

# SENATE BILL NO. 980

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BLACK.

4264S.01I

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapters 34 and 431, RSMo, by adding thereto two new sections relating to prohibited business practices of entities doing business in this state.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Chapters 34 and 431, RSMo, are amended by  
2 adding thereto two new sections, to be known as sections 34.650  
3 and 431.205, to read as follows:

34.650. 1. A public entity shall not enter into a  
2 contract with a company to acquire or dispose of services,  
3 supplies, information technology, or construction unless the  
4 contract includes a written certification that the company  
5 is not currently engaged in and shall not, for the duration  
6 of the contract, engage in any kind of economic boycott.  
7 This section shall not apply to contracts with a total  
8 potential value of less than one hundred thousand dollars or  
9 to contractors with fewer than ten employees.

10 2. As used in this section, the following terms and  
11 phrases mean:

12 (1) "Company", any for-profit or not-for-profit  
13 organization, association, corporation, partnership, joint  
14 venture, limited partnership, limited liability partnership,  
15 limited liability company, or other entity or business  
16 association, including all wholly owned subsidiaries,  
17 majority-owned subsidiaries, parent companies, or affiliates  
18 of those entities or business associations;

19           (2) "Economic boycott", refusing to deal with,  
20 terminating business activities with, or otherwise taking  
21 any commercial action that is intended to penalize, inflict  
22 economic harm on, limit commercial relations with, or change  
23 or limit the activities of a company because the company,  
24 without violating controlling federal or state law:

25           (a) Engages in the exploration, production,  
26 utilization, transportation, sale, or manufacturing of,  
27 fossil fuel-based energy, timber, mining, or agriculture;

28           (b) Engages in, facilitates, or supports the  
29 manufacture, import, distribution, marketing or advertising,  
30 sale, or lawful use of firearms, ammunition or component  
31 parts and accessories of firearms or ammunition;

32           (c) Does not meet, is not expected to meet, or does  
33 not commit to meet environmental standards or disclosure  
34 criteria, in particular to eliminate, reduce, offset, or  
35 disclose greenhouse gas emissions;

36           (d) Does not meet, is not expected to meet, or does  
37 not commit to meet any specified criteria with respect to  
38 the compensation and composition of the company's corporate  
39 board and the employees of the company;

40           (e) Does not facilitate, is not expected to  
41 facilitate, or does not commit to facilitate access to  
42 abortion, sex or gender change, or transgender surgery or  
43 medical treatments; or

44           (f) Does business with a company that engages in or  
45 does not meet one or more of the criteria listed in  
46 paragraphs (a) to (e) of this subdivision.

47           (3) "Public entity", the state of Missouri or any  
48 political subdivision thereof, including all boards,  
49 commissions, agencies, institutions, authorities, and bodies

50 politic and corporate of the state created by or in  
51 accordance with state law or regulations.

52 3. Any contract that fails to comply with the  
53 provisions of this section shall be void against public  
54 policy.

55 4. (1) This section, or any contract subject to this  
56 section, may be enforced by the attorney general.

57 (2) If the attorney general has reasonable cause to  
58 believe that a person has engaged in, is engaging in, or is  
59 about to engage in, a violation of this section, he or she  
60 may:

61 (a) Require such person to file on such forms as the  
62 attorney general prescribes a statement or report in  
63 writing, under oath, as to all the facts and circumstances  
64 concerning the violation, and such other data and  
65 information as deemed necessary;

66 (b) Examine under oath any person in connection with  
67 the violation;

68 (c) Examine any record, book, document, account or  
69 paper as deemed necessary; and

70 (d) Pursuant to an order of a circuit court, impound  
71 any record, book, document, account, paper, or sample or  
72 material relating to such practice and retain the same in  
73 his or her possession until the completion of all  
74 proceedings undertaken under this section or in the courts.

75 (3) In addition to any other remedies available at law  
76 or equity, a company that enters into a contract with a  
77 public entity that is subject to this section and engages in  
78 any economic boycott during the term of the contract shall  
79 be obligated to pay damages to the state in an amount equal  
80 to three times all monies paid to the company under the  
81 contract.

82           5. (1) Any person injured as a result of any  
83 violation or threatened violation of this section shall have  
84 a cause of action in Cole County circuit court and shall be  
85 entitled to injunctive relief against any and all violators  
86 or persons threatening violations.

87           (2) Any person injured as a result of any violation or  
88 threatened violation of this section may recover any and all  
89 damages of any character resulting from such violation or  
90 threatened violation including costs and reasonable attorney  
91 fees. Such remedies shall be independent of and in addition  
92 to the other penalties and remedies prescribed under this  
93 section.

94           6. The commissioner of administration may promulgate  
95 regulations to implement the provisions of this section, so  
96 long as they are consistent with this section and do not  
97 create any exceptions. Any rule or portion of a rule, as  
98 that term is defined in section 536.010, that is created  
99 under the authority of this section shall become effective  
100 only if it complies with and is subject to all of the  
101 provisions of chapter 536 and, if applicable, section  
102 536.028. This section and chapter 536 are nonseverable and  
103 if any of the powers vested with the general assembly  
104 pursuant to chapter 536 to review, to delay the effective  
105 date, or to disapprove and annul a rule are subsequently  
106 held unconstitutional, then the grant of rulemaking  
107 authority and any rule proposed or adopted after August 28,  
108 2024, shall be invalid and void.

