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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 1902

02/16/2023 Authored by Hudson and Niska
The bill was read for the first time and referred to the Committee on State and Local Government Finance and Policy

1.1 A bill for an act
1.2 relating to state government; prohibiting the State Board of Investment from
1.3 investing in companies that boycott mining, energy production, production
1.4 agriculture, or commercial lumber production; requiring the State Board of
1.5 Investment to divest from companies that boycott mining, energy production,
1.6 production agriculture, or commercial lumber production; prohibiting the state of
1.7 Minnesota or any state agency from entering into contracts with companies that
1.8 boycott mining, energy production, production agriculture, or commercial lumber
1.9 production; prohibiting banks, credit unions, financial institutions, payment
1.10 processors, savings and loan associations, and trust companies from discriminating
1.11 against people based on certain subjective criteria; providing for civil penalties;
1.12 requiring a report; proposing coding for new law in Minnesota Statutes, chapters
1.13 11A; 16; 46.

1.14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.15 Section 1. TITLE.

1.16 This act shall be cited as "The Stop Environmental Social Governance (ESG) and Social
1.17 Credit Score Discrimination Act."

1.18 Sec. 2. [11A.246] PROHIBITING INVESTMENT IN COMPANIES THAT
1.19 BOYCOTT MINING, ENERGY PRODUCTION, PRODUCTION AGRICULTURE,
1.20 OR COMMERCIAL LUMBER PRODUCTION.

1.21 Subdivision 1. Definitions. (a) For the purposes of this section, the following terms have
1.22 the meanings given.

1.23 (b) "Boycott" means refusing to deal with, terminating business activities with, or
1.24 otherwise taking any action that is intended to penalize, inflict economic harm on, or limit
1.25 commercial relations with a company because the company does not commit or pledge to
1.26 meet environmental standards beyond applicable federal and state law or because the

2.1 company conducts business with another company that does not commit or pledge to meet
2.2 environmental standards beyond applicable federal and state law.

2.3 (c) "Direct holdings" means all publicly traded debt and equity securities of a company
2.4 that are held directly by the State Board of Investment or held in an account or fund in which
2.5 the State Board of Investment owns all shares or interests.

2.6 (d) "Director" means the executive director of the State Board of Investment.

2.7 (e) "Listed company" means that the director has determined that the company boycotts
2.8 mining, energy production, production agriculture, or commercial lumber production.

2.9 (f) "State board" means the State Board of Investment.

2.10 Subd. 2. **Combined investment fund.** The requirements of this section apply only to
2.11 assets in the Minnesota combined investment funds established under section 11A.14 and
2.12 do not apply to any of the other funds managed and administered by the state board.

2.13 Subd. 3. **No new investment.** The state board shall not invest in stocks, debt, or other
2.14 securities of any listed company.

2.15 Subd. 4. **Divestment.** The state board shall, in accordance with prudent investment
2.16 standards, divest from any stocks, debt, or other securities of any listed company that are
2.17 direct holdings of the state board. The board must complete divestment pursuant to this
2.18 subdivision by July 1, 2028.

2.19 Subd. 5. **Review process.** A company that the director determines is a listed company
2.20 may request a review of that determination by submitting to the director a request for review
2.21 along with evidence showing that the company does not boycott mining, energy production,
2.22 production agriculture, or commercial lumber production. Upon receipt by the director of
2.23 sufficient evidence showing that such a company does not boycott mining, energy production,
2.24 production agriculture, or commercial lumber production, the company is no longer
2.25 considered a listed company for purposes of the requirements in this section.

2.26 Subd. 6. **Reporting.** By January 15 of each calendar year, the state board shall submit
2.27 a report to the chairs and ranking minority members of the legislative committees and
2.28 divisions with jurisdiction over the state board. The report must be based on the state board's
2.29 holdings and information available as of June 30 of the preceding year. The report must
2.30 include:

2.31 (1) the name of each listed company;

3.1 (2) the name of each company that the director determines meets the definition of a
 3.2 listed company in which the state board is invested and the value of those investments; and

3.3 (3) the name of each listed company from which the state board has divested under this
 3.4 section and the value of the corresponding divested securities.

3.5 Subd. 7. **Other legal obligations.** The state board is exempt from any statutory or
 3.6 common law obligations that conflict with actions taken in compliance with this section,
 3.7 including all good faith determinations under subdivision 6, and determinations regarding
 3.8 the choice of asset managers, investment funds, or investments.

3.9 **EFFECTIVE DATE.** This section is effective July 1, 2023.

