

**SB261 INTRODUCED**



1 83V3H2-1  
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  
7 2023 Regular Session



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SYNOPSIS:

This bill would prohibit a governmental entity from entering into a public contract for goods or services with certain companies or businesses that engage in the economic boycott of businesses in certain sectors and industries; that fail to meet or commit to meet certain environmental standards; that fail to meet or commit to meet certain corporate governance criteria; or that fail to facilitate certain activities.

This bill would prohibit any company in the state from being required to engage in economic boycotts or other actions that further social, political, or ideological interests, including economic boycott criteria.

This bill would prohibit any company in the state from being penalized for declining to engage in economic boycotts or other actions that further social, political, or ideological interests, including economic boycott criteria.

This bill would require the Attorney General to seek to prohibit the adoption of federal laws or actions that may penalize, inflict harm on, limit commercial relations with, or change or limit the activities of companies or residents of the state based



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29 on the furtherance of economic boycott criteria.

30 This bill would also authorize the Attorney  
31 General to investigate violations of and enforce this  
32 act.

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A BILL

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TO BE ENTITLED

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AN ACT

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

54 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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



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57 (1) COMPANY. A for-profit entity, organization,  
58 association, corporation, partnership, joint venture, limited  
59 partnership, limited liability partnership, or limited  
60 liability company, including a wholly owned subsidiary,  
61 majority-owned subsidiary, parent company, or affiliate of  
62 those entities or business associations. The term does not  
63 include sole proprietorships.

64 (2) ECONOMIC BOYCOTT. Without an ordinary business  
65 purpose, refusing to deal with, terminating business  
66 activities with, or otherwise taking any commercial action  
67 that is intended to penalize, inflict economic harm on, limit  
68 commercial relations with, or change or limit the activities  
69 of a company because the company, without violating  
70 controlling law, does any of the following:

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

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

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

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



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

88 f. Does business with a company described by paragraphs  
89 a. through e.

90 (3) GOVERNMENTAL ENTITY. A state agency, department,  
91 regulatory body, board, bureau, or commission, or any county,  
92 municipality, incorporated or unincorporated local government,  
93 or other political subdivision of the state.

94 (4) ORDINARY BUSINESS PURPOSE. Excludes any purpose to  
95 further social, political, or ideological interest, including,  
96 but not limited to, economic boycott criteria or other  
97 similarly oriented rating. A company may reasonably be  
98 determined to have taken an action, or considered a factor,  
99 with a purpose to further social, political, or ideological  
100 interests based upon evidence indicating such a purpose,  
101 including, but not limited to: (i) branding, advertising,  
102 statements, explanations, reports, letters to clients,  
103 communications with portfolio companies, statements of  
104 principles, or commitments, or (ii) participation in,  
105 affiliation with, or status as a signatory to any coalition,  
106 initiative, joint statement of principles, or agreement.

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

109 (1) Is between a governmental entity and a company with  
110 10 or more full-time employees.

111 (2) Will pay or may pay a company at least fifteen  
112 thousand dollars (\$15,000) over the term of the contract



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113 wholly or partly from public funds of the governmental entity;  
114 provided, however, this subdivision shall apply separately to  
115 all companies in a multiple-party contract.

116 (b) Except as provided by subsection (c), a  
117 governmental entity may not enter into a contract with a  
118 company for goods or services unless the contract contains a  
119 written verification from the company that the company does  
120 not and will not, during the term of the contract, engage in  
121 economic boycotts.

122 (c) Subsection (b) does not apply to a governmental  
123 entity that determines the requirements of subsection (b) are  
124 inconsistent with the governmental entity's constitutional or  
125 statutory duties related to the issuance, incurrence, or  
126 management of debt obligations or the deposit, custody,  
127 management, borrowing, or investment of funds, or would  
128 prevent the governmental entity from obtaining the supplies or  
129 services to be provided in an economically practicable manner.

