Driving Economic Prosperity Through
Abundant, Affordable and Reliable Energy

TEXAS ANTI-ESG LAWS ARE WORKING AS INTENDED

STUDY CLAIMING COSTS ARE RISING USES INCORRECT DATA

The Honorable Jason Isaac
Vance Ginn, Ph.D.

AUTHOR BIOGRAPHIES

The Honorable Jason Isaac is Founder and CEO of the American Energy Institute. Previously elected four times as the State Representative for Hays and Blanco counties in the Texas Hill Country. He served on the Energy Resources and Environmental Regulation committees, among others. During his eight years of service, he successfully passed legislation to reduce taxes, strengthen election integrity, improve public education, preserve Second Amendment rights, protect local groundwater, and protect private property rights. Jason is a graduate of Stephen F. Austin State University, he lives outside of Austin with his wife, the Honorable Carrie Isaac, and their two sons.

Vance Ginn, Ph.D., is a leading economist and influential advocate for free-market principles and fiscal conservatism. He is a fellow at American Energy Institute, president of Ginn Economic Consulting, a fellow at more than ten free-market think tanks across the country, and former chief economist of the White House's Office of Management and Budget. He earned his doctorate in economics at Texas Tech University and resides in Texas.

ABOUT THE AMERICAN ENERGY INSTITUTE

Take a moment to think about what powers your life. Almost everything that you touch on a daily basis comes from petroleum-based products, from inexpensive, durable clothing to sterile medical devices to the fertilizer that produces abundant food that keeps our world fed. America is a leading global producer of oil, gas, coal, and nuclear energy. And as a world leader in environmental quality, we are uniquely positioned to promote human flourishing and fight poverty in our communities and around the world.

americanenergyinstitute.com

TEXAS ANTI-ESG LAWS ARE WORKING AS INTENDED

STUDY CLAIMING COSTS ARE RISING USES INCORRECT DATA

By The Honorable Jason Isaac & Vance Ginn, Ph.D.

INTRODUCTION

Texas has been at the forefront of pushing back against ESG (Environmental, Social, and Governance) dictates that are perceived to disadvantage key industries. In 2021, Texas passed Senate Bills 13 and 19, prohibiting financial firms that boycott or sanction energy and firearms companies from doing business with the state and local jurisdictions. This legislation, aimed at protecting the state's investments and a vital energy sector, has sparked significant debate and analysis. This paper examines the Texas Association of Business Chambers of Commerce Foundation (TABCCF) report that claims these laws have increased municipal borrowing costs. We highlight the flaws in the report, emphasize the importance of fiduciary duty, and examine the broader economic implications of government-mandated ESG initiatives.

OVERVIEW OF TEXAS LEGISLATION

Senate Bills 13 and 19, effective September 2021, were enacted to protect Texas' economic interests by allowing the Texas Comptroller's office to exclude financial firms that engage in boycotts against energy and firearms companies. The Texas Comptroller's office published the first list of excluded companies under SB 13 in August 2022 and updates thereafter. These laws are part of a broader trend where states push back against ESG mandates perceived to harm key industries and jeopardize investments.