3.10 Sec. 3. **[16.0531] PROHIBITING STATE CONTRACTS WITH COMPANIES**
 3.11 **BOYCOTTING MINING, ENERGY PRODUCTION, PRODUCTION**
 3.12 **AGRICULTURE, OR COMMERCIAL LUMBER PRODUCTION.**

3.13 Subdivision 1. **Definition.** For the purposes of this chapter, "boycott" means refusing
 3.14 to deal with, terminating business activities with, or otherwise taking any action that is
 3.15 intended to penalize, inflict economic harm on, or limit commercial relations with a company
 3.16 because the company does not commit or pledge to meet environmental standards beyond
 3.17 applicable federal and state law or because the company conducts business with another
 3.18 company that does not commit or pledge to meet environmental standards beyond applicable
 3.19 federal and state law.

3.20 Subd. 2. **Boycotting prohibited.** (a) In a state contract for goods or services, a vendor
 3.21 must certify that: (1) the vendor does not boycott mining, energy production, production
 3.22 agriculture, or commercial lumber production companies; and (2) the vendor will not boycott
 3.23 mining, energy production, production agriculture, or commercial lumber production
 3.24 companies. This section applies to all state agencies, including the Minnesota State Colleges
 3.25 and Universities and to contracts entered into by entities in the legislative branch.

3.26 (b) The commissioners of administration and management and budget shall exercise
 3.27 appropriate due diligence in selecting vendors for goods or services to avoid contracting
 3.28 with companies that boycott mining, energy production, production agriculture, or
 3.29 commercial lumber production. The commissioners shall implement measures designed to
 3.30 meet the objective of this section and take the steps necessary to confirm that vendors have
 3.31 satisfied the requirements of this section.

3.32 Subd. 3. **Civil penalty.** If a court finds that a vendor boycotted mining, energy production,
 3.33 production agriculture, or commercial lumber production companies during the duration of

4.1 a contract with the state for goods or services, the court must assess a civil penalty of \$10,000
4.2 on the vendor.

4.3 **EFFECTIVE DATE.** This section is effective July 1, 2023, and applies to contracts
4.4 entered into on or after that date.

4.5 Sec. 4. **[46.36] DISCRIMINATION PROHIBITED.**

4.6 Subdivision 1. **Discrimination prohibited.** (a) A bank, credit union, financial institution,
4.7 payment processor, savings and loan association, or trust company shall not refuse to provide
4.8 financial services of any kind to, refrain from continuing to provide existing financial
4.9 services to, terminate existing financial services with, or otherwise discriminate in the
4.10 provision of financial services against a person based on the following:

4.11 (1) the person's political affiliation; or

4.12 (2) any value-based or impact-based criteria, including but not limited to social credit
4.13 scores or environmental, social, and governance credit factors.

4.14 (b) Notwithstanding any other provision to the contrary, a financial institution may offer
4.15 investments, products, or services to a potential customer or investor based on subjective
4.16 standards only if the standards are fully disclosed and explained to the potential customer
4.17 or investor before entering into a contract for the investment, product, or service. The
4.18 financial institution shall obtain a signature from the potential customer or investor attesting
4.19 that the financial institution has disclosed and explained the subjective standards being used
4.20 by the financial institution.

4.21 (c) The provisions of this section must not be construed in any manner that would
4.22 interfere with a financial institution's ability to discontinue or refuse to conduct business
4.23 with a person when the action is necessary for the physical safety of the financial institution's
4.24 employees.

4.25 (d) The legislature declares that the practice of discriminating against a person or entity
4.26 in this state based upon the person's or entity's social credit score or any other valuation
4.27 based on environmental, social, and governmental credit factors is a matter of statewide
4.28 concern and that discrimination based on such scores and metrics is not only a threat to the
4.29 rights and proper privileges of this state's inhabitants but menaces the institutions and
4.30 foundation of a free democratic state and threatens the peace, order, health, safety, and
4.31 general welfare of this state and its inhabitants.

4.32 Subd. 2. **Civil remedy.** A person who is refused services by a bank, credit union, financial
4.33 institution, payment processor, savings and loan association, or trust company as described

5.1 in subdivision 1 may bring an action for injunctive relief, a civil penalty of \$10,000, and
5.2 actual, incidental, and consequential damages sustained by the person as a result of the
5.3 refusal. If a court finds a violation of subdivision 1, the court must assess a civil penalty of
5.4 \$10,000 on the bank, credit union, financial institution, payment processor, savings and
5.5 loan association, or trust company, in addition to an award of damages. A plaintiff or class
5.6 successful in a legal or equitable action under this section is entitled to the costs of the
5.7 action, plus reasonable attorney fees.

5.8 Sec. 5. **SEVERABILITY.**

5.9 The provisions of this act are severable. If any provision of this act or its application is
5.10 held invalid, that invalidity does not affect other provisions or applications that can be given
5.11 effect without the invalid provision or application.