

SENATE, No. 4107

STATE OF NEW JERSEY

220th LEGISLATURE

INTRODUCED NOVEMBER 30, 2023

Sponsored by:

Senator ANDREW ZWICKER

District 16 (Hunterdon, Mercer, Middlesex and Somerset)

SYNOPSIS

Prohibits government dealings with businesses associated with Azerbaijan.

CURRENT VERSION OF TEXT

As introduced.



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1 AN ACT prohibiting government dealings with businesses
2 associated with Azerbaijan and supplementing chapter 32 of
3 Title 52 of the Revised Statutes, P.L.1971, c.198 (C.40A:11-1 et
4 seq.), chapter 18A of Title 18A of the New Jersey Statutes,
5 P.L.1986, c.43 (C.18A:64-52 et seq.), P.L.1982, c.189
6 (C.18A:64A-25.1 et seq.), and P.L.1950, c.270 (C.52:18A-79 et
7 seq.).

8
9 **BE IT ENACTED** *by the Senate and General Assembly of the State*
10 *of New Jersey:*

11

12 1. The Legislature finds and declares that:

13 a. The State is deeply concerned about the welfare and rights of
14 Dr. Gubad Ibadoghlu, who is being detained in Azerbaijan.

15 b. Gubad Ibadoghlu is an esteemed economist who has
16 promoted good governance and public financial transparency. He
17 has shared his expertise all over the world and has been affiliated
18 with various institutions of higher education in Europe and the
19 United States, including Rutgers, the State University of New
20 Jersey and Princeton University.

21 c. In addition to his scholarly work, Dr. Ibadoghlu is a
22 prominent political activist who has been critical of the Azerbaijani
23 government.

24 d. Azerbaijani authorities arrested Ibadoghlu in July 2023 on
25 charges of production, acquisition, or sale of counterfeit money.

26 e. Ibadoghlu's arrest continues a longstanding trend of
27 pursuing dubious charges against government critics in Azerbaijan,
28 a trend that runs counter to the democratic principle of free speech.

29 f. Given that New Jersey law prohibits government dealings
30 with businesses associated with other countries that have records of
31 human rights offenses, it is in the public interest to adopt a similar
32 policy with respect to Azerbaijan.

33

34 2. a. A person that is identified on a list created pursuant to
35 subsection b. of this section as a person that has been determined to
36 engage in prohibited activities in Azerbaijan shall be ineligible to
37 and shall not:

38 (1) enter into or renew a contract with the State of New Jersey
39 for the provision of goods and services or the purchase of bonds or
40 other obligations;

41 (2) file or renew a Public Works Contractor Registration with
42 the Department of Labor and Workforce Development;

43 (3) be approved for or continue to receive an economic
44 development subsidy from the Economic Development Authority in
45 but not of the Department of the Treasury;

46 (4) be awarded a municipal property tax abatement, or make or
47 enter into a payment in-lieu of property tax agreement;

1 (5) apply for or receive a tax clearance certificate from the
2 Director of the Division of Taxation in the Department of the
3 Treasury;

4 (6) be certified by the Department of Community Affairs as an
5 urban renewal entity for purposed of the “Long Term Tax
6 Exemption Law,” P.L.1991, c.431 (C.40A:20-1 et seq.); and

7 (7) be designated as a redeveloper by a public agency for the
8 purpose of planning, replanning, construction, or undertaking of any
9 project or redevelopment work in accordance with the “Local
10 Redevelopment and Housing Law,” P.L.1992, c.79 (C.40A:12A-1
11 et seq.).

12 b. Immediately upon the effective date of this section, the
13 Department of the Treasury shall, using credible information
14 available to the public, begin developing a list of persons it
15 determines engage in prohibited activities in Azerbaijan. The
16 department is authorized to consult an independent research firm
17 that specializes in global security risk for portfolio determinations,
18 as selected by the State Treasurer, to develop the list. The
19 department shall update the list on a rolling basis. Beginning after
20 the 91st day following the date of enactment of this section, the
21 department shall be required to update the list at least every six
22 months. Before including a person or entity on the initial list or an
23 updated list, the department shall:

24 (1) provide notice of its intent to include the person on the list.
25 The notice shall inform the person that inclusion on the list would
26 make the person ineligible to engage in any of the enumerated
27 activities specified by subsection a. of this section; and

28 (2) provide a person with an opportunity to comment in writing
29 that the person is not engaged in prohibited activities in Azerbaijan.
30 If the person demonstrates to the department that the person is not
31 engaged in prohibited activities in Azerbaijan, the person or entity
32 shall not be included on the list.

