

# KEEPING POLITICS OUT OF TEXAS PENSIONS: PROXY VOTING REFORM



by Brent Bennett, Ph.D., and Anna Claire Long

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**Texas Public Policy**  
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# Keeping Politics Out of Texas Pensions Through Proxy Voting Reform

Brent Bennett, Ph.D., and Anna Claire Long

## Executive Summary

Over the past decade, the rise of the environmental, social, and governance (ESG) investing trend has driven a new form of activism that seeks to turn companies into agents of societal change. Unlike the corporate raiders of old, who used their influence as shareholders to direct companies to take actions that they deemed to be more profitable, ESG activists are operating not under a financial but under a political and social activism rationale, attempting to influence companies to support progressive policies on issues ranging from climate change to abortion.

Facilitating the rise of ESG activism is a trend toward increasing consolidation within the investment industry. A large portion of the voting shares in many public companies, up to 20%, is now controlled by three asset managers: Vanguard, BlackRock, and State Street ([Fitchner et al., 2017](#)). ESG investing has been a significant source of new revenue for these firms, enabling them to offer funds with a higher fee structure in an environment of declining fees, and they heavily market their ESG credentials. The market for proxy voting advisory services—used by pensions, foundations, and endowments, as well as many asset managers to facilitate voting in thousands of corporate elections each year—is even more concentrated. Two firms, Institutional Shareholder Services Inc. (ISS) and Glass Lewis, hold over 90% of the market share ([Rose, 2021, p. 4](#)) and have become major ESG promoters because they benefit financially from the increasing number and complexity of shareholder resolutions from ESG activists.

Public pensions, as some of the largest institutional investors in the world, are important trendsetters in the investment industry, and several state pensions, particularly the California State Teachers' Retirement System (CalSTRS) and the California State Employees' Retirement System (CalPERS), the two largest public pensions in the country, have led the charge in ESG activism. Texas pensions, while not active promoters of ESG, are still being brought into ESG trends through the actions of advisors and consultants that they use. Texas' two largest pensions, the Teacher Retirement System of Texas (TRS) and the Employees Retirement System of Texas (ERS), contract with ISS for their proxy voting advisory services and have been demonstrated to use voting policies that cause them to vote with ISS recommendations more than 99.5% of the time, including voting for many ESG resolutions ([Texas Senate, 2022, 2:40:20](#); [Rose, 2021, p. 12](#)). In fact, on the environmental resolutions documented in this research, their past voting records indicate they likely vote for

## Key Points

- Consolidation in the finance industry has enabled progressive political activists to bully corporations into advancing their agenda on issues ranging from climate change to abortion. This activism undermines the financial performance of American businesses, our democratic institutions, and our market economy.
- Texas pensions, while not active promoters of environmental, social, and governance (ESG) investing, are still being brought into ESG trends through the actions of advisors and consultants who are actively promoting ESG.
- The feedback loop between public opinion, government policy, and corporate actions that is driving woke capitalism must be broken to prevent the continued takeover of the means of production—from energy to agriculture to raw materials—by government and crony corporatists.
- State agencies and pensions should not become counter-activists to the ESG movement but must ensure laser focus on fiduciary duty. The Texas Legislature must, in turn, develop policies that ensure Texas businesses and consumers are not harmed by corporate political activism.

more ESG resolutions than Vanguard, BlackRock, and State Street.

Texas passed Senate bills 13 (2021) and 19 (2021) in the 87th Legislature to move Texas taxpayer dollars away from firms that are advancing the ESG agenda by sanctioning energy and firearms companies. However, Texas pensions need to better manage their own proxy voting and investing practices. The Texas Legislature should establish more clarity in statute that any promotion of social or political goals, either through proxy voting or investment choices, violates the pensions' fiduciary standard. Texas pensions should be required to submit to audits of their votes by the Pension Review Board and revoke proxy voting and investment management authority from any asset manager that is found in violation of the fiduciary standard. Exercising this increased oversight requires some additional effort, but the effort is worth it to ensure that Texas pensions stand against the wave of political activism that is threatening their investment returns and undermining Texas businesses.

