

AMENDED IN ASSEMBLY MARCH 28, 2016

AMENDED IN ASSEMBLY MARCH 17, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2844

Introduced by Assembly Member Bloom

February 19, 2016

An act to ~~amend Section 116385 of the Health and Safety Code, relating to environmental health.~~ *add Chapter 2.6 (commencing with Section 2100) to Part 1 of Division 2 of the Public Contract Code, relating to public contracts.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2844, as amended, Bloom. ~~Environmental health: drinking water.~~ *Public contracts: California Combating the Boycott, Divestment, and Sanctions of Israel Act of 2016.*

Existing law governs the procurement process for contracts of specified public entities. Existing law prohibits a person that, at the time of bid or proposal for a new contract or renewal of an existing contract, engages in investment activities in Iran from bidding on, submitting a proposal for, or entering into, a contract with a public entity for goods or services of \$1,000,000 or more.

This bill, with certain exceptions, would prohibit a public entity, which includes state and local entities, from entering into a contract, on or after January 1, 2017, with a company that is participating in the boycott of Israel, as provided. The bill would find and declare that these provisions of this bill are a matter of statewide concern due to the political nature of contracting with a company that is participating in the boycott of Israel, and therefore, these provisions apply to charter

cities, charter counties, and a charter city and county and supersede any inconsistent charter provision.

By imposing additional duties with respect to local public contracting, this bill would impose a state-mandated local program.

This bill also would require the Governor’s Office of Business and Economic Development to incentivize specified activities between Israel and California and to disincentivize barriers hindering those activities.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~The California Safe Drinking Water Act requires a person operating a public water system to obtain and provide an analysis of the water to the State Water Resources Control Board (state board), as provided.~~

~~This bill would require the person to include in the analysis samples from schools, day care facilities, and health care facilities, to the extent those locations are within the public water system. The bill would require the person to report to the state board other information regarding the samples taken. The bill would require the state board to post this information on its Internet Web site, as provided.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

- 1 *SECTION 1. This act shall be known and may be cited as the*
- 2 *California Combating the Boycott, Divestment, and Sanctions of*
- 3 *Israel Act of 2016.*
- 4 *SEC. 2. The Legislature finds and declares the following:*
- 5 *(a) The United States and Israel have a unique bond based on*
- 6 *their shared, enduring values, which are reflected in the virtues*
- 7 *and principles of freedom and democracy, and have stood together*
- 8 *as allies since Israel was first formed as a nation.*
- 9 *(b) California and Israel have established business partnerships*
- 10 *and trade relations with each other, and those partnerships have*
- 11 *helped enhance the agricultural, educational, energy,*

1 *entertainment, health, medical, scientific, and water policies in*
2 *California, Israel, and the United States.*

3 *(c) On March 5, 2014, as the culmination of an effort started*
4 *as Assembly Bill 1032 of the 2009–10 Regular Session, the*
5 *Governor of California and the Prime Minister of Israel signed a*
6 *memorandum of understanding (MOU) for strategic partnerships*
7 *for joint innovation, exchanges, and cooperation between*
8 *California and Israel.*

9 *(d) In July 2015, the Legislature affirmed its support for the*
10 *MOU by passing Senate Concurrent Resolution 25, noting that*
11 *participants in the MOU had already expanded cooperation*
12 *between Israel and California in areas such as alternative energy,*
13 *agriculture, business innovation, and academia, and declaring*
14 *that collaboration with Israel will foster peace and democracy in*
15 *the Middle East.*

16 *(e) Boycotts of Israel by companies doing business in California*
17 *undermine the aforesaid express policy and purpose of encouraging*
18 *trade, business, and academic cooperation between California*
19 *and Israel. Therefore, it is in the best interests of the State of*
20 *California that it not contract with any company participating in*
21 *a boycott of Israel.*

22 *(f) Notwithstanding any other law, including, but not limited*
23 *to, Section 1100.7 of the Public Contract Code, the provisions of*
24 *this measure address the political nature of contracting with a*
25 *company that is participating in the boycott of Israel and the need*
26 *for the government of this state to respond to the policies of Israel*
27 *in a uniform fashion, a matter of statewide concern, and therefore,*
28 *shall apply to charter cities, charter counties, and a charter city*
29 *and county.*

30 *SEC. 3. Chapter 2.6 (commencing with Section 2100) is added*
31 *to Part 1 of Division 2 of the Public Contract Code, to read:*

32

33 *CHAPTER 2.6. CALIFORNIA COMBATING THE BOYCOTT,*
34 *DIVESTMENT, AND SANCTIONS OF ISRAEL ACT OF 2016*

35

36 *2100. (a) Notwithstanding any other law, and except as*
37 *provided in subdivision (d), a public entity shall not enter into a*
38 *contract on or after January 1, 2017, to acquire or dispose of*
39 *goods, services, information technology, or for construction if the*
40 *contracting company is participating in a boycott of Israel.*

1 (b) A public entity shall notify any company determined to be
2 participating in a boycott of Israel that the public entity is
3 prohibited from contracting with the company and permit that
4 company to respond to the notification. The public entity shall
5 request that the company take substantial action to cease its boycott
6 of Israel no later than 90 days from the date the public entity
7 notified the company under this subdivision. If the public entity
8 determines that a company has taken substantial action to cease
9 its boycott of Israel before the expiration of that 90-day period,
10 that company shall not be subject to subdivision (a).