33 c. A State agency or local unit, as applicable, shall require a
34 person seeking to engage in any of the enumerated activities
35 specified in subsection a. of this section to certify, before the
36 contract is awarded, renewed, amended, or extended, or before
37 applying for certification as an urban renewal entity or designation
38 as a redeveloper, that the person is not identified on a list created
39 pursuant to this section as a person engaging in prohibited activities
40 in Azerbaijan. The certification required shall be executed on
41 behalf of the applicable person by an authorized officer or
42 representative of the person. If a person is unable to make the
43 certification required because the person or one of the person’s
44 parents, subsidiaries, or affiliates has engaged in prohibited activity
45 in Azerbaijan, the person shall provide to the State agency or local
46 unit of government concerned, prior to the deadline for delivery of
47 such certification, a detailed and precise description of such
48 activities, such description to be provided under penalty of perjury.

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1 The certifications provided under this section and disclosures
2 provided under this section shall be disclosed to the public.

3 d. (1) If the department determines, using credible information
4 available to the public and after providing notice and an opportunity
5 to comment in writing for the person to demonstrate that it is not
6 engaged in prohibited activities in Azerbaijan, that the person or
7 entity has submitted a false certification pursuant to this section,
8 and the person fails to demonstrate to the department that the
9 person has ceased its engagement in the prohibited activities in
10 Azerbaijan within 90 days after the determination of a false
11 certification, the following shall apply:

12 (a) pursuant to an action under paragraph (2) of this subsection,
13 a civil penalty in an amount that is equal to the greater of
14 \$1,000,000 or twice the amount of the bid or application listed in
15 subsection a. of this section for which the false certification was
16 made;

17 (b) termination of an existing contract, registration, economic
18 development subsidy, tax abatement, payment in-lieu of property
19 tax agreement, certification, or designation as deemed appropriate
20 by the issuing agency or the application process for any of the
21 foregoing; and

22 (c) ineligibility to engage in any of the enumerated activities
23 specified by subsection a. of this section for a period of three years
24 from the date of the determination that the person submitted the
25 false certification, provided that the person has ceased its
26 engagement in the prohibited activities in Azerbaijan.

27 (2) The department shall report to the Attorney General the
28 name of the person that the State agency determines has submitted a
29 false certification under this section, together with its information
30 as to the false certification, and the Attorney General shall
31 determine whether to bring a civil action against the person to
32 collect the penalty described in this subsection. Only one civil
33 action against the person to collect the penalty described in this
34 subsection may be brought for a false certification on a bid or
35 application listed in subsection a. of this section. A civil action to
36 collect such penalty shall commence with three years from the date
37 the certification is made.

38 e. For purposes of this section:

39 "Azerbaijan" means the government of Azerbaijan, and includes
40 the territories of that nation and any other territory or marine area
41 that is recognized by the United States as part of that territory.

42 "Economic development subsidy" means the provision of an
43 amount of funds to a recipient with the value of greater than
44 \$25,000 for the purpose of stimulating economic development in
45 New Jersey, including, but not limited to, any investment, bond,
46 grant, loan, loan guarantee, matching fund, tax credit, or other tax
47 expenditure.

1 “Engaged in prohibited activities in Azerbaijan” means (1)
2 companies in which the Government of Azerbaijan has any direct
3 equity share; (2) having any business operations commencing after
4 the effective date of this act that involve contracts with or the
5 provision of goods and services to the Government of Azerbaijan;
6 (3) being headquartered in Azerbaijan or having its principal place
7 of business in Azerbaijan, or (4) supporting, assisting, or facilitating
8 the Government of Azerbaijan in its detention of Gubad Ibadoghlu.

9 “Person or entity” means any of the following:

10 (1) A natural person, corporation, company, limited partnership,
11 limited liability partnership, limited liability company, business
12 association, sole proprietorship, joint venture, partnership, society,
13 trust, or any other nongovernmental entity, organization, or group;

14 (2) Any governmental entity or instrumentality of a government,
15 including a multilateral development institution, as defined in
16 Section 1701(c)(3) of the International Financial Institutions Act,
17 22 U.S.C. 262r(c)(3); or

18 (3) Any parent, successor, subunit, direct or indirect subsidiary,
19 or any entity under common ownership or control with, any entity
20 described in paragraph (1) or paragraph (2) of this subsection.

