

1-1 By: Hughes S.B. No. 2337
 1-2 (In the Senate - Filed March 12, 2025; March 25, 2025, read
 1-3 first time and referred to Committee on State Affairs; May 5, 2025,
 1-4 reported adversely, with favorable Committee Substitute by the
 1-5 following vote: Yeas 9, Nays 1; May 5, 2025, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Hughes	X			
1-8 Paxton	X			
1-9 Bettencourt	X			
1-10 Birdwell	X			
1-11 Hall	X			
1-12 Hinojosa of Nueces	X			
1-13 Middleton			X	
1-14 Parker	X			
1-15 Perry	X			
1-16 Schwertner	X			
1-17 Zaffirini		X		

1-19 COMMITTEE SUBSTITUTE FOR S.B. No. 2337 By: Hughes

1-20 A BILL TO BE ENTITLED
 1-21 AN ACT

1-22 relating to the regulation of the provision of proxy advisory
 1-23 services.

1-24 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-25 SECTION 1. The legislature finds that:

1-26 (1) when shareholders in this state hire professionals
 1-27 to provide advice in the exercise of their rights as shareholders,
 1-28 the shareholders expect that service to be performed in their
 1-29 financial interest as shareholders, and professionals who are hired
 1-30 by shareholders to provide that service and who deviate from that
 1-31 expectation must clearly disclose that fact;

1-32 (2) there is a particular need for disclosures for
 1-33 proxy voting advice because that advice is often:

1-34 (A) provided for hundreds or thousands of
 1-35 shareholder votes each year; and

1-36 (B) based on lengthy policies that contain
 1-37 general statements but do not explain whether or how the policy
 1-38 provisions will maximize returns for investors for any particular
 1-39 company or shareholder vote;

1-40 (3) proxy advisors:

1-41 (A) have recommended votes based on
 1-42 environmental, social, or governance (ESG) investing, diversity,
 1-43 equity, or inclusion (DEI), and social credit or sustainability
 1-44 scores; and

1-45 (B) have not conducted financial analyses before
 1-46 making the recommendations described by Paragraph (A) of this
 1-47 subdivision despite having proxy voting policies claiming that the
 1-48 purpose of the recommendation is maximizing and protecting
 1-49 shareholder value;

1-50 (4) requiring proxy advisors to provide clear, factual
 1-51 disclosures when the advisors recommend casting a vote for
 1-52 nonfinancial reasons or provide conflicting advice to multiple
 1-53 clients who seek to maximize financial returns is necessary in
 1-54 order to prevent fraudulent or deceptive acts and practices in this
 1-55 state; and

1-56 (5) a company that is the subject of a shareholder
 1-57 proposal may have information regarding whether the proposal is in
 1-58 the shareholder's financial interests or regarding the costs of the
 1-59 proposal, and notice would allow the company to provide relevant
 1-60 information to shareholders that may prevent fraudulent or

2-1 deceptive practices associated with proxy advisors making
2-2 recommendations for nonfinancial reasons.

2-3 SECTION 2. Title 1, Business Organizations Code, is amended
2-4 by adding Chapter 6A to read as follows:

2-5 CHAPTER 6A. PROXY ADVISORY SERVICES

2-6 SUBCHAPTER A. GENERAL PROVISIONS

2-7 Sec. 6A.001. DEFINITIONS. In this chapter:

2-8 (1) "Company" means a publicly traded, for-profit
2-9 corporation, limited liability company, partnership, or other
2-10 business entity that is organized or created under the laws of this
2-11 state or has its principal place of business in this state.

2-12 (2) "Company proposal" means a proposal made by a
2-13 company that is included in the company's proxy statement,
2-14 including a proposal regarding director nominations or elections,
2-15 executive compensation, corporate transactions and structure,
2-16 auditor selection, or similar measures.

2-17 (3) "Proxy advisor" means a person who, for
2-18 compensation, provides a proxy advisory service to shareholders of
2-19 a company or to other persons with authority to vote on behalf of
2-20 shareholders of a company.

2-21 (4) "Proxy advisory service" means any of the
2-22 following services that are provided in connection with or in
2-23 relation to a company:

2-24 (A) advice or a recommendation on how to vote on a
2-25 proxy proposal or company proposal;

2-26 (B) proxy statement research and analysis
2-27 regarding a proxy proposal or company proposal;

2-28 (C) a rating or research regarding corporate
2-29 governance; or

2-30 (D) development of proxy voting recommendations
2-31 or policies, including establishing default recommendations or
2-32 policies.

2-33 (5) "Proxy proposal" means a proposal made by a
2-34 company's shareholder that is included in the company's proxy
2-35 statement, including the nomination of a director.

2-36 (6) "Shareholder" includes a shareholder, unitholder,
2-37 limited partner, or other equity owner of a company.

