

HF400 - 1E - "Israel Boycott Prohibited for State Vendor"

Chief Author: **Ron Kresha**
 Committee: **State Government Finance**
 Date Completed: **02/14/2017**
 Lead Agency: **Administration Dept**
 Other Agencies:
 Attorney General Legislature
 Minnesota State

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2017	FY2018	FY2019	FY2020	FY2021
Administration Dept						
General Fund	-	4	3	3	3	3
State Total						
General Fund	-	4	3	3	3	3
Total	-	4	3	3	3	3
Biennial Total			7			6

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2017	FY2018	FY2019	FY2020	FY2021
Administration Dept					
General Fund	-	.04	.03	.03	.03
Total	-	.04	.03	.03	.03

Lead Executive Budget Officer's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature: Shawn Kremer Date: 02/14/2017
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2017	FY2018	FY2019	FY2020	FY2021
Administration Dept						
General Fund	-	4	3	3	3	3
Total	-	4	3	3	3	3
Biennial Total			7			6
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Administration Dept						
General Fund	-	4	3	3	3	3
Total	-	4	3	3	3	3
Biennial Total			7			6
2 - Revenues, Transfers In*						
Administration Dept						
General Fund	-	-	-	-	-	-
Total	-	-	-	-	-	-
Biennial Total			-			-

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Chief Author: **Ron Kresha**
 Committee: **State Government Finance**
 Date Completed: **02/14/2017**
 Agency: **Administration Dept**

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology	X	
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2017	FY2018	FY2019	FY2020	FY2021
General Fund	-	4	3	3	3	3
Total	-	4	3	3	3	3
Biennial Total			7			6

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2017	FY2018	FY2019	FY2020	FY2021
General Fund	-	.04	.03	.03	.03
Total	-	.04	.03	.03	.03

Executive Budget Officer's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature: Shawn Kremer Date: 2/14/2017 9:09:30 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2017	FY2018	FY2019	FY2020	FY2021
General Fund	-	4	3	3	3	3
Total		-	4	3	3	3
Biennial Total				7		6
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund	-	4	3	3	3	3
Total		-	4	3	3	3
Biennial Total				7		6
2 - Revenues, Transfers In*						
General Fund	-	-	-	-	-	-
Total		-	-	-	-	-
Biennial Total				-		-

Bill Description

This bill adds a new section to the state's procurement laws that prohibits state agencies, Minnesota State Colleges and Universities and entities in the legislative branch from entering into a contract that engages in discrimination against Israel, or against persons or entities doing business in Israel. The bill requires the contract to include a term that requires vendors to certify compliance with this requirement and a term that permits immediate termination without penalty if the state or legislative entity determines a vendor is out of compliance.

This version of the bill differs from previous versions as it also allows the commissioner of Administration to waive application of the section if compliance is not practicable or in the best interests of the state.

Assumptions

The Office of State Procurement (OSP) acquires goods and services needed for the operations of executive branch agencies and many local units of government. In doing so, OSP creates and maintains forms and templates used to issue solicitations and establish contracts. The office also maintains the electronic system utilized as part of the procurement process and conducts training for agency staff who perform procurement activities under delegated authority. OSP is also charged with addressing vendor inquires, protests or legal challenges that may arise in connection with the procurement process.

This fiscal note assumes that the passage of this bill would require OSP to conduct the following implementation actions: (1) modification to the SWIFT procurement system; (2) new language to solicitation templates, manuals and training materials; and (3) changes the procurement process. Specifically, the changes are as follows:

- Creation of a new bid factor in the SWIFT Procurement system that requires companies to respond yes/no to whether the company certifies it is in compliance with the non-discrimination requirement.
- Creation of new language/form for paper-based templates (solicitation documents and contracts) related to the termination without penalty provision along with changes to instruction manuals and training materials; and
- Training for procurement buyers, particularly as it relates to new processes required for non-competitive purchases between \$1,000 and \$5,000.

It is assumed that the changes noted above would be conducted by one or more individuals at an Acquisition Management Specialist (AMS) level and would involve approximately 20 hours of time. Further, it is assumed that the certification requirement will give rise to inquiries and/or protests in which vendors may challenge the veracity of a competing vendor's

certification. For purposes of this note, and given the complexities involved in addressing these types of inquiries or challenges in light of the broad definitions in the statute, it is assumed 60 hours of time at the AMS level time will be required on an ongoing annual basis.

Expenditure and/or Revenue Formula

Creation of a new bid factor in SWIFT, new language/form for paper-based templates and training for buyers at small dollar levels was calculated at 20 hours of an Acquisition Management Specialist's time at \$54.02 per hour - \$1,080.

Addressing inquiries and protests was calculated at 60 hours of an Acquisition Management Specialist's time at \$54.02 per hour - \$3,241 annually.

Total fiscal impact is \$4,321 in FY18 and \$3,241 ongoing.

Additional costs that are not included in the above analysis are costs related to diminished competition resulting from the prohibition that stems from the legislation.

The agency cannot absorb the additional cost.

Long-Term Fiscal Considerations

The long-term impact is tied to the ongoing resources that will be needed to address inquiries, protests or legal challenges that may arise on an ongoing basis.

