SIERRA CLUB
LONE STAR CHAPTER

To: The Honorable Chairman Bryan Hughes
Members, Senate Committee on State Affairs
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***Responsible Investing:*** *Study the impact of environmental, social, and governance (ESG) factors on our state's public pensions, with a focus on proxy voting services. Make recommendations to ensure our state's pension systems vote and invest in accordance with their fiduciary responsibility to maximize profit. Additionally, monitor the implementation of Senate Bill 13, 87th Legislature, relating to state contracts with and investments in certain companies that boycott energy companies. Specifically, examine how a company is removed from the list of companies that boycott energy companies when the company ceases to boycott energy companies. Report on how frequently the list maintained by the comptroller is updated and make recommendations to ensure an ongoing accurate list.*

The Lone Star Chapter of the Sierra Club is the state chapter of the Sierra Club, the state's oldest and largest conservation organization. As an organization, we have opposed legislation like SB 13 that seeks to prevent state agencies, state pension funds or even those issuing local municipal bonds from investing in banks or other investment companies simply because they have a policy that favors a clean energy transition, or other "ESG" policies.

There are many different types of bills broadly known as Anti-ESG bills. Overall, these bills (like SB 13) aim to narrowly define the "fiduciary" duty of financial institutions and investment stewards only to include the "pecuniary" factors that legislators consider important, or even ban certain companies from doing business in Texas. Despite the significant risks that climate change and inequality pose to both individual businesses and the economy as a whole, the proponents of these bills are requiring the state and private sector to put on blinders and ignore risks, or take their business out of the state. The legislative efforts to weaponize government funds, contracts, and pensions to prevent companies and investors from considering commonplace risk factors in making responsible, risk-adjusted investment decisions is misplaced and is costing Texas taxpayers and employees. Already facing rising costs and weather extremes, these hardworking employees now face the prospect of having their pensions at risk due to political interference.

Unfortunately, the consequences of the legislation are real - in the loss of sound investments at the state and higher interest rates at the local level, potentially costing revenue for pensions and other needs. In a recent paper, researchers Garrett and Ivanov, studied the impacts of SB 13 (related to oil and gas) and SB 19 (related to guns) on municipal underwriting. The authors note: *"We study the first of the recent US anti-ESG laws to characterize how and why borrowers are affected by losing relationship underwriters. In September 2021, Texas enacted Senate Bills (SBs) 13 and 19, barring Texas municipalities from contracting with banks that restrict funding to oil & gas or firearms companies. These laws restricted municipal bond issuers in Texas from hiring five of the largest bond underwriters, even as these otherwise healthy banks continue operating as usual in the rest of the US. Our estimates suggest Texas issuers will incur $300-$500 million in additional interest on the $31.8 billion borrowed during the first eight months following the enactment of their anti-ESG laws. This deterioration in borrower outcomes suggests either that there are substantial frictions associated with breaking underwriter relationships beyond adverse selection or that there are other market imperfections that increase pricing."*

*Garrett, Daniel and Ivanov, Ivan, Gas, Guns, and Governments: Financial Costs of Anti-ESG Policies (March 11, 2024). Jacobs Levy Equity Management Center for Quantitative Financial Research Paper, Available at SSRN: https://ssrn.com/abstract=4123366 or http://dx.doi.org/10.2139/ssrn.4123366*

A subsequent study building on this research finds even more damaging results. The study by TXP, Inc. affirmed that Texas's blacklist law led to $668.7 million in lost economic activity, over 3,000 lost jobs, and $37.1 million in reduced tax revenue. In short, boycotts and blacklists have hard costs for taxpayers and the economy.

As an organization we opposed SB 13th from the 87th Legislature as we did not feel it appropriate for the state to essentially ban certain companies from doing business in Texas simply because of their ESG policy or the perception that they were "boycotting" oil and gas. Risk-based decision-making in investment makes sense given the billion dollar losses we are seeing with extreme weather and climate change.

In addition, the lists that have been created by the Comptroller do not really have an impact if the intent of SB 13 is to protect the oil and industry since these companies continue to make investments in oil and gas. ***Essentially, SB 13 appears to have led to a policy that might be the equivalent of cutting off your nose to spite your face***. As an example, Black Rock has been placed on the list of companies by the Comptroller that the state and municipalities should not be doing business with because they have certain investment products that invest in non-fossil fuel products, even though Black Rock has and continues to invest in fossil fuels. On the companies-boycotting-fossil fuel list, none of the major institutions on these lists are boycotting fossil fuels. In fact, many of these companies are the largest financiers of the fossil fuel industry, as recently shown in the Banking on Climate Chaos report released by the Sierra Club and other organizations.

