

HOUSE No.**The Commonwealth of Massachusetts**

PRESENTED BY:

Steven S. Howitt

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to pension divestment from companies that boycott, divest, and sanction the State of Israel.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Steven S. Howitt</i>	<i>4th Bristol</i>	<i>9/17/2015</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	<i>9/17/2015</i>
<i>Bradford R. Hill</i>	<i>4th Essex</i>	<i>9/17/2015</i>
<i>Todd M. Smola</i>	<i>1st Hampden</i>	<i>9/17/2015</i>
<i>Donald H. Wong</i>	<i>9th Essex</i>	<i>9/17/2015</i>
<i>Peter J. Durant</i>	<i>6th Worcester</i>	<i>9/18/2015</i>
<i>Joseph D. McKenna</i>	<i>18th Worcester</i>	<i>9/21/2015</i>
<i>F. Jay Barrows</i>	<i>1st Bristol</i>	<i>9/21/2015</i>
<i>Shawn Dooley</i>	<i>9th Norfolk</i>	<i>9/21/2015</i>
<i>Shaunna L. O'Connell</i>	<i>3rd Bristol</i>	<i>9/21/2015</i>
<i>Alan Silvia</i>	<i>7th Bristol</i>	<i>9/21/2015</i>
<i>Paul A. Schmid, III</i>	<i>8th Bristol</i>	<i>9/21/2015</i>
<i>Walter F. Timilty</i>	<i>7th Norfolk</i>	<i>9/23/2015</i>
<i>Tackey Chan</i>	<i>2nd Norfolk</i>	<i>9/22/2015</i>
<i>Daniel J. Hunt</i>	<i>13th Suffolk</i>	<i>9/24/2015</i>
<i>Angelo M. Scaccia</i>	<i>14th Suffolk</i>	<i>7/22/2019</i>
<i>Jeffrey N. Roy</i>	<i>10th Norfolk</i>	<i>7/22/2019</i>

<i>Kevin J. Kuros</i>	<i>8th Worcester</i>	<i>7/22/2019</i>
<i>Susan Williams Gifford</i>	<i>2nd Plymouth</i>	<i>9/24/2015</i>
<i>Hannah Kane</i>	<i>11th Worcester</i>	<i>9/24/2015</i>
<i>Elizabeth A. Poirier</i>	<i>14th Bristol</i>	<i>9/24/2015</i>
<i>Ryan C. Fattman</i>	<i>Worcester and Norfolk</i>	<i>9/28/2015</i>
<i>Marc T. Lombardo</i>	<i>22nd Middlesex</i>	<i>9/29/2015</i>
<i>Harriette L. Chandler</i>	<i>First Worcester</i>	<i>9/30/2015</i>
<i>James J. Dwyer</i>	<i>30th Middlesex</i>	<i>7/22/2019</i>

HOUSE No.

By Mr. Howitt of Seekonk, a petition (subject to Joint Rule 12) of Steven S. Howitt and others relative to pension divestment from companies that boycott, divest, and sanction the State of Israel. Public Service.

The Commonwealth of Massachusetts

In the One Hundred and Eighty-Ninth General Court
(2015-2016)

An Act relative to pension divestment from companies that boycott, divest, and sanction the State of Israel.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1: As used in this act the following words shall, unless the context clearly
2 requires otherwise, have the following meanings:—

3 “Board”, the pension reserves investment management board established in section 23 of
4 chapter 32 of the General Laws.

5 “Boycotting Israel” means engaging in actions that are politically motivated and are
6 intended to penalize, inflict economic harm on, or otherwise limit commercial relations with the
7 State of Israel or companies based in the State of Israel or in territories controlled by the State of
8 Israel.

9 “Company”, a sole proprietorship, organization, association, corporation, partnership,
10 joint venture, limited partnership, limited liability partnership, limited liability company or other
11 entity or business association, including all wholly-owned subsidiaries, majority-owned

12 subsidiaries, parent companies or affiliates of such entities or business associations that exist for
13 profit-making purposes.

14 “Direct holdings”, all securities of a company held directly by the public fund or in an
15 account or fund in which the public fund owns all shares or interests.

16 “Indirect holdings”, all securities of a company held in an account or fund, such as a
17 mutual fund, managed by 1 or more persons not employed by the public fund, in which the
18 public fund owns shares or interests together with other investors not subject to this act.

19 “Public fund”, the Pension Reserves Investment Trust or the Pension Reserves
20 Investment Management Board charged with managing the pooled investment fund consisting of
21 the assets of the State Employees’ and Teachers’ Retirement Systems as well as the assets of
22 local retirement systems under the control of the board.