21 “State agency” means any of the principal departments in the
22 Executive Branch of the State government, and any division, board,
23 bureau, office, commission, or other instrumentality within or
24 created by such department, the Legislature of the State and any
25 office, board, bureau, or commission within or created by the
26 Legislative Branch; and any independent State authority,
27 commission, instrumentality, or agency that is authorized by law to
28 award public contracts. “State agency” shall also include a public
29 research university that is not a State college subject to the
30 provisions of the “State College Contracts Law,” P.L.1986, c.43
31 (C.18A:64-52 et seq.).

32
33 3. a. A local contracting unit as defined in and subject to the
34 provisions of the “Local Public Contracts Law,” P.L.1971, c.198
35 (C.40A:11-1 et seq.), shall implement and comply with the
36 provisions of P.L. , c. (C.) (pending before the Legislature
37 as this bill), except that the contracting unit shall rely on the list
38 developed by the Department of the Treasury pursuant to subsection
39 b. of section 2 of P.L. , c. (C.) pending before the
40 Legislature as this bill).

41 b. If the local contracting unit determines that a person has
42 submitted a false certification concerning its engagement in
43 prohibited activities in Azerbaijan pursuant to section 2 of
44 P.L. , c. (C.) (pending before the Legislature as this bill),
45 the local contracting unit shall report to the New Jersey Attorney
46 General the name of that person or entity, and the Attorney General
47 shall determine whether to bring a civil action against the person to

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1 collect the penalty prescribed in subsection c. of section 2 of
2 P.L. , c. (C.) (pending before the Legislature as this bill).

3 c. The local contracting unit may also report to the municipal
4 attorney or county counsel, as appropriate, the name of that person,
5 together with its information as to the false certification, and the
6 municipal attorney or county counsel, as appropriate, may
7 determine to bring such civil action against the person to collect
8 such penalty.

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10 4. a. A board of education as defined in and subject to the
11 provisions of the “Public School Contracts Law,” N.J.S.18A:18A-1
12 et seq., shall implement and comply with the provisions of
13 P.L. , c. (C.) (pending before the Legislature as this bill),
14 except that the board shall rely on the list developed by the
15 Department of the Treasury pursuant to subsection b. of section 2 of
16 P.L. , c. (C.) (pending before the Legislature as this bill).

17 b. If the board determines that a person or entity has submitted
18 a false certification concerning engagement in prohibited activities
19 in Azerbaijan pursuant to section 2 of P.L. , c. (C.)
20 (pending before the Legislature as this bill), the board shall report
21 to the New Jersey Attorney General the name of that person, and
22 the Attorney General shall determine whether to bring a civil action
23 against the person to collect the penalty prescribed in subsection c.
24 of section 2 or P.L. , c. (C.) (pending before the
25 Legislature as this bill).

26 c. The board may also report to the board’s attorney the name
27 of that person, together with its information as to the false
28 certification, and the board’s attorney may determine to bring such
29 civil action against the person to collect such penalty.

30
31 5. a. A State college as defined in and subject to the provisions
32 of the “State College Contracts Law,” P.L.1986, c.43 (C.18A:64-52
33 et seq.), shall implement and comply with the provisions
34 of P.L. , c. (C.) (pending before the Legislature as this
35 bill), except that the State college shall rely on the list developed by
36 the Department of the Treasury pursuant to subsection b. of section
37 2 of P.L. , c. (C.) (pending before the Legislature as this
38 bill).

39 b. If the State college determines that a person has submitted a
40 false certification concerning its engagement in prohibited activities
41 in Azerbaijan pursuant to section 2 of P.L. , c. (C.)
42 (pending before the Legislature as this bill), the State college shall
43 report to the New Jersey Attorney General the name of that person,
44 and the Attorney General shall determine whether to bring a civil
45 action against the person to collect the penalty prescribed in
46 subsection c. of section 2 of P.L. , c. (C.) (pending before
47 the Legislature as this bill).

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1 c. The State college may also report to the State college
2 attorney the name of that person, together with its information as to
3 the false certification, and the State college attorney may determine
4 to bring such civil action against the person to collect such penalty.

5
6 6. a. A county college as defined in and subject to the
7 provisions of the "County College Contracts Law," P.L.1982, c.189
8 (C.18A:64A-25.1 et seq.), shall implement and comply with the
9 provisions of P.L. , c. (C.) (pending before the Legislature
10 as this bill), except that the county college shall rely on the list
11 developed by the Department of the Treasury pursuant to subsection
12 b. of section 2 of P.L. , c. (C.) (pending before the
13 Legislature as this bill).