Local Fiscal Impact

References/Sources

Betsy Hayes, Director

Office of State Procurement

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HF400 - 1E - "Israel Boycott Prohibited for State Vendor"

Chief Author: **Ron Kresha**
 Committee: **State Government Finance**
 Date Completed: **02/14/2017**
 Agency: **Attorney General**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2017	FY2018	FY2019	FY2020	FY2021
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2017	FY2018	FY2019	FY2020	FY2021
Total	-	-	-	-	-	-

Executive Budget Officer's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature: Laura Logsdon Date: 2/14/2017 10:55:19 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2017	FY2018	FY2019	FY2020	FY2021	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

The bill prohibits state contracts with vendors that engage in discrimination against Israel or entities doing business in Israel in making decision's with respect to the conduct of the vendor's business. Certification by the vendor of compliance with those requirements must be included in the terms of the contract. It applies to all state executive branch contracts including those of Minnesota Colleges and Universities and the Minnesota Legislature over \$1,000 that are entered into on or after July 1, 2017. Compliance can be waived if the Commissioner of Administration determines that such compliance is not practicable or in the best interests of the state.

For purposes of the bill "discrimination" is defined to include engaging in refusals to deal, terminating business activities or other actions limiting commercial relations with Israel or persons or entities doing business in Israel or Israeli controlled territories when such actions are taken in compliance with of calls for a boycott of Israel unless a boycott is sanctioned by the United states origin any way that discriminates on the basis of nationality or national origin unless the action is based on a valid business reason.

Assumptions

This fiscal note assumes that the bill does not create a private cause of action for Minnesota residents or others.

Expenditure and/or Revenue Formula

This bill does not impose direct enforcement obligations on the Attorney General. In the event of a legal challenge to the bill if enacted, the office would expect the challenge to be handled by existing staff without the need to create additional positions.

Long-Term Fiscal Considerations

None.

Local Fiscal Impact

None.

References/Sources

Agency Contact: Ray Smith

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HF400 - 1E - "Israel Boycott Prohibited for State Vendor"

Chief Author: **Ron Kresha**
 Committee: **State Government Finance**
 Date Completed: **02/14/2017**
 Agency: **Legislature**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

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State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2017	FY2018	FY2019	FY2020	FY2021
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2017	FY2018	FY2019	FY2020	FY2021
Total	-	-	-	-	-

Executive Budget Officer's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature: Laura Logsdon Date: 2/14/2017 10:55:03 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

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State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2017	FY2018	FY2019	FY2020	FY2021
	Total	-	-	-	-	-
	Biennial Total			-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
	Total	-	-	-	-	-
	Biennial Total			-		-
2 - Revenues, Transfers In*						
	Total	-	-	-	-	-
	Biennial Total			-		-

Bill Description

HF 400-1E requires that legislative branch agencies may not enter into agreements with vendors that engage in discriminatory practices against Israel. Agencies must include terms in agreements that require a vendor to self-certify compliance and allows the contract to be canceled without penalty if the agency determines that the vendor's practices do not comply with the terms. Exceptions will be made for contracts less than \$1,000.

The effective date is July 1, 2017.

Assumptions

Staff will include conformity language in terms and conditions of all agreements valued \$1,000 or more. Vendors will self-certify compliance with the terms by their signature on the agreement.

Expenditure and/or Revenue Formula

Only nominal staff cost will be incurred with the development of the conformity language and the inclusion in agreements. We project no fiscal impact for the application of HF 400-1E.

Long-Term Fiscal Considerations

N/A

Local Fiscal Impact

N/A

References/Sources

Bill Marx, House of Representatives

Patrick McCormack, House of Representatives

Jim Reinholdz, House of Representatives

Tom Bottern, Minnesota Senate

Eric Nauman, Minnesota Senate

Cal Ludeman, Minnesota Senate

Greg Hubinger, Legislative Coordinating Commission

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HF400 - 1E - "Israel Boycott Prohibited for State Vendor"

Chief Author: **Ron Kresha**
 Committee: **State Government Finance**
 Date Completed: **02/14/2017**
 Agency: **Minnesota State**

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2017	FY2018	FY2019	FY2020	FY2021
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium		
		FY2017	FY2018	FY2019	FY2020	FY2021
Total	-	-	-	-	-	-

Executive Budget Officer's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with MMB's Fiscal Note policies.

EBO Signature:Melissa Lam Young Date: 2/14/2017 9:49:52 AM
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands	FY2017	FY2018	FY2019	FY2020	FY2021	
Total	-	-	-	-	-	-
Biennial Total			-			-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total	-	-	-	-	-	-
Biennial Total			-			-
2 - Revenues, Transfers In*						
Total	-	-	-	-	-	-
Biennial Total			-			-

Bill Description

Adds a new section to MS 16C prohibiting state agencies, the legislature, and Minnesota State Colleges and Universities from entering into contracts with vendors who discriminate against Israel or against persons or entities doing business in Israel. Defines “discrimination.” Requires vendors to certify compliance with this provision. Allows contracts to be terminated without penalty if the vendor is not in compliance. Exempts contracts under \$1,000. Allows the commissioner of Administration to waive this requirement if it’s not practicable or in the best interest of the state. Establishes an effective date of July 1, 2017.

Assumptions

1. The Office of State Procurement (OSP) will develop and maintain the forms and templates necessary to implement the provisions of this bill. Minnesota State will review and incorporate those materials in its contracts and procurement materials, including RFPs, RFQs, FRBs and contracts. Any costs associated with incorporating these materials are minimal and will be absorbed by Minnesota State.
2. Vendors who enter into contracts with Minnesota State must comply with the certifications requirements of the bill. Minnesota State would not be responsible for monitoring or proving compliance with these provisions.
3. It is not known how many current or potential future vendors would be impacted by this bill. It is possible that this may reduce the number of vendors available to bid on contracts, potentially increasing the costs of goods or services purchased by Minnesota State. These costs, if any, are unknown and cannot be estimated at this time.

Expenditure and/or Revenue Formula

None

Long-Term Fiscal Considerations

None

Local Fiscal Impact

None

References/Sources

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