COMPARING TEXAS LEGISLATION WITH OTHER STATES

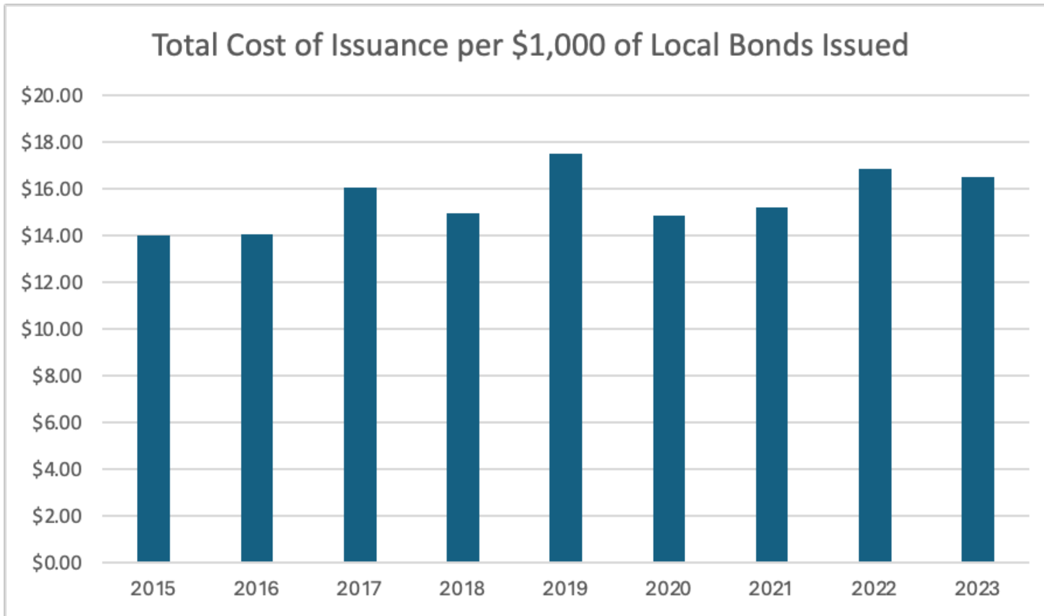
Following Texas, states like Florida, Oklahoma, and others have enacted laws prohibiting state investments in companies that boycott fossil fuels. These states argue that such laws are necessary to protect their economic interests, particularly in the oil and gas sectors. In contrast, states like California, Vermont, and Connecticut promote divestment from fossil fuels and encourage investments in renewable energy. These states believe ESG criteria can lead to long-term sustainable growth despite potential short-term financial trade-offs. However, these pro-ESG states often face criticism for imposing higher business costs and potentially sacrificing financial returns for broader social and political agendas.

SUMMARY OF THE TABCCF REPORT

In March 2024, the Texas Association of Business Chambers of Commerce Foundation (TABCCF) published a study claiming that underwriting costs for municipal bonds in Texas more than doubled in 2022 and 2023, adding an average of $270 million in direct costs each year. However, the study uses the wrong data for its analysis, and using the correct data shows no significant increase in the cost of bond issuance in 2022 and 2023 compared to the historical average. The findings suggested that the legislation has had significant economic costs and should be reconsidered.

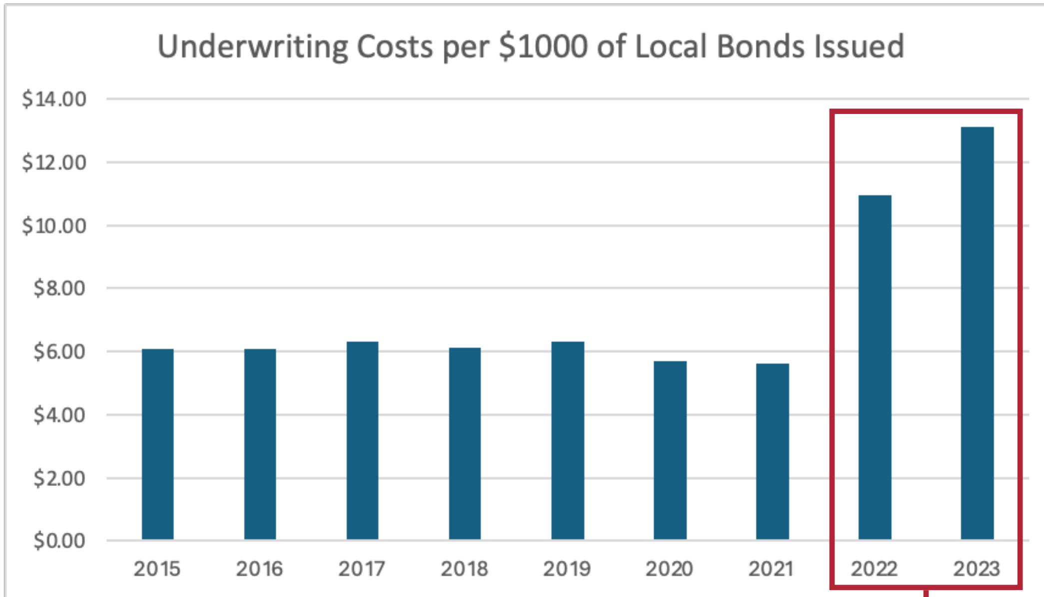
Texas' Bond Review Board (BRB) carefully tracks such costs each year, and their annual reports are the primary data source used for the TABCCF study. Unfortunately, BRB used a different weighting scheme in its 2022 and 2023 reports compared to prior years. BRB corrected this error in a May update to those reports, but the author of TABCCF's study, TXP, Inc., has not corrected its analysis.

