

SENATE BILL NO. 338

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

1057S.01H

KRISTINA MARTIN, Secretary

AN ACT

To amend chapters 30 and 34, RSMo, by adding thereto two new sections relating to public contracts, with a severability clause.

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

Section A. Chapters 30 and 34, RSMo, are amended by adding
2 thereto two new sections, to be known as sections 30.620 and
3 34.715, to read as follows:

**30.620. 1. For the purposes of this section, the
2 following terms mean:**

3 (1) "Banking contract", a contract entered into by the
4 state treasurer and a financial institution to provide
5 banking goods or services;

6 (2) "Boycott", performing any of the following acts
7 without a reasonable business purpose:

8 (a) Refusing to deal with a company;

9 (b) Terminating business activities with a company; or

10 (c) Any other action that is intended to penalize,
11 inflict economic harm on, or limit commercial relations with
12 a company because the company:

13 a. Engages in the exploration, production,
14 utilization, transportation, sale, or manufacturing of
15 fossil fuel-based energy, timber, mining, or agriculture;

16 b. Engages in the exploration, production,
17 utilization, transportation, sale, or manufacturing of
18 fossil fuel-based energy and does not commit or pledge to

19 meet environmental standards beyond applicable federal and
20 state law; or

21 c. Does business with a company that engages in the
22 exploration, production, utilization, transportation, sale,
23 or manufacturing of fossil fuel-based energy;

24 (3) "Company", any sole proprietorship, organization,
25 association, corporation, partnership, joint venture,
26 limited partnership, limited liability partnership, limited
27 liability company, or other entity or business association,
28 including all wholly owned subsidiaries, majority-owned
29 subsidiaries, parent companies, or affiliates of those
30 entities or business associations, that exist for the
31 purpose of making profit;

32 (4) "Financial institution", a bank, national banking
33 association, non-bank financial institution, a bank and
34 trust company, a trust company, a savings and loan
35 association, a building and loan association, a mutual
36 savings bank, a credit union, or a savings bank;

37 (5) "Reasonable business purpose", includes any
38 purpose directly related to:

39 (a) Promoting the financial success or stability of a
40 financial institution;

41 (b) Mitigating risk to a financial institution;

42 (c) Complying with legal or regulatory requirements; or

43 (d) Limiting liability of a financial institution;

44 (6) "Restricted financial institution", a financial
45 institution included in the most recently updated restricted
46 financial institution list;

47 (7) "Restricted financial institution list", the list
48 of financial institutions prepared, maintained, and
49 published pursuant to this section.

50 2. (1) The state treasurer shall create and maintain
51 a restricted financial institution list containing the names
52 of financial institutions that are engaged in a boycott.
53 The list shall be used by the state treasurer for the
54 purpose of determining which financial institutions to enter
55 into a banking contract with.

56 (2) The state treasurer shall publicly post the
57 restricted financial institution list on the state
58 treasurer's website and submit a copy of the list to the
59 governor, the president pro tempore of the senate, and the
60 speaker of the house of representatives.

61 (3) A citation to this section and a brief summary of
62 the purpose of the list shall appear at the top of the list,
63 including a statement that inclusion on the list is not an
64 indication of unsafe or unsound operating conditions of any
65 financial institution nor any risk to consumer deposits.

66 (4) The state treasurer shall update the restricted
67 financial institution list annually, or more often if the
68 state treasurer considers it necessary.

69 3. (1) At least forty-five days prior to including a
70 financial institution on the restricted financial
71 institution list, the state treasurer shall send a written
72 notice to the institution containing the following
73 information:

74 (a) That the state treasurer has determined that the
75 financial institution is a restricted financial institution;

76 (b) That the financial institution shall be placed on
77 the restricted financial institution list in forty-five days
78 unless, within thirty days following the receipt of the
79 written notice, the financial institution demonstrates that
80 it is not engaged in a boycott;

81 (c) That the restricted financial institution list is
82 published on the state treasurer's website; and

83 (d) That the financial institution's placement on the
84 list may render the financial institution ineligible to
85 enter into, or remain in, banking contracts with the state.

