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Texas Officials Sued Over Anti-ESG Law Targeting Wall Street

- American Sustainable Business Council sues state officials
- Lawsuit argues the Texas legislation is unconstitutional



Austin, Texas. *Photographer: Sergio Flores/Bloomberg*

By [Amanda Albright](#) and [Madlin Mekelburg](#)

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The American Sustainable Business Council sued Texas officials in an effort to block a law that restricts state investments with certain financial firms because of their energy policies.

The lawsuit filed Thursday in federal court in Austin, argues the 2021 state law is unconstitutional and it seeks to “coerce and punish” businesses seeking to reduce reliance on fossil fuels.

The group – a nonprofit that represents thousands of businesses and advocates for environmentally-friendly policies – sued Texas Comptroller

Glenn Hegar and the state's Attorney General Ken Paxton, who have been vocal supporters of the measure. In the lawsuit, it argued that the law overstepped and went against the First Amendment.

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"It impermissibly infringes rights of free speech and association under a scheme of politicized viewpoint discrimination, based on no legitimate state interest," lawyers for the group said in the lawsuit.

Representatives for the comptroller and attorney general did not respond to an email and phone call requesting comment.

As part of the law known as Senate Bill 13, Hegar publishes and maintains a list of companies and investment funds that he considers to engage in boycotts of the oil and gas industry. Currently Hegar has more than a dozen firms listed as offenders, most recently adding NatWest Group Plc earlier this month. He also includes several hundred individual funds.

The American Sustainable Business Council says its members have been harmed by the law. Flagship funds offered by investment companies Etho Capital LLC and Our Sphere Inc. were included on Hegar's list of funds that pensions can't invest in.

"While SB 13 is in effect, ASBC members like Etho Capital, Sphere, and others are unable to compete for business with Texas entities solely due to the content and viewpoint of their speech and the associations they choose

to make,” the lawsuit says. “The law also denies them any avenue for challenging their exclusion from this major market.”

Earlier this year, the [Texas Permanent School Fund](#) announced it would divest \$8.5 billion from [BlackRock Inc.](#), which is on the energy boycott list. The law has also affected Wall Street banks’ public finance work in Texas.

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Led by Texas’ legislation, so-called anti-ESG laws have been enacted in a number of states in the past three years. But the laws are starting to face headwinds in court.

A judge in Oklahoma [blocked](#) enforcement of an anti-ESG law similar to Texas’s Senate Bill 13. And this month a federal judge [barred](#) Missouri from enforcing 2023 rules restricting environmental, social, and governance investing after finding them unlawful.

Skye Perryman, chief executive officer of Democracy Forward, which represents plaintiffs challenging the legislation, said the lawsuit was prompted by growing concern that the Texas law hurts both local governments and businesses in the state. She cited studies showing that the measures had increased borrowing costs for Texas municipalities.

“This is a state that has long said that it’s the business-friendly state – this law is anti-business plain and simple,” she said.

The case is *American Sustainable Business Council v. Hegar*, 1:24-cv-01010, US District Court, Western District of Texas (Austin).

– *With assistance from Andrew Ramonas and Brenna Goth*

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