without limitation.

D. The Oklahoma Investment Policy Board shall make its best efforts to identify all companies that boycott Israel and assemble those identified companies into a list of restricted companies to be distributed to each retirement system.

1. The Oklahoma Investment Policy Board’s efforts to identify companies that boycott Israel may include, but are not limited to, the following, as appropriate:

   a. reviewing and relying on publicly available information,

   b. reviewing and relying on information provided by nonprofit organizations, research firms and government entities, and
c. retaining an independent research firm.

2. The Oklahoma Investment Policy Board shall review the list of restricted companies on an annual basis and distribute any updates to the list of restricted companies to the retirement systems.

   a. For each company newly identified and added to the list of restricted companies, the Oklahoma Investment Policy Board shall send a written notice informing the company of its status and that it may become subject to divestment by the retirement systems.

   b. If, following the Oklahoma Investment Policy Board’s engagement pursuant to subparagraph a of this paragraph with a restricted company, that company ceases activity that designates it as a restricted company, and submits a written certification to the Oklahoma Investment Policy Board that it shall not reengage in such activity for the duration of any investment by the retirement systems, the company shall be removed from the restricted companies list.

   c. The Oklahoma Investment Policy Board shall keep and maintain the list of restricted companies and all written certifications from restricted and previously restricted companies.
E. The retirement systems shall adhere to the following procedures for companies on the list of restricted companies:

1. Each retirement system shall identify those companies on the list of restricted companies in which the retirement system owns direct holdings and indirect holdings;

2. The retirement system shall instruct its investment advisors to sell, redeem, divest or withdraw all direct holdings of restricted companies from the retirement system’s assets under management in an orderly and fiduciarily responsible manner within six (6) months after the company’s appearance on the list of restricted companies;

3. The retirement system may not acquire securities of restricted companies as part of direct holdings; and

4. Upon request from the Oklahoma Investment Policy Board, and at least annually by January 5 of each year, each retirement system shall provide the Oklahoma Investment Policy Board with information regarding investments sold, redeemed, divested or withdrawn in compliance with this section.

F. The provisions of subsection E of this section do not apply to the retirement system’s indirect holdings or private market funds. The Oklahoma Investment Policy Board shall submit letters to the managers of those investment funds identifying restricted companies and requesting that those investment funds consider removing the investments in the restricted companies from the funds.
G. With respect to actions taken in compliance with this section, including all good-faith determinations regarding companies as required by this section, the retirement system and the Oklahoma Investment Policy Board are exempt from any conflicting statutory or common law obligations including any fiduciary duties as provided by law and any obligations with respect to choice of asset managers, investment funds or investments for the retirement systems’ portfolios.

SECTION 5. This act shall become effective November 1, 2017.
January 18, 2017

Representative Chuck Strohm
Room 302A

Re: RBH No. 6690

RBH No. 6690 creates the Oklahoma Investment Policy Board (Board). The Board is to compile a list of organizations that boycott Israel. The retirement systems may not enter into any contracts with the organizations identified by the Board.

RBH No. 6690 is a non fiscal bill as defined by the Oklahoma Pension Legislation Analysis Act because the amendment does not contain a benefit increase nor create liability.

I am a member of the American Academy of Actuaries and meet the Qualification Standards of the American Academy of Actuaries to render the actuarial opinion herein.

Thomas E. Cummins

Thomas E. Cummins, MAAA