The correction makes the TABCCF study's claim of nearly $700 million in economic losses entirely moot. The correct data shows that the average underwriting cost in 2022 and 2023 was $6.38 per $1000 of bonds issued, not $12.03 as originally reported, compared to an average of $6.03 from 2015 to 2021. Also, the total cost of issuance for new bonds, which is a more complete measure than underwriting costs, averaged $16.70 per $1,000 of bonds issued in 2022 and 2023, compared to an average of $15.24 from 2015 to 2021. Note that the highest cost year was 2019, three years before SB 13 and 19 took effect.

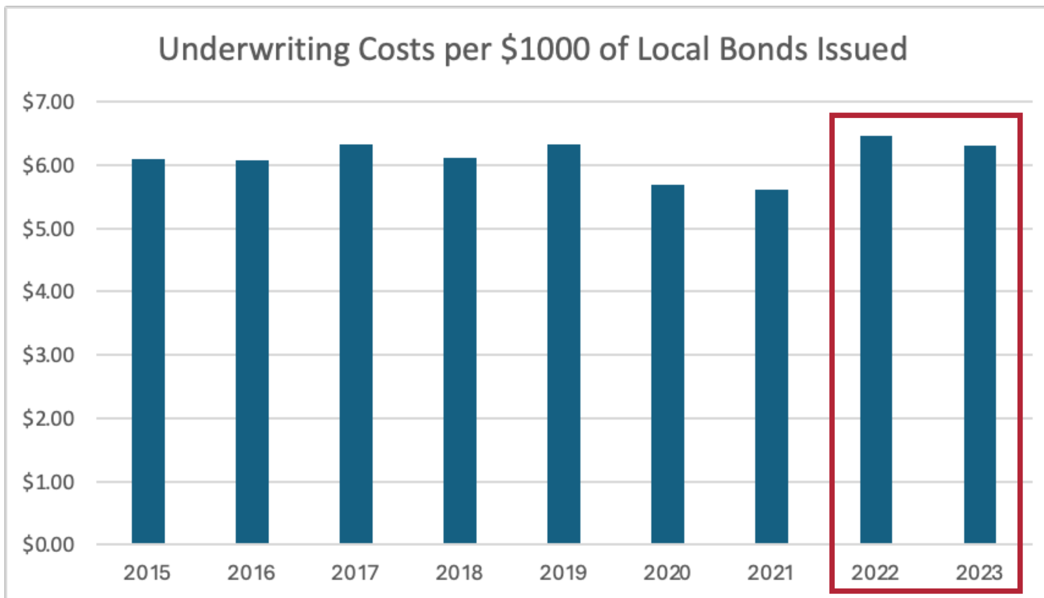


Bottom line: The restated data from the Bond Review Board show that the cost of issuance in recent years is within its historical range. The TABCCF study relies solely on the incorrect data for its claim that SB 13 and 19 are costing the state hundreds of millions of dollars. The evidence shows that the real costs are so far negligible.

