

BILL SUMMARY

February 22, 2016

The Combating BDS Act of 2016

The Combating BDS Act of 2016 (H.R. 4514 & S. 2531) would protect State and local officials across the United States if they take action against entities that promote boycotts, divestment, or sanctions (BDS) targeting Israel. Led by Sens. Mark Kirk (R-IL) and Joe Manchin (D-WV), and Reps. Bob Dold (R-IL) and Juan Vargas (D-CA), the measures provide federal authorization for State and local governmental initiatives to divest from, or bar contracting with, entities promoting Israel's isolation or delegitimization.

Key Provisions

- Authorizes State and local governments to enforce measures that divest public funds from entities that engage in commerce-related or investment-related BDS activity targeting Israel.
- Authorizes State and local governments to prohibit the entry into or renewal of a contract for goods or services with entities that engage in BDS.
- Asserts that State divestment measures authorized by the legislation are not preempted by Federal law.
- Provides safe harbor protection to asset managers from lawsuits that may arise from carrying out divestment, pursuant to the law.
- The legislation mirrors a provision within current federal law [the Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010 (CISADA)] that authorized such action vis-à-vis companies invested in Iran's energy sector, and has successfully protected state laws that required such divestment.

State Activity

- More than a dozen state legislatures around the country have introduced divestment legislation since 2014, including:
 - In July 2015, Illinois passed a law requiring state investment vehicles, such as public pension funds, to divest holdings in entities that support or promote BDS against Israel. The measure also established an Investment Policy Board to monitor Illinois' holdings and engage portfolio managers should divestment be necessary.
 - In June 2015, South Carolina limited the state's ability to contract with businesses that engage in discriminatory activity, including boycotts based on race, religion or nationality.