## Introduction

Proxy voting and environmental, social, and governance (ESG) investing strategies are used as vehicles for external entities to promote extreme environmental and social policies through corporate actions and policies. A proxy vote refers to "a ballot cast by a single person or firm on behalf of a corporation's shareholder who may not be able to attend a shareholder meeting, or who may not choose to vote on a particular issue" (Kenton, 2020, para. 1). Shareholders vote on various corporate issues including, but not limited to, election of board members, merger or acquisition approvals, actions pertaining to stock compensation plans, and environmental policy proposals.

The use of proxy votes to influence corporate action is rooted in the basic premise of capitalism that the shareholders, that is, the owners of the company, should have a direct say in the company's operations when appropriate, most importantly in the selection of its board members. However, in recent years, environmental activists have seized on this process as a way to insert their politics into corporate decision-making. They do this by purchasing stock in public companies and forming coalitions with other shareholders to introduce shareholder resolutions and nominate new board members, copying the decades-old practices of activist hedge funds (Eccles et al., 2021).

But unlike the hedge funds of old, these activists are operating not under a financial rationale but under a political

rationale, attempting to influence companies to support progressive policies on issues ranging from climate change to abortion. It is rational for companies to weigh in on policies and regulations that directly affect their finances and ability to do business. However, while the activists usually claim there is a financial rationale for their actions, forcing actions on issues that are so far removed from a company's balance sheet detracts from the ability of executives to make decisions that will produce the highest financial returns for their shareholders.

One example of this activist pressure at work is the campaign to force major oil and gas companies to adopt "net zero by 2050" carbon emissions targets and essentially embark on a 30-year effort to cannibalize their existing businesses in favor of low- or zero-carbon alternatives. Some of the notable groups behind this effort are Climate Action 100+ (CA100+), As You Sow, and Follow This, as well as traditional environmental groups like the Sierra Club. Despite ample evidence that oil and gas demand will continue to grow over the next 30 years (EIA, 2021), these activists claim that government policies will be able to dictate a rapid transition away from fossil fuels and that companies need to manage so-called transition risk (Climate Action 100+, n.d.-c). What's really happening is that they are weakening the resolve of energy companies to fight those policies, as evidenced by the shifts in the stance of the American Petroleum Institute, the oil and gas industry's main trade group, on issues like methane regulations and carbon taxes (American Petroleum Institute, 2021).

ESG activists would be side shows in most public company elections if not for the influence of two important groups of participants in the proxy voting process: investment managers and proxy voting advisory firms. Consolidation in the investment industry and the rise of large, passively managed index funds have brought a large portion of the proxy votes of the largest U.S. companies under the control of three asset managers (hereafter called the Big Three): Vanguard, BlackRock, and State Street. Some estimates place their combined ownership share in the largest public U.S. companies at an average of almost 20% (Fitchner et al., 2017, Sec. 3.2). When these companies vote together, they have tremendous power to sway corporate elections, a fact that ESG activists have long been aware of and are using to their advantage.

An even higher degree of consolidation has occurred in the market for proxy voting advisory services, which is now dominated by two firms: Institutional Shareholder Services

Inc. (ISS) and Glass Lewis. Institutional investors—including pensions, foundations, and endowments—as well as asset managers and mutual funds, often own shares in thousands of public companies and pay companies like ISS and Glass Lewis to advise on and facilitate voting on board elections and shareholder proposals. In many cases, investors have automated voting process set up with these firms, such that the shares are voted according to the recommendations of ISS or Glass Lewis unless directed otherwise ([Rose, 2021](#)). While the share of global assets held by institutional investors is declining, it still stands at about 30% ([INDEFI, 2022, p. 4](#)). When ISS and Glass Lewis both recommend the same vote on a proposal, that recommendation can sway a large portion of that 30% share and therefore have at least as powerful an effect as the combined vote of the Big Three. Adding together the influence of the Big Three investment firms and the two proxy advisory firms, it is often the case that close to half the votes in a public company election can be swayed by these five firms.