Data Used for TABCCF Study



Corrected Data



Note: The data in these charts is taken from Table D2 in the Bond Review Board's annual reports. When TXP pulled the data, the BRB used a different weighting scheme for 2022 and 2023 compared to prior years, which skewed upward the average underwriting cost. Using the corrected data shows no significant increase in underwriting costs in 2022 and 2023 compared to historical averages.

THE IMPORTANCE OF FIDUCIARY DUTY

Fiduciary duty requires investment managers to prioritize financial returns for their beneficiaries. ESG investing can conflict with this duty by introducing non-financial, political criteria that may not align with maximizing returns. Using ESG criteria in public pension funds and state investments can lead to lower financial performance and increased risks. For instance, the Center for Retirement Research at Boston College found that ESG investments often yield lower returns than non-ESG counterparts.

The Committee to Unleash Prosperity report, titled "Putting Politics Over Pensions," highlights the detrimental impact of ESG investing on financial returns. The report criticizes the political motivations behind ESG criteria, arguing that they often lead to suboptimal investment decisions and lower returns for pension funds. It emphasizes the need for investment decisions based on fiduciary duty and profitability rather than politically driven ESG criteria.

Government-mandated ESG investing can have broader economic implications, including reduced economic growth, increased costs and regulatory burdens, and market distortion. Prioritizing ESG criteria over financial performance can stifle economic growth by diverting capital from high-performing investments. Compliance with ESG regulations adds to operational costs, reducing business competitiveness. Furthermore, government-mandated ESG investing can distort market mechanisms, leading to inefficient capital allocation.

MEDIA COVERAGE AND OTHER CITATIONS

In a column titled *Texas Board of Education puts oil and gas firms ahead of kids, hurting their finances and future*, the *Houston Chronicle*'s Chris Tomlinson, wrote:

> *The Texas Association of Business Chambers of Commerce Foundation, not exactly a bunch of left wing radicals, warned that the Texas ban on investing with BlackRock and 10 other major global financial institutions was hurting the state's economy and reputation.*
>
> *"Certain laws can have a negative impact on businesses and place additional, unnecessary burdens on our state's taxpayers," Executive Director Stephanie Matthews said in a statement. "It is important for our state's policymakers to understand the implications of these laws in order to ensure Texas remains the top U.S. state for business."*
>
> *The study found that boycott laws will cost Texas $668.7 million lost in economic activity, $180.7 million in decreased annual earnings, 3,034 fewer full-time, permanent jobs, and $37.1 million in state and local tax revenue losses.*

And, the *Austin American Statesman* wrote a piece titled, *A Texas law geared to help energy, firearms industries comes at multimillion-dollar cost*.

> *These findings illustrate that when government attempts to mandate values, no matter what kind, to businesses, the market loses," said Jon Hockenyos, TXP president and author of the report conducted on behalf of the Texas Association of Business Chambers of Commerce Foundation.*

> *As a result, the report said, the state stands to lose:*
>
> - *$668.7 million in lost economic activity*
> - *$180.7 million in decreased annual earnings*
> - *3,034 fewer full-time, permanent jobs*
> - *$37.1 million in losses to state and local tax revenue*
>
> *But the costs associated with managing the debt in the two years after the law went into effect have more than doubled compared with the debt issued in 2020 and 2021.*

The BlackRock-aligned Alliance for Prosperity and a Secure Retirement used the study to help derail legislative efforts in Louisiana. In a piece titled, Louisiana legislative auditor puts big price tag on state's proposed anti-ESG law, they write:

> *The Texas Association of Business Chambers of Commerce Foundation commissioned an economic analysis of that state's boycotts and found they will cost the economy $668.7 million, 3,034 fulltime permanent jobs, and $37.1 million in local tax revenue.*

