

HOUSE BILL NO. 394

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES EASTMAN, Kurka

Introduced: 2/22/22

Referred: State Affairs, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the investment of state money by public agencies; and relating to the**
2 **divestment of certain investments by public agencies."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1.** The uncoded law of the State of Alaska is amended by adding a new section
5 to read:

6 LEGISLATIVE FINDINGS. The legislature finds that

7 (1) divestment campaigns and related tactics have become a tool of economic
8 warfare, targeting the autonomy and security of key allies and trade partners of the state and
9 the United States;

10 (2) Taiwan and the State of Israel are known for dynamic and innovative
11 approaches in many business sectors;

12 (3) the state possesses natural resources in abundance, including the National
13 Petroleum Reserve, and is known as a world leader in environmentally responsible resource
14 development in the Arctic; a campaign that targets investment in the state's natural resource

1 sector based on its geographic location will result in the migration of investment away from
 2 the state, which possesses and maintains robust environmental standards, to parts of the world
 3 with a less robust track record of environmentally responsible resource development;

4 (4) an organization that, pursuant to a boycott or divestment campaign,
 5 including an environmental, social, or governance campaign, or similar project targeting this
 6 state, or targeting the continued existence of a foreign country or autonomous region, refuses
 7 to deal with the state, the State of Israel, Ukraine, or another foreign country, or Taiwan, or an
 8 entity that does business with these organizations or in these places, makes a discriminatory
 9 decision based on geographic or national origin that impairs the commercial soundness of the
 10 organization as an investment.

11 * **Sec. 2.** AS 37.05 is amended by adding a new section to article 7 to read:

12 **Sec. 37.05.810. Restrictions on investment of state money. (a)**

13 Notwithstanding any other provision of law to the contrary, and except as otherwise
 14 provided in this section, a public agency may not invest state money in an organization
 15 identified by the department in (b) of this section that promotes or engages in a
 16 boycott or divestment campaign targeting the state, or pursued for the purpose of
 17 preventing the continued autonomy of Taiwan or the existence of a foreign country.

18 (b) The department shall develop, maintain, and make publicly available a list
 19 of organizations that the department determines are restricted organizations. The
 20 department shall make every effort to avoid including an organization on the list that
 21 is not a restricted organization. The department shall annually review and update the
 22 list and make the list available to the public.

23 (c) The department shall provide 90 days' written notice to an organization of
 24 the department's intent to include the organization on the list. The notice must inform
 25 the organization that inclusion on the list would make the organization ineligible for
 26 the investment of state money in the organization and may result in the organization
 27 becoming subject to divestment by public agencies. The notice must specify that the
 28 organization may be removed from the list if the organization stops promoting or
 29 engaging in the boycott.

30 (d) The department shall provide an organization identified under (c) of this
 31 section with an opportunity to comment in writing regarding the organization's being a

restricted organization. The organization may deny its involvement in a boycott or divestment campaign or state that the organization has ended its promotion of or engagement in the boycott or divestment campaign. If the organization demonstrates to the department that the organization is not a restricted organization, the department may not place the organization on the list. If an organization had been promoting or engaged in a boycott or divestment campaign but has ended its involvement, the organization must submit a written certified statement to the department affirming that the organization will not resume promoting or engaging in the boycott or divestment campaign. The department shall retain in its records written statements received under this subsection.

(e) Upon completion of the list under this section, the department shall identify any organization on the list in which a public agency has an investment.

(f) Except as provided in (g) of this section, a public agency that has an investment in an organization identified under (e) of this section shall divest itself of the investment within 180 days after the department adopts the list.

(g) This section does not require a public agency to divest itself of an investment unless the department determines that the divestment is consistent with the fiduciary responsibilities of the public agency.

(h) This section does not apply to

- (1) a business activity that is done for an ordinary business purpose;
- (2) an investment by a state agency in a sole proprietorship; or
- (3) an investment by a state agency that totals less than \$5,000,000.

(i) In this section,

(1) "boycott" means a refusal to do business with, a termination of business with, or another action that is intended to penalize, inflict economic harm on, or limit commercial relations with Taiwan, the state, or a foreign country;

(2) "department" means the Department of Revenue;

(3) "investment"

(A) means a commitment or contribution of funds or property, a loan or other extension of credit, or the entry into or renewal of a contract for goods or services;

(B) does not mean a commingled fund, a derivative instrument, a passive investment strategy that seeks to replicate the return of an index, or a similar item;

(4) "list" means the initial or revised list developed and maintained by the department under (b) - (d) of this section;

(5) "organization" means

(A) an organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company, or other entity or business association; and

(B) a wholly-owned subsidiary, majority-owned subsidiary, parent company, or affiliate of an entity or business association identified in (A) of this paragraph;

(6) "public agency" means a department, institution, board, commission, division, authority, public corporation, committee, school district, political subdivision, or other administrative unit of a municipality, political subdivision of the state, or the executive or legislative branch of state government, including the University of Alaska, the Alaska Permanent Fund Corporation, the Alaska Housing Finance Corporation, the Alaska Industrial Development and Export Authority, and a regional educational attendance area;

(7) "restricted organization" means an organization that promotes or engages in a boycott or divestment campaign targeting the state, or pursued for the purpose of preventing the continued autonomy of Taiwan or the existence of a foreign country;

(8) "state money" means money in the budget reserve fund established under AS 37.05.540, money in the earnings reserve account established under AS 37.13.145, money in a pension fund, and all other money over which a public agency has the power to direct its use.

* **Sec. 3.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION. (a) Within 30 days after the effective date of this Act, the department shall begin and follow the process required under AS 37.05.810(b) - (e), enacted by sec. 2 of

1 this Act, to establish a list of restricted organizations.

2 (b) In this section, "restricted organization" has the meaning given in AS 37.05.810(i),

3 enacted by sec. 2 of this Act.