

SENATE BILL NO. 1142

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR MOON.

4373S.01H

KRISTINA MARTIN, Secretary

AN ACT

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

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 treasurer and a financial institution to provide banking
5 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 treasurer shall create and maintain a
51 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 treasurer for the purpose of
54 determining which financial institutions to enter into a
55 banking contract with.

56 (2) The treasurer shall publicly post the restricted
57 financial institution list on the treasurer's website and
58 submit a copy of the list to the governor, the president pro
59 tempore of the senate, and the speaker of the house of
60 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 treasurer shall update the restricted
67 financial institution list annually, or more often if the
68 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 treasurer shall send a written notice
72 to the institution containing the following information:

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

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

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

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

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

90 4. (1) In determining whether to include a financial
91 institution on the restricted financial institution list,
92 the treasurer shall consider and may rely upon the following
93 information:

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

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

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

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

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

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

111 (3) A financial institution may not be compelled to
112 produce or disclose any data or information deemed

113 confidential, privileged, or otherwise protected from
114 disclosure by state or federal law.

115 5. (1) In selecting a financial institution to enter
116 into a banking contract, the treasurer may disqualify
117 restricted financial institutions from the competitive
118 bidding process or from any other official selection process.

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

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

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

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

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

142 9. In addition to any other remedies available at law
143 or equity, a company that provides false information to the
144 treasurer and later receives state monies, or violates a

145 contractual agreement with the state not to engage in a
146 boycott, shall be obligated to pay a civil penalty to the
147 state in an amount equal to three times all monies paid to
148 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.

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

12 (1) Whether the bidder, offeror, contractor, or
13 subcontractor engages in the exploration, production,
14 utilization, transportation, sale, or manufacturing of
15 fossil fuel-based energy and does not commit or pledge to
16 meet environmental standards beyond applicable state and
17 federal law;

18 (2) Whether the bidder, offeror, contractor, or
19 subcontractor engages in production agriculture;

20 (3) Whether the bidder, offeror, contractor, or
21 subcontractor spends funds on social welfare;

22 (4) The wages and working hours of the employees of
23 the bidder, offeror, contractor, or subcontractor; and

24 (5) The environmental policies of the bidder, offeror,
25 contractor, or subcontractor.

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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