SENATE BILL 737:
Address ESG Factors.

2023-2024 General Assembly

Committee:	Senate Rules and Operations of the Senate	**Date:**	May 3, 2023
Introduced by:	Sens. Craven, Daniel, Overcash	**Prepared by:**	Jessica Boney Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: Senate Bill 737 would:

- ***Prohibit State entities from creating or using environmental, social, and governance (ESG) criteria or economically targeted investments (ETI) requirements when making employment decisions.***
- ***Require the State Treasurer to only consider pecuniary factors in the evaluation of an investment.***

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 amend G.S. 147-69.7 (Discharge of Duties) to require the State Treasurer to only consider pecuniary factors in the evaluation of an investment. A pecuniary factor would be factor that has a material effect on the financial risk or return of an investment. Environmental or social considerations would be

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pecuniary factors only if they present economic risks or opportunities that qualified investment professionals would treat as material economic considerations under generally accepted investment theories. The State Treasurer would also be able to reasonably conclude that not exercising a right appurtenant to an investment is in the best interest of the fund's beneficiaries.

Section 3 would provide a severability clause.

EFFECTIVE DATE: This act would be effective when it becomes law.

*Karyl Smith substantially contributed to this summary.