

SB261 ENROLLED



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



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1 Enrolled, An Act,

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

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

23 (1) COMPANY. A for-profit entity, organization,
24 association, corporation, partnership, joint venture, limited
25 partnership, limited liability partnership, or limited
26 liability company. The term does not include sole
27 proprietorships.

28 (2) ECONOMIC BOYCOTT. Without an ordinary business



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29 purpose, refusing to deal with, terminating business
30 activities with, or otherwise taking any commercial action
31 that is intended to penalize or inflict economic harm on a
32 company solely because the company, without violating
33 controlling law or regulation, does any of the following:

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

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

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

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

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

51 (3) GOVERNMENTAL ENTITY. A state agency, department,
52 regulatory body, board, bureau, or commission, or any county,
53 municipality, incorporated or unincorporated local government,
54 or other political subdivision of the state.

55 (4) ORDINARY BUSINESS PURPOSE. Includes a purpose that
56 is related to business operations and excludes a purpose that



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57 is solely related to furthering social, political, or
58 ideological interests.

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

61 (1) Is between a governmental entity and a company with
62 10 or more full-time employees.

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

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

75 (c) Subsection (b) does not apply to a contract related
76 to the issuance, incurrence, or management of debt
77 obligations, to the deposit, custody, management, borrowing,
78 or investment of funds, or to the procurement of insurance or
79 other financial products, or financial advisory services, or a
80 contract that would prevent the governmental entity from
81 obtaining the supplies or services to be provided in an
82 economically practicable manner.

83 (d) If a governmental entity is unable to comply with
84 this section without significantly increasing costs or



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85 limiting the quality of options or services available, or
86 both, the governmental entity may waive the requirements upon
87 a finding, posted on the governmental entity's publicly
88 available website that:

89 (1) The governmental entity has made reasonable and
90 good faith efforts to obtain services meeting the requirements
91 of this section and has included the requirements in the
92 governmental entity's minimum selection criteria.

93 (2) Based on objective information available to the
94 governmental entity, the cost appears significantly higher
95 than the services available to similarly oriented governmental
96 entities not subject to similar requirements, or the quality
97 of services or options appears significantly lower than the
98 quality of services available to similarly oriented
99 governmental entities not subject to similar requirements, or
100 both.

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

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

106 (b) Any party violating a commitment made under
107 subsection (b) of Section 2 or otherwise violating subsection
108 (a) of this section shall have caused harm to the governmental
109 entity, including by interfering with the governmental
110 entity's sovereign interest in administering its programs and
111 with the governmental entity's commercial relationships.

112 Section 4. (a) No company in this state shall be



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113 required by a governmental entity to engage in economic
114 boycotts, to establish or implement policies, procedures,
115 guidelines, rules, reports, products, services, notices,
116 disclosures, or rates or pricing; to provide or submit answers
117 to surveys or other information requests or disclosures; to
118 invest in or divest of certain securities, stocks, bonds,
119 bills, partnerships, or other investment arrangements; or to
120 initiate other corporate or business practices that further
121 social, political, or ideological interests including, but not
122 limited to, economic boycott criteria or other similarly
123 oriented rating.

124 (b) No company in this state shall be penalized, have
125 economic harm inflicted on it, have commercial relations
126 limited, or have the activities of the company changed or
127 limited by a governmental entity because the company will not
128 engage in economic boycotts; will not establish or implement
129 policies, procedures, guidelines, rules, reports, products,
130 services, notices, disclosures, or rates or pricing; will not
131 provide or submit answers to surveys or other information
132 requests or disclosures; will not invest in or divest of
133 certain securities, stocks, bonds, bills, partnerships, or
134 other investment arrangements; or will not initiate other
135 corporate or business practices that further social,
136 political, or ideological interests including, but not limited
137 to, economic boycott criteria or other similarly oriented
138 rating.

139 Section 5. The Attorney General shall seek to prohibit
140 the adoption of federal laws, rules, regulations, bulletins,



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141 executive orders, or other federal actions that may penalize,
142 inflict economic harm on, limit commercial relations with, or
143 change or limit the activities of a company in the state or a
144 resident of the state based on the furtherance of economic
145 boycott criteria or other similarly oriented rating.

146 Section 6. If any provision of this act or its
147 application to any person or circumstances is held invalid,
148 then the invalidity does not affect other provisions or
149 applications of this act, which can be given effect without
150 the invalid provision or application, and to this end the
151 provisions of this act are severable.

152 Section 7. (a) This act may be enforced only by the
153 Attorney General. If the Attorney General declines to enforce
154 a violation of Section 4, a company can bring a civil action
155 against the governmental entity to seek injunctive relief
156 only.

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

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

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



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President and Presiding Officer of the Senate

Speaker of the House of Representatives

SB261
Senate 18-May-23
I hereby certify that the within Act originated in and passed
the Senate, as amended.

Patrick Harris,
Secretary.

House of Representatives
Passed: 31-May-23

By: Senator Roberts