

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 HOUSE BILL 2340

By: Lepak

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6 AS INTRODUCED

7 An Act relating to government contracts; making
8 legislative findings with respect to certain
9 collusive activity; defining terms; prohibiting
10 certain government entities from entering into
11 certain contracts; specifying violative contractual
12 provisions; providing exceptions; prohibiting certain
13 actions with respect to financial institutions;
14 authorizing enforcement of act; authorizing Attorney
15 General to engage in discovery of information;
16 providing for recovery of treble damages; providing
17 for codification; and providing an effective date.

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20 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

21 SECTION 1. NEW LAW A new section of law to be codified
22 in the Oklahoma Statutes as Section 9301 of Title 74, unless there
23 is created a duplication in numbering, reads as follows:

24 The Legislature finds that:

1. 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;

1 2. The goal of these colluding parties is to starve targeted
2 legal industries of capital, restrict their productivity, and
3 redirect that capital to favored industries;

4 3. These parties are working in concert with many state and
5 federal lawmakers and regulators, as evidenced most recently by new
6 climate disclosure rules from the United States Securities and
7 Exchange Commission;

8 4. Restricting the supply of energy and other essential
9 commodities, without effective substitutes for those commodities,
10 only serves to raise prices on consumers, profoundly impacting the
11 poorest among us;

12 5. Denying financing to American companies, who are among the
13 most socially and environmentally responsible companies in the
14 world, only serves to support hostile nations and less responsible
15 producers;

16 6. Banks and insurance companies are increasingly denying
17 financing to creditworthy companies to market their environmental
18 credentials to the detriment of consumers, shareholders and society;

19 7. Institutional investors are divesting from entire industries
20 and pressuring corporations to commit to environmental goals, such
21 as reducing greenhouse gas emissions to zero by 2050, to burnish
22 their environmental credentials or promote their own environmental,
23 social, and governance funds at the expense of investor returns;

1 8. Large investment firms, through their proxy votes on
2 shareholder resolutions and board elections, are colluding to force
3 companies to direct money, time, and attention away from their core
4 responsibility of increasing shareholder returns, driving capital
5 allocation decisions and political change outside the democratic
6 process;

7 9. Corporations are boycotting and sanctioning essential legal
8 industries, such as fossil fuel and agriculture producers, by
9 denying them capital, refusing to provide them with products or
10 services or imposing undue burdens on them;

11 10. The collusion of corporations, and institutions to boycott,
12 divest from, or sanction any industry may violate existing antitrust
13 and fiduciary duty laws and harms consumers, shareholders, and this
14 state; and

15 11. States, when financially prudent, should avoid doing
16 business with companies that engage in such potentially illegal
17 conduct, and threaten harm to this state, its businesses, and
18 citizens.

19 SECTION 2. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 9302 of Title 74, unless there
21 is created a duplication in numbering, reads as follows:

22 As used in this act:

23 1. "Company" means a for-profit organization, association,
24 corporation, partnership, joint venture, limited partnership,

1 limited liability partnership, or limited liability company,
2 including a wholly owned subsidiary, majority-owned subsidiary,
3 parent company, or affiliate of those entities or business
4 associations. For the purposes of this section, "company" does not
5 include sole proprietorships;

6 2. "Governmental entity" means a state agency or political
7 subdivision of this state;

8 3. "Ordinary business purpose" does not include any purpose to
9 further social, political, or ideological interests. A company may
10 reasonably be determined to have taken an action, or considered a
11 factor, with a purpose to further social, political, or ideological
12 interests based upon evidence indicating such a purpose, including,
13 but not limited to branding, advertising, statements, explanations,
14 reports, letters to clients, communications with portfolio
15 companies, statements of principles, or commitments, or
16 participation in, affiliation with, or status as a signatory to, any
17 coalition, initiative, joint statement of principles, or agreement;