Our view is that we should allow state agencies, pensions and municipal bond writers to invest dollars in such companies and products if it is fiduciarily sound, and it will lead to a financial benefit to the state or local entity. If Texas were simply an oil and gas state that had no development of alternative energy supply a bill like SB 13 might make more sense, but today, Texas is not only the number one producer of oil and gas but also the leading developer of wind power, solar power and most recently, electric battery storage. In addition, we are a leading producer of the components in electric vehicles, including both light-duty and heavier-duty trucks and buses. Thus, investment firms that concentrate on investments in products that are alternatives to oil and gas actually help our state and produce wealth. In addition, as an organization, Sierra Club supports the transition away from fossil fuels toward cleaner forms of energy that do not contribute to the climate crisis, and we do not see the downside of taking advantage of investments in these technologies, as long as they provide healthy balances and revenues for our state and local employees and agencies. Companies are rightly worried about the risks of climate change and the need to make investments in new industries that will help mitigate these risks. As a country, the US has signed an international agreement known as the Paris Accords, and as such, many investment firms and banks are working to also meet the goals of that accord.

The core component of SB 13 is the list of financial companies that boycott oil and gas companies, which the Comptroller's office must prepare and update. The Comptroller's office also maintains a list of specific U.S. investment funds — collective accounts (e.g., mutual funds) for which fund managers, not investors, make decisions regarding how assets should be invested — that deliberately prohibit or limit investments in fossil fuels. To compile the lists, the Legislature has authorized the Comptroller's office to use publicly available information about financial companies and investment funds and to request written verification from companies and fund managers stating they do not boycott energy. But it appears that a statement from the company is not enough. For example, BlackRock Inc. remains invested in Texas' public energy companies, according to testimony from the investment firm's executives, and they have publicly stated that they do not boycott oil and gas investments; however, the Comptroller had instead decided to place the firm on the list because *"the firm still has made "net-zero" public pledges and employs adversarial rhetoric regarding the fossil fuels sector, among other actions that satisfy the boycotting criteria developed by the Comptroller's office."*

After a series of lengthy investigations and considerable staff time, the Comptroller's office published a list of 10 financial companies found to be "boycotting" the fossil fuels industry last August and added HSBC Holdings this March (**Exhibit 3**). The Comptroller's office also has listed 350 investment funds determined to be boycotting the fossil fuels industry.

**Comptroller's Current List of Companies that State and Local Governments Should not utilize under provisions of SB 13**

| FINANCIAL COMPANY | HEADQUARTERS |
|---|---|
| BLACKROCK INC. | United States |
| BNP PARIBAS SA | France |
| CREDIT SUISSE GROUP AG | Switzerland |
| DANSKE BANK A/S | Denmark |
| JUPITER FUND MANAGEMENT PLC | U.K. |
| NORDEA BANK ABP | Finland |
| SCHRODERS PLC | U.K. |
| SVENSKA HANDELSBANKEN AB | Sweden |

| | |
|---|---|
| **SWEDBANK AB** | **Sweden** |
| **UBS GROUP AG** | **Switzerland** |
| **HSBC HOLDINGS** | **U.K.** |

The idea that these companies are boycotting Texas oil and gas is misplaced and the removal of their business from Texas is only hurting our revenues, our municipal bonding rates and the sizes of our pensions. Texas would be better off removing the language found in SB 13 and basing our investments on whatever funds had the highest returns for our needs, whatever the ESG policy of the bank or investment firm.

***Study the impact of environmental, social, and governance (ESG) factors on our state's public pensions, with a focus on proxy voting services. Make recommendations to ensure our state's pension systems vote and invest in accordance with their fiduciary responsibility to maximize profit.***

**The Sierra Club does not believe that any changes are needed in current law**. We already have well established policies to protect the fiduciary responsibility to maximize profit. Texas Teachers, the largest public pension fund in Texas, does not have any climate-related language in its proxy voting guidelines (or any other "ESG" related issue.), nor any plans to do so.

Instead, the fund delegates proxy voting to a third party, which is required by law (and the guidelines) to vote shares in the best interest of the pension. Passing additional legislation that would require Texas Teachers and other Texas funds to put blinders to a wide array of economic risks and spend resources monitoring and reporting that satisfies the legislature that the funds have satisfactorily excluded the consideration of climate-related risks. This is a mistake and a waste of resources. There is no need to place additional restrictions on investments, including those designed to avert real risks from climate change and extreme weather. The politicization of investment decisions detracts from the top goal of pension funds: maximizing returns for Texas retirees.