Myth vs. Reality: Alabama's Bill to Combat ESG (SB 261)

Advocates commonly describe ESG as criteria for making strategic investment decisions to aid environmental or social causes one cares about. In reality, ESG policies risk failing Americans on a multitude of fronts.

Senate Bill 261 would protect Alabama jobs and economic interests from the threat of the ESG movement by:

- Protecting Alabama's steel and auto manufacturing industries. This legislation will ensure Alabama tax dollars are not supporting Left-wing climate agendas that threaten to upend pivotal industries for Alabama, which ranks in the top five for auto production.

- Protecting Alabama's energy supply. SB 261 will ensure that Alabama tax dollars are not supporting companies that are pressuring electric utilities to phase-out gas and coal power by 2040, which provide over 63% of Alabama's electricity.

Opponents are spreading misinformation about the impact that SB 261 could have on Alabama. Here are the facts:

Myth 1: Isn't this just trying to solve a problem that doesn't exist for Alabama?

Reality: There is plenty of evidence of how the ESG movement threatens Alabama's economic interests. Alabama is right to push back against those threats. ESG policies hurt Alabama in two ways.

First, when companies target industries for economic boycott they cut off legal industries from desperately needed capital, restricting productivity. In Alabama this means industries like auto manufacturing are targeted – which is the state's number one export, supports 47,000 jobs and accounts for approximately $9 billion in exports[1]

Second, when companies follow ESG policies in investment decisions instead of fiduciary responsibilities, Alabamians are the ones who lose. For example, BlackRock declared that it

[1] https://www.madeinalabama.com/industries/industry/automotive/

would divest from coal in mid-2020 for ESG reasons.[2] Since July, 2020 the price of coal has increased from under $50/ton to close to $400/ton.[3] Driving up the cost of energy prices hurts all Alabamians since coal provides 63% of Alabama's electricity[4].

Myth 2: SB 261 picks winners and losers among industries.

Reality: SB 261 details what are examples of discriminatory behavior based upon ideological agendas. They do not provide a list of protected industries. The bills explain how an economic boycott means "refusing to deal with, terminating business activities with, or otherwise taking any commercial action that is intended to penalize, inflict economic harm on, limit commercial relations with, or change or limit the activities of a company" doesn't meet ESG favored goals. It does not preclude extension of fair treatment to any industry, rather it demands companies certify they are acting within business purposes.

SB 261 identifies categories of business that are routinely targeted by ESG policies contrary to ordinary business purposes while also protecting any business that wants to uphold its social values in practice and protects individual companies from coercion in its daily operations.

Legislators are right to be clear in the law so there is no question on what defines discrimination.

Myth 3: SB 261 distorts the free market.

Reality: The market is being distorted by the Left through blue states using finance as a form of regulation. Pension funds like New York's have committed to reach net zero across all of their assets.[5] This means they expect asset managers to not only reach net zero for assets managed by blue states, but across all of the assets they manage. New York City Comptroller Brad Lander made this clear in his letter to BlackRock.[6]

This means large asset managers and their blue-state clients are working hand-in-hand to reshape public companies. Multiple blue state governments have joined Climate Action 100+ along with large asset managers to pressure companies to reach net zero. Those state treasurers or pension funds include California, New York, New Jersey, Illinois, Chicago, San Francisco, Seattle, and Oregon.

Climate Action 100+ reported how the coordinated efforts of asset managers and blue state clients resulted in new board members at ExxonMobil.

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[2] https://www.blackrock.com/corporate/investor-relations/2020-blackrock-client-letter
[3] https://tradingeconomics.com/commodity/coal
[4] https://www.eia.gov/state/?sid=AL#tabs-4
[5] https://comptroller.nyc.gov/wp-content/uploads/2022/09/Letter-to-BlackRock-CEO-Larry-Fink.pdf
[6] Ibid.

ExxonMobil shareholders elected three new board members to the company's board. This was backed publicly by three of the largest pension funds in the U.S. and Climate Action 100+ signatories – CalPERS, CalSTRS, and the New York State Common Retirement Fund. This followed extensive engagement coordinated by Climate Action 100+.[7]

By doing nothing, financially-focused states like Alabama perpetuate a distorted market where activist blue states pressure asset managers and companies to meet the Left's environmental goals. Rather than doing nothing, Alabama should establish clear principles for their contracts and stop doing business with those that implement ESG driven boycotts. We have already seen the impact of West Virginia's law.[8] This is what SB 261 would do.

Myth 4: SB 261 places an overwhelming burden on counties and other government entities to manage their contracts.

Reality: Adjusting contracts to require compliance with SB 261 is a simple matter of including an additional clause that specifies the need for written certification and clarifies the terms of a violation. To comply with SB 261, contracts must include a written verification from the company that states, *"the company does not and will not, during the term of the contract, engage in economic boycotts."* [9] The administrative burden on agencies and offices amounts to no more than routine contract review requirements including a validation that the company is not engaged in an economic boycott. Additionally, SB 261 only applies to contracts of at least $15,000 or more and with companies of at least 10 or more full-time employees.

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[7]https://www.climateaction100.org/wp-content/uploads/2022/03/Climate-Action-100-2021-Progress-Update-Final.pdf
[8] https://www.washingtonexaminer.com/policy/economy/wv-riley-moore-esg-blacklisting-firms
[9] https://www.legislature.state.al.us/pdf/SearchableInstruments/2023RS/SB261-int.pd
[9] https://www.washingtonexaminer.com/policy/economy/wv-riley-moore-esg-blacklisting-firms
[9] https://www.legislature.state.al.us/pdf/SearchableInstruments/2023RS/SB261-int.pd