

SB261 ENGROSSED



1 83V3H2-2
2 By Senators Roberts, Orr, Allen, Livingston, Stutts, Shelnutt,
3 Sessions
4 RFD: Fiscal Responsibility and Economic Development
5 First Read: 27-Apr-23
6 2023 Regular Session



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A BILL
TO BE ENTITLED
AN ACT

Relating to public contracts; to prohibit governmental entities from entering into certain contracts with companies that boycott businesses because the business engages in certain sectors or does not meet certain environmental or corporate governance standards or does not facilitate certain activities; to provide that no company in the state shall be required by a governmental entity, nor penalized by a governmental entity for declining to engage in economic boycotts or other actions that further social, political, or ideological interests; to require the Attorney General to take actions to prevent federal laws or actions from penalizing, inflicting harm on, limiting commercial relations with, or changing or limiting the activities of companies or residents of the state based on the furtherance of economic boycott criteria; and to authorize the Attorney General to investigate and enforce this act; and to provide definitions.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. As used in this act, the following terms have the following meanings:

(1) COMPANY. A for-profit entity, organization,



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association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company. The term does not include sole proprietorships.

(2) ECONOMIC BOYCOTT. Without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any commercial action that is intended to penalize or inflict economic harm on a company solely because the company, without violating controlling law or regulation, does any of the following:

a. Engages in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy, timber, mining, or agriculture.

b. Engages in, facilitates, or supports the manufacture, import, distribution, marketing or advertising, sale, or lawful use of firearms, ammunition, or component parts and accessories of firearms or ammunition.

c. Does not meet, is not expected to meet, or does not commit to meet environmental standards or disclosure criteria, in particular to eliminate, reduce, offset, or disclose greenhouse gas emissions.

d. Does not meet, is not expected to meet, or does not commit to meet corporate employment or board composition, compensation, or disclosure criteria.

e. Does not facilitate, is not expected to facilitate, or does not commit to facilitate access to abortion or sex or gender change surgery, medications, treatment, or therapies.

(3) GOVERNMENTAL ENTITY. A state agency, department,



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regulatory body, board, bureau, or commission, or any county, municipality, incorporated or unincorporated local government, or other political subdivision of the state.

(4) ORDINARY BUSINESS PURPOSE. Includes a purpose that is related to business operations and excludes a purpose that is solely related to furthering social, political, or ideological interests.

Section 2. (a) This section applies only to a contract that meets both of the following:

(1) Is between a governmental entity and a company with 10 or more full-time employees.

(2) Will pay or may pay a company at least fifteen thousand dollars (\$15,000) over the term of the contract wholly or partly from public funds of the governmental entity; provided, however, this subdivision shall apply separately to all companies in a multiple-party contract.

(b) Except as provided by subsection (c), a governmental entity may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that the company, without violating controlling law or regulation, does not and will not, during the term of the contract, engage in economic boycotts.

(c) Subsection (b) does not apply to a contract related to the issuance, incurrence, or management of debt obligations, to the deposit, custody, management, borrowing, or investment of funds, or to the procurement of insurance or other financial products, or financial advisory services, or a



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85 contract that would prevent the governmental entity from
86 obtaining the supplies or services to be provided in an
87 economically practicable manner.

88 (d) If a governmental entity is unable to comply with
89 this section without significantly increasing costs or
90 limiting the quality of options or services available, or
91 both, the governmental entity may waive the requirements upon
92 a finding, posted on the governmental entity's publicly
93 available website that:

94 (1) The governmental entity has made reasonable and
95 good faith efforts to obtain services meeting the requirements
96 of this section and has included the requirements in the
97 governmental entity's minimum selection criteria.

98 (2) Based on objective information available to the
99 governmental entity, the cost appears significantly higher
100 than the services available to similarly oriented governmental
101 entities not subject to similar requirements, or the quality
102 of services or options appears significantly lower than the
103 quality of services available to similarly oriented
104 governmental entities not subject to similar requirements, or
105 both.

106 (3) The governmental entity determines that a waiver is
107 clearly in the best interest of the public.

108 Section 3. (a) No party may take action to penalize or
109 threaten to penalize any governmental entity, company, or
110 business for compliance with Section 2.

111 (b) Any party violating a commitment made under
112 subsection (b) of Section 2 or otherwise violating subsection



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(a) of this section shall have caused harm to the governmental entity, including by interfering with the governmental entity's sovereign interest in administering its programs and with the governmental entity's commercial relationships.

Section 4. (a) No company in this state shall be required by a governmental entity to engage in economic boycotts, to establish or implement policies, procedures, guidelines, rules, reports, products, services, notices, disclosures, or rates or pricing; to provide or submit answers to surveys or other information requests or disclosures; to invest in or divest of certain securities, stocks, bonds, bills, partnerships, or other investment arrangements; or to initiate other corporate or business practices that further social, political, or ideological interests including, but not limited to, economic boycott criteria or other similarly oriented rating.

(b) No company in this state shall be penalized, have economic harm inflicted on it, have commercial relations limited, or have the activities of the company changed or limited by a governmental entity because the company will not engage in economic boycotts; will not establish or implement policies, procedures, guidelines, rules, reports, products, services, notices, disclosures, or rates or pricing; will not provide or submit answers to surveys or other information requests or disclosures; will not invest in or divest of certain securities, stocks, bonds, bills, partnerships, or other investment arrangements; or will not initiate other corporate or business practices that further social,



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141 political, or ideological interests including, but not limited
142 to, economic boycott criteria or other similarly oriented
143 rating.

144 Section 5. The Attorney General shall seek to prohibit
145 the adoption of federal laws, rules, regulations, bulletins,
146 executive orders, or other federal actions that may penalize,
147 inflict economic harm on, limit commercial relations with, or
148 change or limit the activities of a company in the state or a
149 resident of the state based on the furtherance of economic
150 boycott criteria or other similarly oriented rating.

151 Section 6. If any provision of this act or its
152 application to any person or circumstances is held invalid,
153 then the invalidity does not affect other provisions or
154 applications of this act, which can be given effect without
155 the invalid provision or application, and to this end the
156 provisions of this act are severable.

157 Section 7. (a) This act may be enforced only by the
158 Attorney General. If the Attorney General declines to enforce
159 a violation of Section 4, a company can bring a civil action
160 against the governmental entity to seek injunctive relief
161 only.

162 (b) If the Attorney General has reasonable cause to
163 believe that a person has engaged in or is engaging in a
164 violation of this act, he or she may investigate according to
165 the investigative authority provided in Section 8-19-9, Code
166 of Alabama 1975.

167 (c) The Attorney General may use all remedies available
168 at law or in equity to enforce this act.



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169 Section 8. This act shall become effective on the first
170 day of the third month following its passage and approval by
171 the Governor, or its otherwise becoming law, and shall apply
172 only to contracts entered into on or after October 1, 2023.



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175 Senate

176 Read for the first time and referred27-Apr-23
177 to the Senate committee on Fiscal
178 Responsibility and Economic
179 Development

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181 Read for the second time and placed11-May-23
182 on the calendar:
183 0 amendments

184
185 Read for the third time and passed18-May-23
186 as amended
187 Yeas 27
188 Nays 8
189 Abstains 0

190
191
192 Patrick Harris,
193 Secretary.
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