3/15/19 3:01 P.M.

Chapter No. 336
19/HR31/R3PH
EW 1 FF

HOUSE BILL NO. 761

Originated in House _____ Clerk

HOUSE BILL NO. 761

AN ACT TO BE KNOWN AS THE "ISRAEL SUPPORT ACT OF 2019"; TO DEFINE CERTAIN TERMS USED IN THE ACT; TO REQUIRE THE EXECUTIVE DIRECTOR OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO DEVELOP AND PUBLISH A LIST OF SCRUTINIZED COMPANIES THAT BOYCOTT ISRAEL; TO PROHIBIT THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM AND THE STATE TREASURER FROM INVESTING WITH COMPANIES ON SUCH LIST; TO HOLD HARMLESS OFFICERS, EMPLOYEES AND AGENTS OF THE RETIREMENT SYSTEM AND STATE TREASURER'S OFFICE FOR CLAIMS ARISING FROM DECISIONS TO RESTRICT INVESTMENTS UNDER THIS ACT; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Short title. This act shall be known and may be cited as the "Israel Support Act of 2019."

SECTION 2. Definitions. As used in this act, the following words and phrases shall have the meanings ascribed in this section unless the context clearly indicates otherwise:

(a) "Boycott Israel" or "boycott of Israel" means refusing to deal, terminating business activities, or taking other actions to limit commercial relations with Israel, or persons or entities doing business in Israel or in Israeli-controlled territories, in a discriminatory manner. A statement by a company

that it is participating in a boycott of Israel, or that it has initiated a boycott in response to a request for a boycott of Israel or in compliance with, or in furtherance of, calls for a boycott of Israel, may be considered by the public fund to be evidence that a company is participating in a boycott of Israel. The term does not include restrictive trade practices or boycotts fostered or imposed by foreign countries against Israel.

(b) "Company" means an 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, and parent companies, that exists for the purpose of making profit.

(c) "Expense" means all explicit costs associated with divesting of investments, including, but not limited to, trading costs, brokerage commissions, and any realized losses, and all implicit costs, including, but not limited to, lost opportunity costs resulting from the prohibition from making certain investments.

(d) "Investment" means a commitment or contribution of funds or property, whatever the source, a loan or other extension of credit, and the entry into or renewal of a contract for goods or services. The term "investment" does not include indirect beneficial ownership through index funds, commingled funds, limited partnerships, derivative instruments or the like.

(e) "Public fund" means the Public Employees' Retirement System and the Treasurer's office.

(f) "Scrutinized companies" means companies that boycott Israel or engage in a boycott of Israel.

SECTION 3. Duties of the Executive Director of the Department of Finance and Administration. (1) (a) Before December 31, 2019, the Executive Director of the Department of Finance and Administration shall develop or contract to develop, using credible information available to the public, a list of companies determined to engage in a boycott of Israel, as described in this section. When completed, the list must be posted on the website of the Department of Finance and Administration.

(b) The executive director shall update the list by July 1 of every year.

(c) Before a company is included on the finalized initial list or updated list, the executive director must do all of the following:

(i) Provide ninety (90) days written notice of the executive director's intent to include the company on the list. The notice must inform the company that inclusion on the list will make the company ineligible for investment by the State or Public Employees Retirement System. The notice also must specify that the company, if it ceases its boycott of Israel, may be removed from the list.

(ii) The executive director shall provide a company with an opportunity to comment in writing that it is not engaged in a boycott of Israel. If the company demonstrates to the executive director that the company is not engaged in a boycott of Israel, the company shall not be included on the list.

(d) The executive director shall make every effort to avoid including a company on the list erroneously.

SECTION 4. Limitation on the Public Employees' Retirement System and State Treasury Investments. (1) The Public Employees' Retirement System and the State Treasurer may not invest funds with a company that is identified on a list created pursuant to Section 3 of this act as a company engaging in a boycott of Israel.

(2) Any existing investments in violation of this act as of July 1, 2020, must be divested when prudent to do so but not later than one hundred twenty (120) days after the posting is made on the website of the Department of Finance and Administration.

SECTION 5. Exception to investment prohibition. Notwithstanding the provisions of Section 4 of this act, an investment may be made in a company engaged in a boycott of Israel, on a case by case basis, if:

(a) The investment was made before December 31, 2019, and the company has adopted, publicized and is implementing a formal plan to cease the boycott of Israel and to refrain from engaging in any new boycott of Israel; or

(b) The investor makes a determination that the investments are necessary in order to perform its functions.

SECTION 6. Limitation of act due to fiduciary obligations. Nothing in this act shall be construed to require the Public Employees' Retirement System of Mississippi or the State Treasurer or their agents to take any action as described in this act unless it is determined, in good faith, that: the action described in this act is consistent with the fiduciary responsibilities of the Public Employees' Retirement System of Mississippi or the State Treasurer or their agents; and there are appropriated funds of the state to absorb the expenses necessary to implement this act.

SECTION 7. Indemnification of employees and officials for compliance with this act. Present, future and former board members, officers, employees and agents of the Public Employees' Retirement System and the Department of Finance and Administration, as well as present, future and former State Treasurers, officers and employees of the State Treasurer and agents retained by the State Treasurer, must be indemnified from the State General Fund and held harmless by the state from all claims, demands, suits, actions, damages, judgments, costs, charges and expenses, including court costs and attorney's fees, and against all liability, losses and damages of any nature whatsoever that these present, future or former board members, officers, employees, agents or contract investment managers shall

or may at any time sustain by reason of any decision to restrict, reduce or eliminate investments pursuant to this act.

SECTION 8. This act shall stand repealed from and after July 1, 2024.

SECTION 9. This act shall take effect and be in force from and after July 1, 2019.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 7, 2019

Philip Gunn

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 6, 2019

Tate Reeves

PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR

Phil Bryant

GOVERNOR

March 15, 2019
3:01pm