State pension plans are also a big part of the ESG movement, with collective holdings of over \$4 trillion ([U.S. Census Bureau, 2022](#)) and an outsize influence on general trends within the investment industry. The two largest state pensions, the California State Teachers Retirement System (CalSTRS) and the California State Employees' Retirement System (CalPERS), together managed \$752 billion as of 2022 ([CalSTRS, n.d.-a](#) and [CalPERS, 2022](#)) and have been far ahead of the industry with their embrace of ESG principles. Texas' two largest pensions—the Teacher Retirement System (TRS), with nearly \$200 billion in assets ([TRS, n.d.-a](#)), and the Employees Retirement System (ERS), with nearly \$35 billion in assets ([ERS, n.d.-a](#))—do not openly embrace ESG in the same way, but they are not immune to its influence. This influence is most evident in the outside advisors and consultants that Texas pensions rely upon, and nowhere is this truer than in the proxy voting space, where both TRS and ERS employ ISS as their proxy advisor and, as this study documents, closely follow ISS's recommendations. In fact, both pensions, particularly TRS, have voted in favor of as many or more environmental shareholder resolutions as the Big Three over the past 4 years.

Senate bills 13 ([2021](#)) and 19 ([2021](#)), which became law in September 2021, were designed to move Texas taxpayer dollars away from firms that are advancing the ESG agenda, specifically firms that are sanctioning energy and firearms companies that do not comply with ESG principles. In no area is this more important than in Texas state pensions; yet Texas pensions have been violating both the spirit of

SB 13 and SB 19 and their own proxy voting policies by voting for a large number of activist shareholder resolutions. Fortunately, this problem can be alleviated through stronger fiduciary standards and diligent oversight of proxy voting and investment activities. The financial stability of Texas pensions and the activities of many Texas businesses are being harmed by the wave of political activism overtaking the finance industry. Texas pensions must stand apart from that wave and send a clear message that Texas will not support these efforts to politicize every aspect of corporate activities.

## How Proxy Voting Impacts Corporate Environmental Policies

Most investors invest through mutual funds and other investment vehicles where other entities, primarily investment firms such as the Big Three, vote their shares for them. Even investors who own individual stocks do not often vote their own proxies. Therefore, it is difficult for investors to find out how their proxies are voted and how their shares are used to impact corporate policies and decision-making processes. The focus of this paper will be the impact of shareholder activism on the investment activities and environmental policies of American energy companies, which has been a major focus of environmental activist campaigns. The most well-known example of a successful pressure campaign was the replacement of three directors on the board of ExxonMobil in May 2021 ([Phillips, 2021](#)), which was followed several months later by ExxonMobil adopting a “net zero by 2050” goal for its operated assets ([ExxonMobil, 2022](#)).

The fight to replace ExxonMobil board members was led by a little-known hedge fund called Engine No. 1, which put up four new board members on a dissident ballot at ExxonMobil's annual meeting in 2021. Such actions by hedge funds or wealthy shareholders to replace board members and take over companies have a long history with many well-known practitioners such as Carl Icahn and T. Boone Pickens. What was novel about this action, aside from involving the most high-profile energy company in the world, was that it was focused squarely on ExxonMobil's greenhouse gas (GHG) emissions targets and its insufficient investments, according to the activists, in low-carbon businesses ([Engine No. 1, 2021a, p. 6](#)). Emissions targets have been a subject of ESG activism for years but had never been raised to the level of a high-profile corporate takeover. Engine No. 1's tactics were also somewhat novel. It only owned 0.02% of ExxonMobil at the time of the annual meeting ([Phillips, 2021](#)) and based its strategy entirely on

persuading the Big Three, which collectively owned nearly 20% of ExxonMobil, as well as ISS and Glass Lewis, which influenced a large number of institutional investor votes, to back their candidates.