11 (c) For the purposes of this section, the following definitions
12 shall apply:

13 (1) (A) “Boycott Israel” or “boycott of Israel” means refusing
14 to deal with, terminating business activities with, or taking other
15 actions that are intended to penalize, inflict economic harm, or
16 otherwise limit commercial relations with Israel or persons or
17 entities incorporated in Israel or doing business in Israel for
18 reasons other than business, investment, or commercial reasons.
19 A statement by a company that it is participating in a boycott of
20 Israel, or that it has initiated a boycott in response to a request
21 for a boycott of Israel or in compliance with, or in furtherance of,
22 calls for a boycott of Israel, may be considered by a public entity
23 to be evidence that a company is participating in a boycott of
24 Israel.

25 (B) “Boycott” does not include any of the following:

26 (i) A decision based on business or economic reasons.

27 (ii) Termination or prohibition of commercial activity within a
28 particular jurisdiction that is required by federal or state law.

29 (2) “Company” means a sole proprietorship, organization,
30 association, corporation, partnership, joint venture, limited
31 partnership, limited liability partnership, limited liability company,
32 or other entity or business association, including all wholly owned
33 subsidiaries, majority-owned subsidiaries, and parent companies,
34 that exists for the purpose of making profit.

35 (3) “Public entity” shall have the same meaning as defined in
36 subdivision (a) of Section 5100.

37 (d) This section shall not apply to a contract if either of the
38 following apply:

39 (1) The total value of the contract is less than ten thousand
40 dollars (\$10,000).

1 (2) *The public entity makes a formal, written determination that*
2 *the goods, services, information technology, or other matters that*
3 *are the subject of the contract are necessary for the public entity*
4 *to perform its functions and that, absent this exemption, the public*
5 *entity would be unable to obtain said goods, services, information*
6 *technology, or other matters for which the contract is offered.*

7 2101. *The provisions of this chapter shall supersede any*
8 *inconsistent provisions in the charter of a charter city, charter*
9 *county, or charter city and county.*

10 2102. *The Governor's Office of Business and Economic*
11 *Development shall recommend tools to incentivize business and*
12 *academic collaboration, trade, and partnership between Israel*
13 *and California and to disincentivize any and all barriers hindering*
14 *that collaboration, trade, and partnership, pursuant to Senate*
15 *Concurrent Resolution 121 of the 2014 Regular Session and Senate*
16 *Concurrent Resolution 25 of the 2015 Regular Session. These*
17 *incentives may include, but not be limited to, tax credits,*
18 *partnership subsidies, innovative grant programs, job creation*
19 *initiatives, and contracting preferences.*

20 SEC. 4. *If the Commission on State Mandates determines that*
21 *this act contains costs mandated by the state, reimbursement to*
22 *local agencies and school districts for those costs shall be made*
23 *pursuant to Part 7 (commencing with Section 17500) of Division*
24 *4 of Title 2 of the Government Code.*

25 SECTION 1. ~~Section 116385 of the Health and Safety Code~~
26 ~~is amended to read:~~

27 116385. (a) ~~Any person operating a public water system shall~~
28 ~~obtain and provide to the state board, at the person's expense, an~~
29 ~~analysis of the water, in the form, covering those matters, and at~~
30 ~~intervals as the state board prescribes by regulation. The analysis~~
31 ~~shall be performed by a laboratory duly certified by the state board.~~

32 (b) (1) ~~An analysis provided pursuant to subdivision (a) shall~~
33 ~~include, but need not be limited to, samples from schools, day care~~
34 ~~facilities, and health care facilities, to the extent that these locations~~
35 ~~are within the public water system.~~

36 (2) ~~This subdivision does not require an increase in the number~~
37 ~~of samples a person collects.~~

38 (c) (1) ~~The person shall report to the state board the date and~~
39 ~~results of any sampling at a school, day care facility, and health~~
40 ~~care facility, and where relevant, the contents of any notice issued~~

1 to the school or day care facility, students, or parents, and any
2 notices to the health care facility, and any followup action taken
3 to mitigate contamination.

4 (2) The state board shall post the information contained in
5 paragraph (1) to its Internet Web site in a manner that is searchable
6 by schools and school districts. The state board's Internet Web
7 site shall also include a link to the public water system's most
8 recent consumer confidence report.