

Update Part 3: The Growing Trend of Anti-Boycott Laws and the Effect on Public Finance – Is Arkansas Next?



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We recently posted a note regarding [the filing of Senate Bill 41](#) which would require the divestment of State and local public funds from financial services providers that “discriminate without a reasonable business purpose against a business that provides services or products to the energy, fossil fuel, firearms, or ammunition industries, or otherwise discriminates without a reasonable business purpose against a business based on environmental, social justice, or other governance-related factors.”

We noted in that post that Senate Bill 41 did not take the additional step that some states have taken in prohibiting the State and local public entities from contracting with companies that have policies deemed to discriminate against energy, ammunition and other entities.

We can now report that as of January 17, 2023, such a bill has been filed in the form of [Senate Bill 62](#). Like SB 41, SB 62 is sponsored by State Senator Ricky Hill of Cabot. The title of SB 62 is “An Act to Prohibit Public Entities from Contracting with Companies that Boycott Energy, Fossil Fuel, Firearms, and Ammunition Industries.”

Under the provisions of SB 62, public entities will be prohibited from entering into a contract (with a value of \$1,000.00 or more) with a company “to acquire or dispose of services, supplies, information technology, or construction unless the contract includes a written certification that the person or company is not currently engaged in, and agrees for the duration of the contract not to engage in, a boycott of energy, fossil fuel, firearms, and ammunition industries.” SB 62 also expressly prohibits the State or any other public entities from engaging in boycotts of the listed industries.

Note that the term “company” specifically excludes “financial services providers,” which are defined in Ark. Code Ann. § 4-88-201(5) as any entity which is regulated by the State Bank Department or a similar federal regulatory agency, engaged in business in the State, including: (i) state or national banks or trust companies; (ii) state or federal savings and loan associations; (iii) state or federal credit unions; (iv) building and loan associations; (v) mortgage bankers, mortgage brokers, loan officers or mortgage servicers; and (vi) pawnbrokers. This exemption may limit the impact on the public finance market depending on how many underwriters or other finance providers can fit into the exemption.

SB 62 has been referred to the Senate State Agencies & Governmental Affairs Committee.

Information regarding the current status of SB 62 can be found at the [Arkansas State Legislature website](#).

The public finance team at Mitchell Williams will continue to monitor SB 62 as it makes its way through the legislative process and will provide ongoing updates.

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[Update Part 2: The Growing Trend of Anti-Boycott Laws and the Effect on Public Finance – Is Arkansas Next?](#)