2-38 SUBCHAPTER B. DISCLOSURE REQUIREMENTS FOR PROXY ADVISORS

2-39 Sec. 6A.101. DISCLOSURE OF NONFINANCIAL PROXY VOTING
2-40 SERVICES TO PREVENT FRAUD OR DECEIT. (a) For purposes of this
2-41 section, a proxy advisory service is not provided solely in the
2-42 financial interest of the shareholders of a company if the service
2-43 is wholly or partly based on one or more nonfinancial factors,
2-44 including a commitment, initiative, policy, target, or subjective
2-45 or value-based standard based on:

2-46 (1) an environmental, social, or governance (ESG)
2-47 goal, factor, or investment principle;

2-48 (2) diversity, equity, or inclusion (DEI), including
2-49 any attempt to provide preferential treatment based on
2-50 characteristics protected under Section 21.051, Labor Code;

2-51 (3) a social credit or sustainability factor or score;
2-52 or

2-53 (4) membership in or commitment to an organization or
2-54 group that wholly or partly bases its evaluation or assessment of a
2-55 company's value over any period on nonfinancial factors.

2-56 (b) If a proxy advisor provides a proxy advisory service
2-57 that is not provided solely in the financial interest of the
2-58 shareholders of a company, the advisor shall:

2-59 (1) include a conspicuous disclosure to each
2-60 shareholder or entity or other person acting on behalf of a
2-61 shareholder receiving the service that:

2-62 (A) states that the service is not being provided
2-63 solely in the financial interest of the company's shareholders
2-64 because it is based wholly or partly on one or more nonfinancial
2-65 factors; and

2-66 (B) briefly explains the basis of the proxy
2-67 advisor's advice and recommendation;

2-68 (2) immediately provide a copy of the notice under
2-69 Subdivision (1) to the company that is the subject of the service;

3-1 and
 3-2 (3) publicly and conspicuously disclose on the home or
 3-3 front page of the proxy advisor's publicly accessible Internet
 3-4 website that the advisor's proxy advisory services include advice
 3-5 and recommendations that are not based solely on the financial
 3-6 interest of shareholders.

3-7 Sec. 6A.102. DISCLOSURES IF PROVIDING CONFLICTING VOTER
 3-8 ADVICE OR RECOMMENDATIONS. (a) For purposes of this section,
 3-9 "materially different," with respect to advice or a recommendation
 3-10 on how to vote on a company proposal or proxy proposal, means
 3-11 simultaneously advising or recommending that:

3-12 (1) one or more clients vote for the proposal and one
 3-13 or more clients vote against the proposal; or

3-14 (2) one or more clients vote for a nominee for a
 3-15 company's governing authority and one or more clients vote against
 3-16 or abstain from voting for the same nominee.

3-17 (b) If a proxy advisor provides to different clients who
 3-18 have not expressly requested services for a nonfinancial purpose
 3-19 either advice or a recommendation on how to vote on a proxy or
 3-20 company proposal that is materially different, the advisor shall:

3-21 (1) if applicable, comply with disclosure
 3-22 requirements for nonfinancial proxy advisory services under
 3-23 Section 6A.101(b);

3-24 (2) notify the following persons, in writing or by
 3-25 electronic means, of the conflicting advice or recommendation:

3-26 (A) each shareholder receiving the advice or
 3-27 recommendation;

3-28 (B) each entity or other person receiving the
 3-29 advice or recommendation on behalf of a shareholder;

3-30 (C) the company that is the subject of the
 3-31 company or proxy proposal; and

3-32 (D) the attorney general; and

3-33 (3) disclose which of the conflicting advice or
 3-34 recommendations is:

3-35 (A) provided solely in the financial interest of
 3-36 the shareholders; and

3-37 (B) supported by any specific financial analysis
 3-38 performed or relied on by the advisor.

3-39 SUBCHAPTER C. ENFORCEMENT

3-40 Sec. 6A.201. DECEPTIVE TRADE PRACTICE. A violation of this
 3-41 chapter is a deceptive trade practice under Subchapter E, Chapter
 3-42 17, Business & Commerce Code, and is actionable under Section 17.47
 3-43 of that code.

3-44 Sec. 6A.202. DECLARATORY JUDGMENT OR INJUNCTIVE RELIEF.

3-45 (a) In this section, "affected party" includes:

3-46 (1) the recipient of proxy advisory services provided
 3-47 by the proxy advisor;

3-48 (2) the company that is the subject of the proxy
 3-49 advisory services; or

3-50 (3) any shareholder of the company described by
 3-51 Subdivision (2).

3-52 (b) An affected party may bring an action seeking a
 3-53 declaratory judgment or injunctive relief under Chapter 37, Civil
 3-54 Practice and Remedies Code, against a proxy advisor who violates
 3-55 this chapter. Not later than the seventh day after the date on
 3-56 which an action is brought under this subsection, the plaintiff
 3-57 shall provide notice to the attorney general, who may intervene in
 3-58 the action.

3-59 SECTION 3. The changes in law made by this Act apply only to
 3-60 a proxy advisory service provided on or after the effective date of
 3-61 this Act.

3-62 SECTION 4. This Act takes effect July 1, 2025, if it
 3-63 receives a vote of two-thirds of all the members elected to each
 3-64 house, as provided by Section 39, Article III, Texas Constitution.
 3-65 If this Act does not receive the vote necessary for effect on that
 3-66 date, this Act takes effect September 1, 2025.

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