

# Israel Divestment Campaign – IDC

Californians Committed to Peace for Palestinians and Israelis

**July 9, 2010**

Dear Attorney General's Office:

This letter is a formal request for you to title and summarize the attached ballot initiative language. I can be reached at the email address listed below should you have any questions.

Sincerely,

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INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

The proposed statutory language reads as follows:

**Section 1: This act shall be known and may be cited as the Divestment of State Retirement Funds from Israel Act.**

**Section 2: The people of California find and declare the following compelling rationale for the divestment of public retirement funds from certain corporations doing business with the government of Israel:**

- (a) The United Nations Human Rights Council as well as independent human rights organizations such as Amnesty International, Human Rights Watch, B'Tselem (Israel Information Center for Human Rights in the Occupied Territories), BADIL Resource Center for Palestinian Residency and Refugee Rights, and the Israeli Committee Against House Demolition have all documented serious and widespread violations by Israel of international law and the human rights of Palestinian civilians in the West Bank and Gaza.
- (b) Leading human rights advocates, such as Nelson Mandela, Archbishop Desmond Tutu and former President Jimmy Carter have condemned the apartheid policies of Israel as well as the human rights abuses to which Palestinians are subjected under Israeli occupation.
- (c) The government of Israel continues the expansion of illegal settlements in the occupied West Bank (including East Jerusalem) in direct violation of Article 49, paragraph 6 of the 4th Geneva Convention which declares "an occupying power shall not deport or transfer parts of its own civilian population into territories it occupies."
- (d) The Israeli government continues to violate the multiple United Nations Security Council Resolutions demanding the end to illegal occupation (242, 338 and 446) and General Assembly Resolution 194 (the right of refugees to return and be compensated) as well as the 2004 Advisory Opinion of the International Court of Justice regarding the Separation Barrier.
- (e) The Israeli government continues to cause physical and social injury to the Palestinian population, including, but not limited to, the eviction of residents and the destruction of their homes; the destruction of crops and confiscation of their lands; and the withholding of vital material assistance, including food, water, and medical supplies.
- (f) The California Public Employees Retirement System (CalPERS) Corporate Responsibility Policy, Section 5.1 Human Rights Violations, provides that "Corporations adopt maximum progressive practices toward the elimination of human rights violations in all countries or environments in which the company operates."
- (g) The California State Teachers Retirement System (CalSTRS) Statement of Responsibility provides that "non-economic factors will supplement profit factors in making investment decisions" in order to ensure that the retirement fund does not promote, condone or facilitate social injury either by its action or inaction;
- (h) CalSTRS and CalPERS have been required to divest from companies doing business in or with other countries, including South Africa, Sudan and Iran.<sup>1</sup>
- (i) CalSTRS and CalPERS might presently hold investments in companies that provide supplies, equipment and services to the State of Israel that are used by the military and/or

<sup>1</sup> AB 134, 1986 (South Africa); AB2941, 2007 (Sudan); AB221, 2007 (Iran)

police in actions that cause physical and social injury to the Palestinian people and that are a violation of rights described in (a).

- (j) The Teachers Retirement Board of CalSTRS and Board of Directors of CalPERS are committed to fulfilling their fiduciary responsibilities in the management of their investment program "to provide members and beneficiaries with benefits as required by law."<sup>2</sup>
- (k) Israel's continued refusal to abide by international law, UN Resolutions and the Advisory Opinion of the International Court of Justice on the Separation Barrier has resulted in a growing international movement to boycott and divest from domestic and foreign companies doing business in the State of Israel or in the territories it occupies and/or controls, which could materially harm the interests of those vested in the CalSTRS and CalPERS retirement systems.
- (l) Public retirement systems in California (CalPERS and CalSTRS) currently invest on behalf of the citizens of the State in publicly traded domestic and foreign companies that may therefore be at risk due to certain business ties with the State of Israel.<sup>3</sup>
- (m) CalSTRS has already established a clear procedure to deal with companies whose business practices are in violation of CalSTRS policies in its "Board Investment Policy Regarding Geopolitical and Social Risks." This procedure requires constructive engagement, and alternative investment only when such constructive engagement does not result in sufficient remedies.<sup>4</sup>
- (n) The intent of this initiative is to prevent CalPERS and CalSTRS investment funds from being used to support human rights violations by the State of Israel. It is intended that the need for this initiative would cease to exist if all of the following six developments occurred, as verified by the agencies named. Israel:
  - (1) Removes its citizens from West Bank settlements (including East Jerusalem) in full compliance with Article 49, paragraph 6 of the 4th Geneva Convention;
  - (2) Ends its occupation and/or control of the West Bank, Gaza and East Jerusalem in accordance with United Nations Resolutions 242, 338, and 446;
  - (3) Dismantles the Separation Barrier as constructed on Occupied Palestinian Territory in compliance with the Advisory Opinion on International Law by the International Court of Justice, and as accepted by the United Nations General Assembly;
  - (4) Ends the blockade of Gaza that violates the prohibition on collective punishment in Article 33 of the 4th Geneva Convention;

