**South Carolina General Assembly**

125th Session, 2023-2024

**H. 3564**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Gilliam, Burns and Leber

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Introduced in the House on January 10, 2023

Currently residing in the House

Summary: Eliminate Economic Boycotts Act

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

12/15/2022 House Prefiled

12/15/2022 House Referred to Committee on **Labor, Commerce and Industry**

1/10/2023 House Introduced and read first time ([House Journal‑page 211](h:\hj\20230110.docx))

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3/28/2023 House Member(s) request name added as sponsor: Leber

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**VERSIONS OF THIS BILL**

[12/15/2022](https://www.scstatehouse.gov/sess125_2023-2024/prever/3564_20221215.docx)

A bill

to amend the South Carolina Code of Laws BY enactING the “Eliminate Economic Boycotts Act”; and by adding Section 11‑1‑130 so as to require companies that contract with the state to certify that they do not boycott or discriminate against certain companies.

Whereas, numerous essential American industries—including fossil fuel production, agriculture, timber production, and firearms—are being targeted for boycotting, divesting, and sanctioning by large corporations and public and private institutional investors; and

Whereas, the goal of these colluding parties is to starve targeted legal industries of capital, restrict their productivity, and redirect that capital to favored industries; and

Whereas, these parties are working in concert with many state and federal lawmakers and regulators, as evidenced most recently by new climate disclosure rules from the Securities and Exchange Commission; and

Whereas, restricting the supply of energy and other essential commodities, without effective substitutes for those commodities, only serves to raise prices on consumers, profoundly impacting the poorest among us; and

Whereas, denying financing to American companies, who are among the most socially and environmentally responsible companies in the world, only serves to support hostile nations and less responsible producers; and

Whereas, banks and insurance companies are increasingly denying financing to creditworthy companies to market their environmental credentials to the detriment of consumers, shareholders, and society; and

Whereas, institutional investors are divesting from entire industries and pressuring corporations to commit to environmental goals, such as reducing greenhouse gas emissions to zero by 2050, to burnish their environmental credentials or promote their own environmental, social, and governance funds at the expense of investor returns; and

Whereas, large investment firms, through their proxy votes on shareholder resolutions and board elections, are colluding to force companies to direct money, time, and attention away from their core responsibility of increasing shareholder returns, driving capital allocation decisions and political change outside the democratic process; and

Whereas, corporations are boycotting and sanctioning essential legal industries, such as fossil fuel and agriculture producers, by denying them capital, refusing to provide them with products or services or imposing undue burdens on them; and

Whereas, the collusion of corporations, and institutions to boycott, divest from, or sanction any industry may violate existing antitrust and fiduciary duty laws and harms consumers, shareholders, and this State; and

Whereas, states, when financially prudent, should avoid doing business with companies that engage in such potentially illegal conduct, and threaten harm to this State, its businesses, and citizens. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. This act may be cited as the “Eliminate Economic Boycotts Act”.

SECTION 2. Chapter 1, Title 11 of the S.C. Code is amended by adding:

Section 11‑1‑130. (A) As used in this section:

(1) “Company” means a for‑profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority‑owned subsidiary, parent company, or affiliate of those entities or business associations. For the purposes of this section, “company” does not include sole proprietorships.

(2) “Governmental entity” means a state agency or political subdivision of this State.

(3) “Ordinary business purpose” does not include any purpose to further social, political, or ideological interests. A company may reasonably be determined to have taken an action, or considered a factor, with a purpose to further social, political, or ideological interests based upon evidence indicating such a purpose including, but not limited to, branding, advertising, statements, explanations, reports, letters to clients, communications with portfolio companies, statements of principles, or commitments, or participation in, affiliation with, or status as a signatory to, any coalition, initiative, joint statement of principles, or agreement.

(4) “Economic boycott” means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any commercial action that is intended to penalize, inflict economic harm on, limit commercial relations with, or change or limit the activities of a company because the company, without violating controlling federal or state law:

(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, distribution, sale, or use of firearms;

(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 board, or employment, composition, compensation, or disclosure criteria that incorporates characteristics protected in this State pursuant to state law;

(e) does not facilitate, is not expected to facilitate, or does not commit to facilitate access to abortion, sex or gender change, or transgender surgery; or

(f) does business with a company described by subitems (a)‑(e).

(B)(1) This section applies only to a contract that:

(a) is between a governmental entity and a company with ten or more full‑time employees; and

(b) will pay a company fifty thousand dollars or more over the term of the contract that is to be paid wholly or partly from public funds of the governmental entity; provided, however, the provisions of this subsection apply separately to all companies in a multiple party contract.

(2) Except as provided by item (3), 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 it:

(a) does not engage in economic boycotts or use any environmental, social, and governance (ESG) standards; and

(b) will not engage in economic boycotts during the term of the contract.

(3) Item (2) does not apply to a governmental entity that determines the requirements of item (2):

(a) are inconsistent with the governmental entity's constitutional or statutory duties related to the issuance, incurrence, or management of debt obligations or the deposit, custody, management, borrowing, or investment of funds; or

(b) prevent the governmental entity from obtaining the supplies or services to be provided in an economically practicable manner.

(C)(1) A federal or state entity may not take action to penalize or threaten to penalize any financial institution for compliance with this section.

(2) Any party taking such action must have caused harm to this State, including by interfering with the state’s sovereign interests in administering its programs and with the state’s commercial relationships with its financial institutions.

(D)(1) This section, or any contract subject to this section, may be enforced by the Attorney General.

(2) If the Attorney General has reasonable cause to believe that a person has engaged in, is engaging in, or is about to engage in, a violation of this section, he may:

(a) require such person to file on such forms as he prescribes a statement or report in writing, under oath, as to all the facts and circumstances concerning the violation, and such other data and information as he considers necessary;

(b) examine under oath any person in connection with the violation;

(c) examine any record, book, document, account, or paper as he considers necessary; and

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

SECTION 3. This act takes effect upon approval by the Governor.

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