

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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SENATE BILL 737
PROPOSED COMMITTEE SUBSTITUTE S737-PCS15342-BPp-19

Short Title: Address ESG Factors.

(Public)

Sponsors:

Referred to:

April 10, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO ADDRESS THE USE OF ENVIRONMENTAL, SOCIAL, AND GOVERNANCE
3 CRITERIA BY STATE AGENCIES AND STATE PENSION PLAN FIDUCIARIES.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.(a)** Article 10 of Chapter 143 of the General Statutes is amended by
6 adding a new section to read:

7 "**§ 143-162.6. Use of ESG and ETI prohibited in employment decisions.**

8 (a) As used in this section, "environmental, social, and governance (ESG) criteria" or
9 "economically targeted investments (ETI) requirements" means using a set of standards to screen
10 potential investments based upon the perceived impact to the environment and the social
11 relationships between a company's employees and the community. The term also includes how a
12 company's leadership is structured in support of those standards.

13 (b) No State agency, political subdivision of the State, trust, committee, or commission
14 of any political subdivision of the State shall use, enforce, provide data for use in, or otherwise
15 participate in the creation or use of ESG or ETI policies related to hiring, firing, or evaluating
16 employees.

17 (c) Except as allowed by law, ESG, ETI, or related criteria shall not be considered in the
18 awarding of State contracts."

19 **SECTION 1.(b)** This section is effective when it becomes law.

20 **SECTION 2.** G.S. 147-69.7 reads as rewritten:

21 "**§ 147-69.7. Discharge of duties to funds.**

22 ...

23 (b) In investing and managing assets of the fund pursuant to subsection (a) of this section,
24 the State Treasurer:

25 (1) Shall consider the following circumstances:

- 26 a. General economic conditions.
27 b. The possible effect of inflation or deflation.
28 c. The role that each investment or course of action plays within the
29 overall portfolio of the fund.
30 d. The expected total return from income and the appreciation of capital.
31 e. Needs for liquidity, regularity of income, and preservation or
32 appreciation of capital.
33 f. With respect to the Retirement Systems defined in G.S. 147-69.2(b)(8)
34 and any other pension plans, the adequacy of funding for the
35 Retirement Systems based on reasonable actuarial factors.
36 g. The purpose of the fund, if established.



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- 1 (2) Shall diversify the investments of the fund unless the State Treasurer
- 2 reasonably determines that, because of special circumstances, including
- 3 applicable investment restrictions, it is clearly prudent not to do so.
- 4 (3) Shall make a reasonable effort to verify facts relevant to the investment and
- 5 management of assets of the funds.
- 6 (4) Shall invest only in those investments authorized by law consistent with the
- 7 provisions of Article 6 of Chapter 146 of the General Statutes.
- 8 (5) ~~May consider benefits created by an investment in addition to investment~~
- 9 ~~return only if the State Treasurer determines that the investment providing~~
- 10 ~~these collateral benefits would be prudent even without collateral~~
- 11 ~~benefits.~~Shall, in the evaluation of an investment, or evaluation or exercise of
- 12 any right appurtenant to an investment, consider only pecuniary factors:
- 13 a. For the purposes of this section, a pecuniary factor is a factor that has
- 14 a material effect on the financial risk or financial return of an
- 15 investment based on appropriate investment horizons consistent with
- 16 the purpose of the fund, if established.
- 17 b. Environmental or social considerations are pecuniary factors only if
- 18 they present economic risks or opportunities that qualified investment
- 19 professionals would treat as material economic considerations under
- 20 generally accepted investment theories. The weight given to those
- 21 factors shall solely reflect a prudent assessment of their impact on risk
- 22 and return.
- 23 (6) May, in the evaluation or exercise of any right appurtenant to an investment,
- 24 reasonably conclude that not exercising such a right is in the best interest of
- 25 the fund's beneficiaries.

...."

27 **SECTION 3.** If any section or provision of this act is declared unconstitutional or
28 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
29 the part declared to be unconstitutional or invalid.

30 **SECTION 4.** This act is effective when it becomes law.