130 (d) If a governmental entity is unable to comply with  
131 this section without significantly increasing costs or  
132 limiting the quality of options or services available, or  
133 both, the governmental entity may waive the requirements upon  
134 a finding, posted on the governmental entity's publicly  
135 available website that:

136 (1) The governmental entity has made reasonable and  
137 good faith efforts to obtain services meeting the requirements  
138 of this section and has included the requirements in the  
139 governmental entity's minimum selection criteria.

140 (2) Based on objective information available to the



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141 governmental entity, the cost appears significantly higher  
142 than the services available to similarly oriented governmental  
143 entities not subject to similar requirements, or the quality  
144 of services or options appears significantly lower than the  
145 quality of services available to similarly oriented  
146 governmental entities not subject to similar requirements, or  
147 both.

148 (3) The governmental entity determines that a waiver is  
149 clearly in the best interest of its constituents.

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

153 (b) Any party violating a commitment made under  
154 subsection (b) of Section 2 or otherwise violating subsection  
155 (a) of this section shall have caused harm to the governmental  
156 entity, including by interfering with the governmental  
157 entity's sovereign interest in administering its programs and  
158 with the governmental entity's commercial relationships.

159 Section 4. (a) No company in this state shall be  
160 required to engage in economic boycotts, to establish or  
161 implement policies, procedures, guidelines, rules, reports,  
162 products, services, notices, disclosures, or rates or pricing;  
163 to provide or submit answers to surveys or other information  
164 requests or disclosures; to invest in or divest of certain  
165 securities, stocks, bonds, bills, partnerships, or other  
166 investment arrangements; or to initiate other corporate or  
167 business practices that further social, political, or  
168 ideological interests including, but not limited to, economic



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169 boycott criteria or other similarly oriented rating.

170 (b) No company in this state shall be penalized, have  
171 economic harm inflicted on it, have commercial relations  
172 limited, or have the activities of the company changed or  
173 limited because the company will not engage in economic  
174 boycotts; will not establish or implement policies,  
175 procedures, guidelines, rules, reports, products, services,  
176 notices, disclosures, or rates or pricing; will not provide or  
177 submit answers to surveys or other information requests or  
178 disclosures; will not invest in or divest of certain  
179 securities, stocks, bonds, bills, partnerships, or other  
180 investment arrangements; or will not initiate other corporate  
181 or business practices that further social, political, or  
182 ideological interests including, but not limited to, economic  
183 boycott criteria or other similarly oriented rating.

184 Section 5. The Attorney General shall seek to prohibit  
185 the adoption of federal laws, rules, regulations, bulletins,  
186 executive orders, or other federal actions that may penalize,  
187 inflict economic harm on, limit commercial relations with, or  
188 change or limit the activities of a company in the state or a  
189 resident of the state based on the furtherance of economic  
190 boycott criteria or other similarly oriented rating.

191 Section 6. If any provision of this act or its  
192 application to any person or circumstances is held invalid,  
193 then the invalidity does not affect other provisions or  
194 applications of this act, which can be given effect without  
195 the invalid provision or application, and to this end the  
196 provisions of this act are severable.





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197           Section 7. (a) This act may be enforced by the Attorney  
198 General.

199           (b) If the Attorney General has reasonable cause to  
200 believe that a person has engaged in, is engaging in, or is  
201 about to engage in a violation of this act, he or she may  
202 investigate according to the investigative authority provided  
203 in Section 8-19-9, Code of Alabama 1975.

204           (c) The Attorney General may use all remedies available  
205 at law or in equity to enforce this act. In addition to any  
206 other remedies available at law or in equity, a company that  
207 serves as a fiduciary and that violates this act or any  
208 commitment made under this act shall be obligated to pay  
209 damages to the state in an amount equal to three times all  
210 monies paid to the company by the governmental entity or plan  
211 for the company's services.

212           Section 8. This act shall become effective on the first  
213 day of the third month following its passage and approval by  
214 the Governor, or its otherwise becoming law.