HOUSE BILL 750:
Address ESG Factors.

2023-2024 General Assembly

Committee:	House Rules, Calendar, and Operations of the House	**Date:**	May 3, 2023
Introduced by:	Reps. D. Hall, Saine, Cairns, N. Jackson	**Prepared by:**	Jessica Boney*
Analysis of:	First Edition		Staff Attorney

OVERVIEW: House Bill 750 would:

- ***Prohibit State entities from creating or using environmental, social, and governance (ESG) criteria or economically targeted investments (ETI) requirements when making employment decisions.***
- ***Establish the State Employee Retirement Protection Act.***

CURRENT LAW: There are currently no North Carolina statutes that authorize or prohibit State entities from creating or using ESG criteria or ETI requirements when making employment decisions.

North Carolina Retirement Systems (NCRS) is a division of the Department of State Treasurer, and it includes the Teachers' and State Employees' Retirement System, the Consolidated Judicial Retirement System, the Firefighters' and Rescue Squad Workers' Pension Fund, the Local Governmental Employees' Retirement System, the Legislative Retirement System, the North Carolina National Guard Pension Fund, the Registers of Deeds' Supplemental Pension Fund, and the Retiree Health Benefit Fund.

The State Treasurer maintains the investment program for NCRS, the Pension Fund Program (Fund). The Investment Management Division (IMD) of the Department of State Treasurer serves as the investment arm of the State Treasurer, and under the direction of the State Treasurer, it manages the Fund and other investments. According to G.S. 147-69.2(e), the Fund's investments may be made as internally managed investments by the State Treasurer or made through third-party investment management arrangements, under certain conditions.

BILL ANALYSIS:

Section 1 would add new G.S. 143-162.6 in Article 10 (Various Powers and Regulations) of Chapter 143 (State Departments, Institutions, and Commissions) to do the following:

- Define "ESG criteria" and "ETI requirements".
- Prohibit State agencies, political subdivisions of the State, trusts, committees, and commissions of any political subdivisions of the State from creating or using ESG or ETI policies when hiring, firing, or evaluating employees.
- Prohibit ESG, ETI, or related criteria form being considered in the awarding of State contracts, except as allowed by law.

Section 2 would create new Article 85 in Chapter 143 to establish the State Employee Retirement Protection Act.

Under this Article, a fiduciary would be:

- Required to discharge certain duties solely in the pecuniary interest of the participants and beneficiaries for exclusive purposes, and discharge those duties with a specific standard of care.
- Prohibited from considering ESG factors when evaluating an investment or exercising any right related to an investment, except when treated as material economic considerations and examined financially.

Article 85 would also require certain shares to be voted solely in the pecuniary interest of plan participants. Voting to further ESG benefits or goals would be prohibited.

A politically accountable State official would be responsible for authority to vote shares. All current proxy voting authority regarding shares held directly or indirectly by or on behalf of a pension benefit plan or the plan participants would be revoked. All voting authority would reside with the State Treasurer or appropriate board or committee, except when properly delegated. All proxy votes would be required to be tabulated and reported annually to the respective board of trustees or governing officer. The report would be required to contain specific information for each vote.

The Attorney General would be allowed to enforce Article 85 by taking certain actions, if the Attorney General has reasonable cause to believe a person has engaged in, is engaging in, or is about to engage in a violation of this Article.

Section 3 would provide a severability clause.

EFFECTIVE DATE: Section 2 would become effective October 1, 2023. The remainder of this bill would become effective when it becomes law.

*Karyl Smith, Staff Attorney for the Legislative Analysis Division, substantially contributed to this summary.