14 b. If the county college determines that the person has submitted
15 a false certification concerning its engagement in prohibited
16 activities in Azerbaijan pursuant to section 2 of
17 P.L. , c. (C.) (pending before the Legislature as this bill),
18 the county college shall report to the New Jersey Attorney General
19 the name of that person, and the Attorney General shall determine
20 whether to bring a civil action against the person or entity to collect
21 the penalty prescribed in subsection c. of section 2 of
22 P.L. , c. (C.) (pending before the Legislature as this bill).

23 c. The county college may also report to the county college
24 attorney the name of that person, together with its information as to
25 the false certification, and the county college attorney may
26 determine to bring such civil action against the person to collect
27 such penalty.

28
29 7. a. Notwithstanding any provision of law to the contrary,
30 except section 11 of P.L.1950, c.270 (C.52:18A-89), as amended,
31 no assets of any pension or annuity fund under the jurisdiction of
32 the Division of Investment in the Department of the Treasury, or its
33 successor, shall be invested directly in a company included in the
34 Department of the Treasury's list created pursuant to subsection b.
35 of section 2 of P.L. , c. (C.) (pending before the
36 Legislature as this bill) for engaging in prohibited activities in
37 Azerbaijan.

38 b. The State Investment Council and the Director of the Division
39 of Investment shall take appropriate action to sell, redeem, divest,
40 or withdraw any investment held in violation of subsection a. of this
41 section. Any appropriate action to sell, redeem, divest, or withdraw
42 any investment shall be completed not later than one year following
43 the date that such investment is identified as being in violation of
44 subsection a. of this section, provided that if such sale, redemption,
45 divestment, or withdrawal within such one-year period would be
46 premature or otherwise imprudent and inconsistent with the
47 requirements of section 11 of P.L.1950, c.270 (C.52:18A-89), as

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1 amended, such sale, redemption, divestment, or withdrawal shall be
2 completed as soon thereafter as such requirements are met.

3 c. Within 90 days after the effective date of
4 P.L. , c. (C.) (pending before the Legislature as this bill),
5 the Director of the Division of Investment shall file with the
6 Legislature, pursuant to section 2 of P.L.1991, c.164 (C.52:14-
7 19.1), a report of all investments held as of the effective date that
8 are in violation of subsection a. of this section.

9 d. State Investment Council members, jointly and individually,
10 and State officers and employees involved therewith, shall be
11 indemnified and held harmless by the State of New Jersey from all
12 claims, demands, suits, actions, damages, judgments, costs, charges,
13 and expenses, including court costs and attorney's fees, and against
14 all liability, losses, and damages of any nature whatsoever that these
15 State Investment Council members, and State officers and
16 employees, shall or may at any time sustain by reason or any
17 decision to restrict, reduce, or eliminate investments pursuant to
18 P.L. , c. (C.) (pending before the Legislature as this bill).

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20 8. A State agency, local contracting unit, board of education,
21 State college, or county college shall not bank with, have or hold
22 stock, debt, or any other equity investments of, or maintain
23 insurance coverage through a policy issued by a financial institution
24 that is included in the Department of the Treasury's list created
25 pursuant to subsection b. of section 2 of P.L. , c. (C.)
26 (pending before the Legislature as this bill) for engaging in
27 prohibited activities in Azerbaijan.

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29 9. Notwithstanding the provisions of the "Administrative
30 Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to the
31 contrary, the State Treasurer may adopt immediately upon filing
32 with the Office of Administrative Law such rules and regulations as
33 the State Treasurer determines to be necessary to effectuate the
34 purposes of P.L. , c. (C.) (pending before the Legislature as
35 this bill), which rules and regulations shall be effective for a period
36 not exceeding 360 days following the effective date of
37 P.L. , c. (C.) (pending before the Legislature as this bill)
38 and may thereafter be amended, adopted or readopted by the State
39 Treasurer in accordance with the requirements of P.L.1968, c.410
40 (C.52:14B-1 et seq.).

41

42 10. The provisions of sections 2 through 9 of P.L. , c. (C.)
43 (pending before the Legislature as this bill) shall not apply in
44 circumstances when their application would violate federal law or
45 regulation or be inconsistent with the terms and conditions of
46 federal funding.