Ranking Member Jerrold Nadler (D-NY) of the House Judiciary Committee and Ranking Member J. Luis Correa (D-CA) of the Subcommittee on the Administrative State, Regulatory Reform, and Antitrust wrote in a May 20, 2024 letters to Florida Attorney General Ashley Moody (R) and CFO Jimmy Patronis (R) (LINK) as well as Texas Attorney General Ken Paxton (R) and Comptroller of Public Accounts Glenn Hegar (R) (LINK):

> *A growing body of evidence demonstrates that these policies threaten public employees' retirement savings and leave taxpayers on the hook for higher fees and increased borrowing costs. For instance, a study by the University of Pennsylvania's Wharton*

> *School estimated that Texas' blacklist of responsible investors would cost the state as much as half a billion dollars in additional interest on its bonds. A separate study by the Texas Association of Business found that, in fiscal years 2022-23, the state's policies had cost the state $669 million in lost economic activity, along with more than 3,000 full-time jobs. Similar legislation in Oklahoma has cost the state nearly $185 million in additional expenses. The law has also saddled Oklahoma's retirees with additional costs, as one pension fund estimated that complying with the state's blacklist of certain firms would cost nearly $10 million.*

The *Houston Chronicle* ran a column that cites the same research from the professor at the Wharton School of Business, which says, "Texas cities incurred an additional $300 million to $500 million in interest on $31.8 billion in bonds" after Texas passed a law prohibiting the use of ESG in taxpayer-funded investments.

The Wharton study was about interest rates, not fees. If there was restricted competition, it would likely show up first in higher fees. Fees have not gone up in Texas. But it isn't just the university professors that are in on the act. Building on that study is "new analysis … conducted by Econsult Solutions on behalf of The Sunrise Project — a nonprofit focused on climate change." The Sunrise Project "commissioned" Econsult to "use the econometric analysis of Texas and its findings to provide estimates of the potential financial impacts on taxpayers." Some of the trumped-up numbers from that study have been cited in opposition to state legislation.

The Sunrise Project's opening statement on their website gives their allegiance to the "climate crisis" and claims that "an energy revolution is moving the world beyond fossil fuels. How and how fast that revolution happens will determine the future of humanity." It's hardly a politically neutral source, and it is doing its best to create biased studies to stop legislative and executive efforts that counter its agenda.

This is not "analysis." It's an outburst by aligned organizations realizing that states that won't do business with BlackRock, Vanguard, etc., will inhibit their mission to destroy fossil fuels.

Regarding the claims about Oklahoma's similar bill called the Energy Discrimination Elimination Act (EDEA), the American Energy Institute and Bowyer Research have each released publications debunking the flawed claims against the EDEA, highlighting its role in protecting vital energy sectors and promoting financial stability for the state.

CONCLUSION

State and local governments, which fund their operations with taxpayer money, pensions, and debt, have a fiduciary duty to ensure these scarce dollars are used wisely; otherwise, these funds should remain in the productive private sector. The push by those who want to fund the so-called green energy agenda, social justice, and big government efforts through the guise of ESG has not abided by the fiduciary duty needed across Texas and other states. Given the errors of TABCCF's study conducted by TXP, Inc., and the flaws with other efforts to continue an ESG scheme, policymakers should understand the political influence that biases the results toward ESG.

Texas must adhere to the principles that have made it one of the best places in the world to raise a family, start a business, and live a prosperous life. While individuals in the private sector may choose to go toward ESG investments with lower returns than broader investments, the profit-loss system is quickly pushing people out of ESG efforts. Unfortunately, taxpayers too often don't have that same opportunity to decide how their money is being used on ESG and other efforts against their interests, which is why these bills in Texas and other states that address these concerns are essential. We must not let poorly designed publications alter the trajectory of policymakers fighting the big-government agenda infiltrating our lives and livelihoods.■

Driving Economic Prosperity Through ***Abundant, Affordable and Reliable Energy***

AMERICAN
ENERGY
INSTITUTE

americanenergyinstitute.com