

SENATE FILE NO. SF0159

Stop ESG-Eliminate economic boycott act.

Sponsored by: Senator(s) Biteman, Driskill, Hutchings and
Steinmetz and Representative(s) Angelos,
Bear, Burkhart, Haroldson, Heiner, Jennings,
Olsen, Rodriguez-Williams and Ward

A BILL

for

1 AN ACT relating to the administration of government;
2 requiring parties to state contracts to certify that they
3 do not engage in boycotting or discrimination as specified;
4 providing definitions; providing legislative findings;
5 specifying applicability; and providing for an effective
6 date.

7

8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 9-5-401 through 9-5-404 are created
11 to read:

12

13

CHAPTER 5

14

PROPERTY, BUILDINGS AND CONTRACTS

1

2

ARTICLE 4

3

CERTIFICATIONS FOR STATE CONTRACTS

4

5

9-5-401. Legislative findings.

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(a) The legislature finds that:

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9 (i) Numerous essential American industries,
10 including fossil fuel production, agriculture, timber
11 production and firearms, are being targeted for boycotting,
12 divesting and sanctioning by large corporations and public
13 and private institutional investors;

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15 (ii) The goal of these colluding parties is to
16 starve targeted legal industries of capital, restrict their
17 productivity and redirect that capital to favored
18 industries;

19

20 (iii) These parties are working in concert with
21 many state and federal lawmakers and regulators, as
22 evidenced by new climate disclosure rules from the United
23 States securities and exchange commission;

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2 (iv) Restricting the supply of energy and other
3 essential commodities, without effective substitutes for
4 those commodities, only serves to raise prices on
5 consumers, profoundly impacting the poorest among us;

6

7 (v) Denying financing to American companies, who
8 are among the most socially and environmentally responsible
9 companies in the world, only serves to support hostile
10 nations and less responsible producers;

11

12 (vi) Banks and insurance companies are
13 increasingly denying financing to creditworthy companies to
14 market their environmental credentials to the detriment of
15 consumers, shareholders and society;

16

17 (vii) Institutional investors are divesting from
18 entire industries and pressuring corporations to commit to
19 environmental goals, including reducing greenhouse gas
20 emissions to zero (0) by 2050, to burnish their
21 environmental credentials or to promote their own
22 environmental, social and governance funds at the expense
23 of investor returns;

1

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

8

9 (ix) Corporations are boycotting and sanctioning
10 essential legal industries, including fossil fuel and
11 agriculture producers, by denying them capital, refusing to
12 provide them with products or services and imposing undue
13 burdens on them;

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15 (x) The collusion of corporations and
16 institutions to boycott, divest from or sanction any
17 industry may violate existing antitrust and fiduciary duty
18 laws and harms consumers, shareholders and the state of
19 Wyoming;

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21 (xi) States, when financially prudent, should
22 avoid doing business with companies that engage in

1 potentially illegal conduct described in this section and
2 threaten harm to the state, its business and its citizens.

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4 **9-5-402. Definitions.**

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6 (a) As used in this act:

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8 (i) "Company" means any for-profit organization,
9 association, corporation, partnership, joint venture,
10 limited partnership, limited liability partnership, joint
11 stock company or limited liability company, including a
12 wholly-owned subsidiary, majority-owned subsidiary, parent
13 company or affiliate thereof. "Company" does not include
14 sole proprietorships;

15

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

23

1 (A) Engages in the exploration, production,
2 utilization, transportation, sale or manufacturing of
3 fossil fuel based energy, timber, mining or agriculture;
4

5 (B) Engages in, facilitates or supports the
6 manufacture, import, distribution, marketing, advertising,
7 sale or lawful use of firearms, ammunition, components,
8 parts and accessories of firearms or ammunition;
9

10 (C) Does not meet, is not expected to meet
11 or does not commit to meet environmental standards or
12 disclosure criteria to eliminate, reduce, offset or
13 disclose greenhouse gas emissions;
14

15 (D) Does not meet, is not expected to meet
16 or does not commit to meet corporate board, employment,
17 composition, compensation or disclosure criteria that
18 incorporates characteristics protected in this state as
19 specified by W.S. 27-9-105(a)(i);
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21 (E) Does not facilitate, is not expected to
22 facilitate or does not commit to facilitate access to
23 abortion, sex or gender change or transgender surgery.