          431.205. 1. It shall be an unlawful business practice  
2 for any private business, in entering into, maintaining, or  
3 seeking to establish contractual relations with any other  
4 private business to:

5           (1) Fail or refuse to enter into a contract, maintain  
6 a contract, or entertain bids or offers to contract, based,  
7 in whole or in part, on the fact that the other private  
8 business:

9           (a) Does not provide information or data, or does not  
10 provide sufficient information or data, about the extent to  
11 which its workforce or ownership exhibit particular DEI  
12 classifications; or

13           (b) Fails to satisfy any rule, standard, policy, goal,  
14 aspiration, or preference, whether express or implied,  
15 regarding the extent to which its workforce, managers,  
16 executives, or ownership exhibit or claim to exhibit  
17 particular DEI classifications;

18           (2) (a) Consider:

19           a. Whether the owners, controllers, officers, or  
20 employees of the other private business exhibit or claim to  
21 exhibit particular DEI classifications; or

22           b. Whether the other private business has adopted or  
23 endorsed any particular policy or practice that promotes the  
24 hiring and promotion of employees based on the fact that  
25 those employees or prospective employees exhibit or claim to  
26 exhibit particular DEI classifications;

27           (b) The act of considering one of the factors  
28 described in paragraph (a) of this subdivision shall be an  
29 unlawful business practice pursuant to this section if it  
30 meets any of the following:

31           a. If it is only one criterion among many other  
32 criteria;

33           b. If it is treated as a dispositive criterion in  
34 making a decision; and

35           c. If it is part of an express or implied scoring or  
36 grading system;

37           (3) Require or suggest that individuals exhibiting  
38 particular DEI classifications, because of their DEI  
39 classifications, work on the contract or have particular  
40 roles in performing the contract, or require or suggest that  
41 a particular quota or percentage of individuals working on  
42 the performance of a contract exhibit one or more particular  
43 DEI classifications;

44           (4) Require or suggest that any other contracting  
45 party provide data regarding the extent to which its  
46 workforce, managers, executives, or ownership exhibit or  
47 claim to exhibit particular DEI classifications.

48           2. For purposes of this section, the following terms  
49 mean:

50           (1) "Private business", any individual, partnership,  
51 company, or corporation engaging in commerce, manufacturing,  
52 or services;

53           (2) "DEI classifications", race, ethnicity,  
54 nationality, socioeconomic status, sex, sexual orientation,  
55 gender, or gender identity.

56           3. The act of requesting information from a current or  
57 prospective contracting party that is related to DEI  
58 classifications is not alone sufficient to establish a  
59 violation of this section, but may provide circumstantial  
60 evidence of a violation.

61           4. This section shall apply:

62           (1) To any act relating to a contract that is  
63 solicited, bid, negotiated, or to be substantially performed  
64 in Missouri; or

65           (2) To any party to a contract, solicitation, or bid  
66 that is incorporated under the laws of Missouri or that has  
67 its principal place of business in Missouri.

68           5. This section shall not apply:

69           (1) To the decision to employ an individual or to  
70 discharge an individual from employment;

71           (2) To any depository institution, trust company,  
72 licensee, or person subject to the jurisdiction of the  
73 United States Securities Exchange Commission, Federal  
74 Reserve, Office of the Comptroller of the Currency, or  
75 Federal Deposit Insurance Corporation, or the Missouri  
76 securities division within secretary of state;

77           (3) To any action of a private business necessary to  
78 comply with an order or judgment from any federal court  
79 enforcing any provision of federal law; and

80           (4) To any action of a private business necessary to  
81 comply with the requirements of federal law pertaining to  
82 businesses that:

83           (a) Enter into contracts with the federal government;

84 or

85           (b) Enter into other public contracts.

86           6. (1) A civil action for violation of this section  
87 may be brought in any circuit court in any county in which  
88 the unlawful business practice is alleged to have been  
89 committed.

90           (2) Any action brought in court pursuant to this  
91 section shall be filed within two years after the alleged  
92 unlawful business practice occurred or its reasonable  
93 discovery by the alleged injured party.

94           (3) The court may grant as relief, as it deems  
95 appropriate, any permanent or temporary injunction,  
96 temporary restraining order, or other order, and may award  
97 to the plaintiff actual and punitive damages, and may award  
98 court costs and reasonable attorney fees to the prevailing  
99 party, other than a state agency or commission or a local  
100 commission. A prevailing respondent may be awarded

101 reasonable attorney fees only upon a showing that the case  
102 was without foundation.

103 (4) Any party to any action initiated under this  
104 section has a right to a trial by jury.

105 (5) In any civil action brought pursuant to this  
106 section, the plaintiff shall bear the burden of proving the  
107 alleged unlawful practice was the direct proximate cause of  
108 the claimed damages.

109 7. Whenever the attorney general has a reasonable  
110 cause to believe that any private business or group of  
111 private businesses is engaged in an unlawful business  
112 practice prohibited by this section, any or all of the  
113 following actions may be taken:

114 (1) A civil investigative demand may be issued to any  
115 person who may have relevant information. Any civil  
116 investigative demand shall be issued in the same manner  
117 required by section 407.040 and shall be subject to the same  
118 requirements and restrictions as are required by sections  
119 407.005 through 407.315, to the extent such requirements and  
120 restrictions are not inconsistent with this section;

121 (2) A civil action may be brought in the circuit court  
122 of Cole County by filing a complaint setting forth the facts  
123 and requesting any one or more of the following remedies:

124 (a) Preventive relief, including, but not limited to,  
125 an application for a permanent or temporary injunction,  
126 restraining order, or other order against the person or  
127 persons responsible for such unlawful business practice;

128 (b) Civil penalties in the amount of ten thousand  
129 dollars per violation; and

130 (c) The award of the costs of investigation.

✓