86 (2) Following a financial institution's inclusion on
87 the restricted financial institution list, the state
88 treasurer shall remove the financial institution from the
89 list if the financial institution demonstrates that it has
90 ceased all boycotts.

91 4. (1) In determining whether to include a financial
92 institution on the restricted financial institution list,
93 the state treasurer shall consider and may rely upon the
94 following information:

95 (a) A financial institution's certification that it is
96 not engaged in a boycott;

97 (b) Publicly available statements or information made
98 by the financial institution, including statements by a
99 member of a financial institution's governing body, an
100 executive director of a financial institution, or any other
101 officer or employee of the financial institution with the
102 authority to issue policy statements on behalf of the
103 financial institution; or

104 (c) Information published by a state or federal
105 government entity.

106 (2) In determining whether to include a financial
107 institution on the restricted financial institution list,
108 the state treasurer may not rely solely on the following
109 information:

110 (a) Statements or complaints by a company; or

111 (b) Media reports of a financial institution's boycott.

112 (3) A financial institution may not be compelled to
113 produce or disclose any data or information deemed
114 confidential, privileged, or otherwise protected from
115 disclosure by state or federal law.

116 5. (1) In selecting a financial institution to enter
117 into a banking contract, the state treasurer may disqualify
118 restricted financial institutions from the competitive
119 bidding process or from any other official selection process.

120 (2) The state treasurer may refuse to enter into a
121 banking contract or an extension of any banking contract
122 with a restricted financial institution based on its
123 restricted financial institution status.

124 (3) The state treasurer may require, as a term of any
125 banking contract, an agreement by the financial institution
126 not to engage in a boycott for the duration of the contract.

127 6. With respect to actions taken in compliance with
128 this section, a public body, public official, public
129 employee, or member or employee of a financial institution
130 shall be immune from any liability.

131 7. No party may take action to penalize or threaten to
132 penalize any financial institution for compliance with this
133 section. Any party taking such action shall have caused
134 harm to this state, including by interfering with the
135 state's sovereign interests in administering its programs
136 and with the state's commercial relationships with financial
137 institutions.

138 8. Any contract subject to this section may be
139 enforced by the attorney general. The attorney general may
140 investigate possible violations of this section in the same
141 manner as investigative authority is exercised pursuant to
142 section 407.040.

143 9. In addition to any other remedies available at law
144 or equity, a company that provides false information to the
145 state treasurer and later receives state monies, or violates
146 a contractual agreement with the state not to engage in a
147 boycott, shall be obligated to pay a civil penalty to the
148 state in an amount equal to three times all monies paid to
149 the company by the state for the company's goods or services.

 34.715. 1. The state, any agency of the state, any
2 political subdivision of the state, or any instrumentality
3 thereof, when engaged in procuring or letting contracts for
4 any purpose shall ensure that bidders, offerors,
5 contractors, or subcontractors are not given preferential
6 treatment or discriminated against based on an
7 environmental, social, and governance score.

 2. For purposes of this section, the term
8 "environmental, social, and governance score" means an
9 evaluation conducted by an entity that takes into
10 consideration one or more of the following:
11

 (1) Whether the bidder, offeror, contractor, or
12 subcontractor engages in the exploration, production,
13 utilization, transportation, sale, or manufacturing of
14 fossil fuel-based energy and does not commit or pledge to
15 meet environmental standards beyond applicable state and
16 federal law;
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 (2) Whether the bidder, offeror, contractor, or
18 subcontractor engages in production agriculture;
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 (3) Whether the bidder, offeror, contractor, or
20 subcontractor spends funds on social welfare;
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 (4) The wages and working hours of the employees of
22 the bidder, offeror, contractor, or subcontractor; and
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 (5) The environmental policies of the bidder, offeror,
24 contractor, or subcontractor.
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Section B. If any provision of section A of this act
2 or the application thereof to anyone or to any circumstance
3 is held invalid, the remainder of those sections and the
4 application of such provisions to others or other
5 circumstances shall not be affected thereby.

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