October 24, 2016

RE: Opposition to House Bill 2107 (Baker)

Dear senators and staff,

Later today the Senate is scheduled to consider House Bill 2107. This legislation includes two different, unrelated provisions. One of those provisions prohibits the commonwealth from awarding contracts to companies that are engaged in boycotts of any jurisdiction if federal statute does not prohibit commerce or trade with that jurisdiction. Boycotts can be a form of political expression and are recognized as expression under the First Amendment. American history includes prominent boycotts that drew attention to important civil and human rights issues, from slavery to the civil rights era to apartheid South Africa.

HB 2107 could be enforced in a way that exerts governmental punishment for protected expression. And it is clear from the preamble of that section of the bill that it is, indeed, intended to punish contractors for their political views and expression, specifically as it relates to the debate about Israel and Palestine. It even requires companies to certify that they are not engaged in such a boycott, like some kind of 21st century loyalty oath.

The ACLU of Pennsylvania, of course, has no position on the Israeli-Palestinian conflict. Our mission is to protect the constitutional rights of everyone. Because HB 2107 has significant implications for the First Amendment rights of companies that may choose to engage in political expression and that may also pursue contracts with the commonwealth, the ACLU of Pennsylvania opposes HB 2107. On behalf of the 25,000 members of the ACLU of Pennsylvania, I respectfully urge you to vote "no" on this bill.

Thank you for considering our views.

Sincerely,
Andy Hoover
Legislative Director
ACLU of Pennsylvania