23 “Scrutinized company”, any company that engages in “Boycotting Israel” as defined in
24 this section.

25 “Substantial action”, for adopting, publicizing and implementing a formal plan to cease
26 scrutinized business operations with scrutinized companies within 1 year and to refrain from any
27 such new business operations with scrutinized companies.

28
29 SECTION 2: Notwithstanding any general or special law to the contrary, within 90 days
30 of the effective date of this act, the public fund shall make its best efforts to facilitate the
31 identification of all scrutinized companies in which the public fund has direct or indirect
32 holdings. The identification of scrutinized companies shall be the responsibility of an

independent, third-party research firm, as identified by the public fund, and based on the criteria set forth in this act. By the first meeting of the public fund following the 90 day period, the public fund shall assemble all scrutinized companies in which it has direct or indirect holdings into a scrutinized companies list. The public fund shall update the scrutinized companies list on a quarterly basis based on evolving information from the independent, third-party research firm.

SECTION 3: Notwithstanding any general or special law to the contrary, the public fund shall adhere to the following procedure for companies on the scrutinized companies list:

(a)(1) The public fund shall determine the companies on the scrutinized companies list, created under section 2, in which the public fund owns direct or indirect holdings.

(2) The public fund shall sell, redeem, divest or withdraw all publicly-traded securities from each company identified in paragraph (1) where it has direct holdings except as provided in subsection (b) and section 5, according to the following schedule: (i) at least 50 per cent of such assets shall be removed from the public fund's assets under management within 6 months after the company's most recent appearance on the scrutinized companies list; and (ii) 100 per cent of such assets shall be removed from the public fund's assets under management within 12 months after the company's most recent appearance on the scrutinized companies list; provided, however, that this paragraph shall only apply while such company continues to have direct holdings in scrutinized companies.

(3) During the time period outlined in paragraph (2), the public fund may sign onto engagement letters or participate in shareholder resolutions regarding the scrutinized business operations of companies identified in paragraph (1) with direct or indirect holdings in scrutinized companies.

(b) Notwithstanding anything in this act to the contrary, subsections (a) shall not apply to indirect holdings in actively managed investment funds; provided, however, that the public fund shall submit letters to the managers of such investment funds containing scrutinized companies, requesting that they consider removing such companies from the investment fund or create a similar actively managed fund with indirect holdings devoid of such companies. If the manager creates a similar fund, the public fund shall replace all applicable investments with investments in the similar fund in an expedited timeframe consistent with prudent investing standards. For the purposes of this section, private equity funds shall be deemed to be actively managed investment funds.

SECTION 4: Notwithstanding any general or special law to the contrary, with respect to actions taken in compliance with this act, the public fund shall be exempt from any conflicting statutory or common law obligations, including any such obligations with respect to choice of asset managers, investment funds or investments for the public fund's securities portfolios and all good faith determinations regarding companies as required by this act.

SECTION 5: Notwithstanding any general or special law to the contrary, the public fund shall be permitted to cease divesting from certain scrutinized companies under subsection (a) of section 3, reinvest in certain scrutinized companies from which it divested under said subsection (a) of said section 3 or continue to invest in certain scrutinized companies from which it has not yet divested upon clear and convincing evidence showing that the total and aggregate value of all assets under management by, or on behalf of, the public fund becomes: (i) equal to or less than 99.5 per cent; or (ii) 100 per cent less 50 basis points of the hypothetical value of all assets under management by, or on behalf of, the public fund assuming no divestment for any company had occurred under said subsection (a) of said section 3. Cessation of divestment, reinvestment or

any subsequent ongoing investment authorized by this section shall be strictly limited to the minimum steps necessary to avoid the contingency set forth in the preceding sentence.

For any cessation of divestment, and in advance of such cessation, authorized by this subsection, the public fund shall provide a written report to the attorney general, the senate and house committees on ways and means and the joint committee on public service, updated semi-annually thereafter as applicable, setting forth the reasons and justification, supported by clear and convincing evidence, for its decisions to cease divestment of holdings in companies on the scrutinized companies list or to reinvest or remain invested in companies with scrutinized companies.

SECTION 6: The public fund shall file a copy of the scrutinized companies list with the clerks of the senate and the House of Representatives and the attorney general within 30 days after the list is created. Annually thereafter, the public fund shall file a report with the clerks of the senate and the house of representatives and the attorney general that includes: (1) the most recent scrutinized companies list; (2) all investments sold, redeemed, divested or withdrawn in compliance with subsection (a) of section 3; (3) all prohibited investments from which the public fund has not yet divested under subsection (b) of said section 3; and (4) any progress made under subsection (c) of said section 3.