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

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- 1 a. engages in the exploration, production, utilization,
2 transportation, sale, or manufacturing of, fossil
3 fuel-based energy, timber, mining, or agriculture,
4 b. engages in, facilitates, or supports the manufacture,
5 import, distribution, marketing or advertising, sale,
6 or lawful use of firearms, ammunition or component
7 parts and accessories of firearms or ammunition,
8 c. does not meet, is not expected to meet, or does not
9 commit to meet environmental standards or disclosure
10 criteria, in particular to eliminate, reduce, offset,
11 or disclose greenhouse gas emissions,
12 d. does not meet, is not expected to meet, or does not
13 commit to meet corporate board, or employment,
14 composition, compensation, or disclosure criteria that
15 incorporates characteristics protected in this state
16 under applicable federal or state law protecting civil
17 rights,
18 e. does not facilitate, is not expected to facilitate, or
19 does not commit to facilitate access to abortion, sex
20 or gender change, or transgender surgery; or
21 f. does business with a company described by
22 subparagraphs a through c of this paragraph.
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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 9303 of Title 74, unless there
3 is created a duplication in numbering, reads as follows:

4 A. This section applies only to a contract that:

5 1. Is between a governmental entity and a company with ten (10)
6 or more full-time employees; and

7 2. Will pay a company One Hundred Thousand Dollars
8 (\$100,000.00) or more over the term of the contract that is to be
9 paid wholly or partly from public funds of the governmental entity;
10 provided, however, the provisions of this paragraph shall apply
11 separately to all companies in a multiple party contract.

12 B. Except as provided by this section, a governmental entity
13 may not enter into a contract with a company for goods or services
14 unless the contract contains a written verification from the company
15 that it:

16 1. Does not engage in economic boycotts; and

17 2. Will not engage in economic boycotts during the term of the
18 contract.

19 C. Subsection B of this section does not apply to a
20 governmental entity that determines the requirements of subsection B
21 of this section are inconsistent with the governmental entity's
22 constitutional or statutory duties related to the issuance,
23 incurrence, or management of debt obligations or the deposit,
24 custody, management, borrowing, or investment of funds or that

1 prevent the governmental entity from obtaining the supplies or
2 services to be provided in an economically practicable manner.

3 SECTION 4. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 9304 of Title 74, unless there
5 is created a duplication in numbering, reads as follows:

6 A. No party may take action to penalize or threaten to penalize
7 any financial institution for compliance with this act.

8 B. Any party taking such action shall have caused harm to this
9 state, including by interfering with the state's sovereign interests
10 in administering its programs and with the state's commercial
11 relationships with its financial institutions.

12 SECTION 5. NEW LAW A new section of law to be codified
13 in the Oklahoma Statutes as Section 9305 of Title 74, unless there
14 is created a duplication in numbering, reads as follows:

15 A. This act, or any contract subject to this act, may be
16 enforced by the Attorney General.

17 B. If the Attorney General has reasonable cause to believe that
18 a person has engaged in, is engaging in, or is about to engage in, a
19 violation of this article, the Attorney General may:

20 1. Require such person to file on such forms as the Attorney
21 General prescribes a statement or report in writing, under oath, as
22 to all the facts and circumstances concerning the violation, and
23 such other data and information as he may deem necessary;

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1 2. Examine under oath any person in connection with the
2 violation;

3 3. Examine any record, book, document, account or paper as may
4 be necessary; and

5 4. Pursuant to an order of the district court, impound any
6 record, book, document, account, paper, or sample or material
7 relating to such practice and retain the same in his possession
8 until the completion of all proceedings undertaken under this act or
9 in the courts.

10 C. In addition to any other remedies available at law or
11 equity, a company that enters into a contract with a government
12 entity containing any verifications required by Section 2 of this
13 act and engages in any economic boycott during the term of the
14 contract shall be obligated to pay damages to the state in an amount
15 equal to three times all monies paid to the company under the
16 contract.

17 SECTION 6. This act shall become effective November 1, 2023.

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