Engine No. 1 carefully crafted its pitch to appeal to Wall Street, citing the underperformance of ExxonMobil's stock relative to its peers and its continued investment in growing production despite the possibility that "fossil fuel demand may decline in the decades to come," a reference to the supposed energy transition to wind and solar that Engine No. 1 believes is imminent ([Engine No. 1, 2021a, p. 6](#)). BlackRock cited similar reasons for voting in favor of three of Engine No. 1's nominees in their 2021 vote bulletin ([BlackRock, 2021, pp. 3–4](#)), and in 2020, the company cited a lack of sufficient climate disclosures and emissions targets as reasons for voting against ExxonMobil board members ([BlackRock, 2020, p. 11](#)). At the same time Engine No. 1 was pitching Wall Street, it was also pitching activist groups such as Climate Action 100+ ([Engine No. 1, 2021b](#)), which hailed the vote as a "day of reckoning" and an urgent call for board members to be "climate competent" ([Climate Action 100+, 2021, first quote](#)). Environmental groups like the Sierra Club hailed it as a message to fossil fuel producers that "their era is over" ([Sierra Club, 2021, para. 3](#)). In essence, Engine No. 1 was trying to put a "clean energy halo" on the financial motives of Wall Street investors and a financial rationale behind the political motives of ESG activists, and they succeeded wildly in convincing both groups to support them.

Aside from voting against or replacing board members, another avenue for activists to drive corporations to get involved in climate policy is through shareholder resolutions and direct engagement. As detailed later in this paper, ExxonMobil and Chevron, the two largest publicly traded energy companies in the world, were subject to 19 environmentally focused shareholder proposals from 2019 to 2022 (see **Table 1**). Five of those proposals succeeded. Shareholder resolutions are rarely successful and are not binding when they do pass, but what happens more frequently is that companies agree informally to perform certain actions to satisfy shareholders and avoid a public battle that could lead to board members being replaced. For example, State Street notes in its 2021 investment stewardship report that HSBC Holdings plc was the target of a shareholder campaign to set stringent GHG emissions targets for their lending portfolio ([State Street, 2021, p. 46](#)). The report states that, "After engaging with our team, along with other shareholders, the company committed to phase

out financing of coal-fired power and thermal coal mining in the EU and OECD by 2030 and other regions by 2040. As a result, the proposal was withdrawn by the proponent." This engagement is the primary technique ESG activists and large asset managers use to exert influence on corporate activity.

