

2023 South Dakota Legislature

House Bill 1208**AMENDMENT 1208B
FOR THE INTRODUCED BILL**

1 **An Act to prevent government entities from entering contracts with companies that**
2 **promote certain economic boycotts.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That chapter 37-1 be amended with a NEW SECTION:**

5 Terms used in this Act mean:

6 (1) "Company," a for-profit organization, association, corporation, partnership, joint
7 venture, limited partnership, limited liability partnership, or limited liability
8 company, and including a wholly owned subsidiary, majority-owned subsidiary,
9 parent company, or affiliate of those entities or business associations. For purposes
10 of this section, the term does not include sole proprietorships ~~or financial~~
11 institutions insured by the Federal Deposit Insurance Corporation or the National
12 Credit Union Administration with less than one hundred billion dollars in total
13 consolidated assets;

14 (2) "Economic boycott," refusing to deal with, terminating business activities with, or
15 otherwise taking any commercial action that is intended to penalize, inflict
16 economic harm on, limit commercial relations with, or change or limit the activities
17 of a company, for the primary purpose of achieving social, political, or ideological
18 interests, because the company, without violating controlling federal or state law:

19 (a) Engages in the exploration, production, utilization, transportation, sale, or
20 manufacturing of, fossil fuel-based energy, timber, mining or agriculture;

21 (b) Engages in, facilitates, or supports the manufacture, distribution, sale, or
22 use of firearms;

23 (c) Does not meet, is not expected to meet, or does not commit to meet
24 corporate board, or employment, composition, compensation, or disclosure
25 criteria that incorporates characteristics protected under chapter 20-13;

1 (d) Does not facilitate, is not expected to facilitate, or does not commit to
2 facilitate access to abortion, sex or gender change, or transgender surgery;
3 or

4 (e) Does business with a company described above.

5 (3) "Governmental entity," a state agency or political subdivision of this state; and

6 (4) "Ordinary business purpose," does not include any purpose to further social,
7 political, or ideological interests. A company may reasonably be determined to have
8 taken an action, or considered a factor, with a purpose to further social, political,
9 or ideological interests based upon evidence indicating such a purpose, including:

10 (a) Branding, advertising, statements, explanations, reports, letters to clients,
11 communications with portfolio companies, statements of principles, or
12 commitments; or

13 (b) Participation in, affiliation with, or status as a signatory to, any coalition,
14 initiative, joint statement of principles, or agreement.

15 **Section 2. That chapter 37-1 be amended with a NEW SECTION:**

16 No state agency, elected or appointed official or employee of this state, or political
17 subdivision of this state may, under any governmental authority, enter into a contract
18 that is paid wholly or partly from public funds of the governmental entity, with any
19 company for goods or services unless the contract contains a written verification from the
20 company that it does not engage in economic boycotts and will not engage in economic
21 boycotts during the term of the contract.

22 **Section 3. That chapter 37-1 be amended with a NEW SECTION:**

23 Section 2 of this Act does not apply to any governmental entity that determines
24 the requirements are inconsistent with the governmental entity's constitutional or
25 statutory duties related to the issuance, incurrence, or management of debt obligations
26 or the deposit, custody, management, borrowing, or investment of funds; or the
27 requirements prevent the governmental entity from obtaining the supplies or services to
28 be provided in an economically practicable manner.

29 **Section 4. That chapter 37-1 be amended with a NEW SECTION:**

30 No party, whether the federal government, state government, or any of its
31 agencies, departments, or political subdivisions, may take action to penalize or threaten

1 to penalize any company or financial institution affiliated with said company for compliance
2 with sections 1 to 4, inclusive, of this Act.

3 **Section 5. That chapter 37-1 be amended with a NEW SECTION:**

4 Sections 1 to 4, inclusive, of this Act, must be enforced by the attorney general. If
5 the attorney general has reasonable cause to believe that any person or entity has
6 engaged in, is engaging in, or is about to engage in a violation of sections 2 to 4, inclusive,
7 of this Act, the attorney general must investigate by subpoenaing any record, book,
8 document, account, paper, or other relevant materials relating to such practice. Upon
9 finding a probable violation, the attorney general must seek a declaratory judgment that
10 the party is in violation of this chapter, and seek to nullify the terms of any contract
11 entered into in violation of this chapter.