

AB 2844: New number, still unconstitutional

To: California state legislators

From: Coalition to stop AB 1551 & AB 1552

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In February, our coalition, comprising dozens of national, California and regional civil rights organizations and others, sent all legislators a letter of opposition to AB 1551 and AB 1552, which have not yet been assigned to committee. Now, AB 2844, originally on an entirely different topic, has been amended to pursue unconstitutional restrictions on political speech in line with the two earlier bills. For the same chief reasons explained in our earlier letter, we oppose it.

AB 1551 would bar state investment in entities that comply with foreign boycotts against Israel, and AB 1552 would deny state and local government contracts with entities that engage in “discriminatory” boycotts. Although AB 1552 does not explicitly refer to Israel, press releases from the bills’ author, Assembly member Travis Allen, made clear that his goals were the same for both: to shield the Israeli government from criticism of its policies.

Backed by a longer legal memo, the original opposition letter addressed several major problems with the bills, central among them the fact that the Supreme Court has unequivocally ruled that boycotts in pursuit of humanitarian and social justice goals are a form of political speech entitled to the highest protection under the First Amendment. The court has further held that government at any level must not deny economic benefits, including public contracts, in retaliation for political beliefs. See the [Center for Constitutional Rights website](#) for the opposition documents and other coverage.

Some of the coalition’s secondary objections to the original bills seem to have resonated among legislators, leading Assembly Member Allen to submit an amended AB 1552 to the Legislative Counsel on March 9. (We don’t know whether he has similarly drafted amendments to AB 1551; as of April 4, no updates appear for either bill on the Legislature’s website.) But apparently out of partisan considerations, Assembly member Richard Bloom on March 28 introduced AB 2844, virtually identical to the draft amended AB 1552 in its operative elements. Both, unlike the original AB 1552, are now explicit about their target: boycotts aimed at protesting Israeli government policies.

With all the gutting, amending and shifting enumeration, however, AB 2844 retains the same unconstitutional core as the original bills. Accordingly, the coalition opposes it based on the same constitutional concerns. Regardless of our views on various boycott campaigns undertaken to protest Israeli policies, we all value the First Amendment -- and the state must abide by it.

All these bills are part of a [concerted national effort](#) to squelch the growing, non-violent protest movement for Palestinian human rights, against the increasing extremism of Israel policies – and against U.S. support for them. Defenders of those policies are losing in the court of public opinion, so they are engaging in a dangerous effort to legislate against protest and dissent, with anti-boycott bills introduced or threatened in about half the states, along with bills in Congress that encourage such state legislation.

Such laws cannot pass constitutional muster; attempts to implement them would spur expensive legal challenges. California has an opportunity to lead the way by rejecting AB 1551, 1552, 2844 and any variation on them that would similarly violate the First Amendment rights of Californians.