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2 (iii) "Governmental entity" means the state,
3 University of Wyoming, any local government or any agency,
4 board or commission thereof;

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6 (iv) "Ordinary business purpose" means any
7 purpose that does not further social, political or
8 ideological interests. A company shall be deemed to have
9 taken an action or considered a factor that furthers a
10 social, political or ideological interest upon evidence of
11 a purpose that is found in, but not limited to:

12

13 (A) Branding, advertising, statements,
14 explanations, reports, letters to clients, communications
15 with portfolio companies, statement of principles or
16 commitments; or

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18 (B) Participation in, affiliation with or
19 status as a signatory to any coalition, initiative, joint
20 statement of principles or agreement.

21

22 (v) "This act" means W.S. 9-5-401 through
23 9-5-404.

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2 **9-5-403. Contracts with governmental entities;**
3 **requirements; exceptions.**

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5 (a) Subject to subsections (b) and (c) of this
6 section, no governmental entity shall enter into a contract
7 with a company for goods or services unless the contract
8 contains a written verification from the company that the
9 company:

10

11 (i) Does not engage in economic boycotts; and

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13 (ii) Will not engage in economic boycotts during
14 the term of the contract.

15

16 (b) This section shall apply only to contracts that
17 are:

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19 (i) Between a governmental entity and a company
20 with not less than ten (10) employees; and

21

1 (ii) For a value of not less than one thousand
2 dollars (\$1,000.00), regardless of the number of companies
3 who are parties to the contract.

4

5 (c) This section shall not apply to a governmental
6 entity that determines in writing that the requirements of
7 this section:

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9 (i) Are inconsistent with the governmental
10 entity's constitutional or statutory duties related to the
11 issuance, incurrence or management of debt obligations or
12 the deposit, custody, management, borrowing or investment
13 of funds; or

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15 (ii) Prevent the governmental entity from
16 obtaining the goods or services to be provided in an
17 economically practicable manner.

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19 **9-5-404. Interference with state contracts; remedies.**

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21 (a) No person shall take any action that penalizes or
22 threatens to penalize any financial institution for
23 complying with this act.

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2 (b) Any party that violates subsection (a) of this
3 section shall be deemed to have caused pecuniary harm to
4 the state, including by interfering with the state's
5 sovereign interests in administering its programs and with
6 the state's commercial relationships with its financial
7 institutions.

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9 (c) The attorney general or district attorney in the
10 county where a violation of this act occurs may enforce
11 this act and any contract subject to this act.

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13 (d) If the attorney general has reason to believe
14 that a person has engaged in activity which violates the
15 provisions of this act, the attorney general shall make an
16 investigation to determine if this act has been violated,
17 and, to the extent necessary for this purpose, may
18 administer oaths or affirmations, and, upon his own motion
19 or upon request of any party, may subpoena witnesses,
20 compel their attendance, adduce evidence, and require the
21 production of any matter which is relevant to the
22 investigation, including the existence, description,
23 nature, custody, condition and location of any books,

1 documents or other tangible things and the identity and
2 location of persons having knowledge of relevant facts or
3 any other matter reasonably calculated to lead to the
4 discovery of admissible evidence.

5

6 (e) In addition to any other remedies available under
7 law or equity, a company that enters into a contract with a
8 government entity as required by this act and engages in
9 any economic boycott during the term of the contract shall
10 be liable to the governmental entity for damages in an
11 amount equal to three (3) times the value of the contract.

12

13 **Section 2.** This act shall apply to all contracts
14 entered into on and after the effective date of this act.

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16 **Section 3.** This act is effective July 1, 2023.

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18

(END)