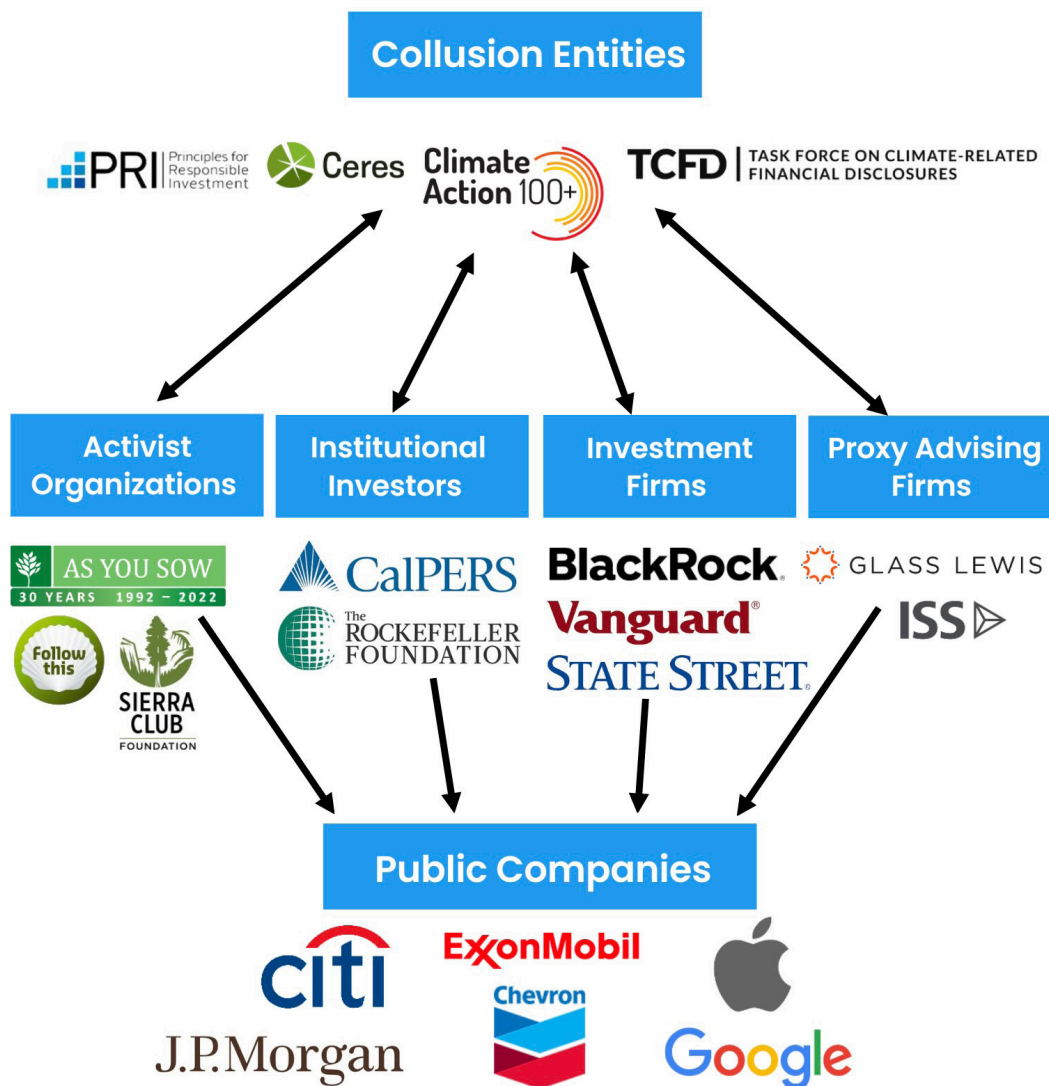
These actions reveal a feedback loop between government policy, public opinion, and corporate actions that lies at the heart of ESG investing. BlackRock CEO Larry Fink's 2022 letter to CEOs puts it succinctly: "When we harness the power of both the public and private sectors, we can achieve truly incredible things. This is what we must do to get to net zero" ([Letter from Larry Fink, 2022, para. 33](#)). On the issue of climate change, public opinion in favor of reducing GHG emissions has driven government policies that favor low-carbon investments and punish investments in high-carbon businesses, which in turn has changed the activities of both energy producers and consumers. ESG closes this loop by driving companies to use their clout to influence public opinion and policymakers to support climate policies and convincing investors to favor businesses that are prepared for the "energy transition." Energy companies are both affected by this feedback loop and active participants in it by adopting net zero goals and advocating in favor of policies such as carbon taxes ([ExxonMobil, 2021a](#)).

### **Nonprofit Organizations, Public Pensions, and Proxy Advisors Promoting ESG**

The organizations driving this ESG investing and public policy feedback loop include a number of nonprofit organizations specifically dedicated to shareholder activism on environmental issues. As You Sow is one of the oldest—founded in 1992—and largest shareholder activist groups in the world and submits proposals on a wide range of topics, from climate change to waste management, to diversity and social justice ([As You Sow, n.d.](#)). Follow This is a smaller group that began out of an effort to convince Shell to adopt climate policies and has now spread to other multinational energy companies ([Follow This, n.d.](#)). Nearly half of the proposals reviewed for this study, which covers a subset of American public energy and utility companies, were put forward by As You Sow or Follow This. Many other environmental organizations, such as the Sierra Club ([n.d.](#)), have teams that focus specifically on shareholder advocacy.