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<sup>2</sup> CALIFORNIA PUBLIC EMPLOYEES' RETIREMENT SYSTEM, TOTAL FUND STATEMENT OF INVESTMENT POLICY December 14, 2009, Section II, Strategic Objective).

<sup>3</sup> In its "Sudan Related Investments -Second Legislative Report" Cal PERS declared that "In the context of Sudan, it is clear that any company furthering or condoning human rights violations incurs myriad risks, including but not limited to: federal and international sanctions, NGO campaigns and boycotts, and reputational damage which can ultimately damage the company's performance." (California Public Employees' Retirement System Sudan Related Investments – Second Legislative Report December 31, 2009)

<sup>4</sup> "First, CalSTRS will actively engage, in a constructive manner, corporate management whose actions are inconsistent with this Policy. All forms of engagement will be utilized (letter writing, meetings, participation in advocacy groups, media campaigns, proxy voting etc.) Second, after all reasonable efforts have been made to constructively engage management and there is a clear nexus between the corporate behavior and the CalSTRS Policy violation, and in the CIO's opinion, the corporate remedies are insufficient or non-responsive, CalSTRS will inform its active investment managers that, to the extent that suitable alternative investments are available and that their inclusion in the Portfolio would result in no diminution in portfolio return or increase in risk, the managers shall invest in said alternative(s) until such time as the violations of this policy cease."

(5) Accords Palestinian refugees their rights in accordance with United Nations Resolution 194;

(6) Honors the right of self-determination and respects the human rights of the Palestinian people as embodied in Articles 1 and 2 of the United Nations International Covenant on Civil and Political Rights (1966) to which Israel is a signatory.

**Section 3: Therefore, based on the rationale described in Section 2 of this Act, and to support that declaration and findings, the following section is added to Government Code 7513.80**

**Section 7513.80**

(a) The CalPERS Board of Administration and the CalSTRS Teachers Retirement Board shall examine their respective investment funds within six months of passage of this initiative. Upon completion of this six month period, they shall publicly identify and list any investments in companies that provide products or services that contribute to the construction or maintenance of Israeli settlements and/or the Separation Wall in the Palestinian Territories or provide military supplies, equipment and services to the State of Israel. CalPERS and CalSTRS may use information provided by the United Nations and Non-Governmental Organizations such as Amnesty International, Human Rights Watch, B'Tselem, and other similar human rights organizations to help identify companies that provide military supplies, equipment and services to the State of Israel that are used by the military and/or police in violation of internationally recognized human rights.

(b) If it is found that CalPERS and/or CalSTRS funds are currently invested in such companies as described in paragraph (a), then the CalPERS Board of Administration and/or the CalSTRS Teacher Retirement Board shall notify these companies immediately and urge them to stop supplying their goods and services to Israel.

(c) If these companies do not take the actions called for in paragraph (b) within six months of receiving notification from CalPERS and/or CalSTRS, then CalPERS and/or CalSTRS shall divest from these companies within the constraints of their fiduciary responsibility.

(d) CalPERS and CalSTRS shall not make any new investments in companies that meet the criteria described in paragraph (a).

(e) As used in this section, "Company" means a sole proprietorship, organization, association, corporation, partnership, venture, or other entity, its subsidiary or affiliate that exists for profit making purposes or to otherwise secure economic advantage.