While these activists are numerous and well-funded, they would not have any power without the ability to influence large asset managers like the Big Three and institutional investors like state pensions. They only need to own \$2,000

**Figure 1**  
*How Politically Motivated Investing Practices are Propagated Through Corporate America*



*Note.* Investment firms, activist groups, large investors like state pensions and private foundations, along with proxy advising firms and consultants collaborate through collusive networks like Climate Action 100+ to develop shared principles like net zero by 2050. Those entities then impose those principles on public companies through proxy voting, board elections, and “engagement” pressure. Public companies are increasingly becoming willing collaborators in the process in order to market themselves as virtuous and to gain regulatory and market advantages over smaller competitors.

of a company’s shares for three years to submit a proposal ([Procedural requirements and resubmission thresholds, 2020, p. 70241](#)), but of course, they need a majority of shareholders to agree to pass it. Therefore, they have created organizations specifically to bring investors together and influence their votes. The most influential of these organizations are Ceres, founded in 1989 in response to the Exxon Valdez oil spill ([Ceres, n.d.-a](#)), and its climate-focused offshoot, Climate Action 100+, founded in 2017 “to ensure

the world’s largest corporate greenhouse gas emitters take necessary action on climate change” ([Climate Action 100+, n.d.-a, para. 1](#)). CA100+ boasts a membership of over 700 investment firms with a combined \$68 trillion in assets under management, which they claim is over 50% of all investable assets globally.

The influence of these groups is further abetted by the endorsements of ISS and Glass Lewis. As of February 2023,

## The primary problem with proxy advising firms, outside of the market power wielded by ISS and Glass Lewis, is that they have many natural incentives to support shareholder activism and ESG.

ISS's U.S. benchmark policy recommends voting against board directors of companies on the CA100+ Focus Group list if those companies fail to set "appropriate GHG emissions reductions targets," which it defines as "medium term GHG reduction targets or Net Zero-by-2050 GHG reduction targets for a company's operations (Scope 1) and electricity use (Scope 2)" ([ISS, 2022, p. 17](#)). Glass Lewis has a Climate Action 100+ System Watch List in its proxy voting software to allow clients to automatically flag information about companies on the CA100+ Focus Group list and has a system to enable clients to create a library of "pre-defined rationales" to document their decisions as they vote on "meetings related to Climate Action 100+" ([Glass Lewis, n.d.-b](#)).

Public pensions also have an outsize role in the corporate engagement process because they collectively manage trillions of dollars in assets and serve as trendsetters in the institutional investment world. CalPERS and CalSTRS, in particular, have been at the forefront of the ESG movement. CalPERS is a founding member of CA100+ ([Climate Action 100+, n.d.-b](#)) and has a seat on their steering committee ([Climate Action 100+, n.d.-a](#)). CalPERS and CalSTRS, as well as California's former controller, all have seats on the board of Ceres ([Ceres, n.d.-b](#)). The influence of state pensions can also bring attention to proxy battles and drive support for activists. The support of CalSTRS was widely cited as a critical part of Engine No. 1's battle with ExxonMobil ([Kaufman & Kishan, 2021](#)). The New York comptroller, who is also on Ceres' board, created international attention by supporting a series of shareholder resolutions requiring banks to end all new fossil fuel financing by the end of 2023 ([Kerber, 2022](#)).

However, the most influential outside actors in the corporate engagement process are the third-party proxy advising firms ISS and Glass Lewis. The Employee Retirement Security Act of 1974 (ERISA) requires institutional

investors and asset management firms holding shares on behalf of retirees to vote those shares, unless the cost to do so can be documented to outweigh the potential economic benefits ([Interpretive bulletin relating to exercise of shareholder rights, 2008, p. 61733](#)). While the largest asset managers like the Big Three have their own stewardship teams, ISS and Glass Lewis have a large captive market of investors, including state pensions, that cannot economically manage many thousands of different votes on their own. These proxy advisors serve an important role in providing the economies of scale and special expertise to enable these smaller investors to meet their obligations, and that market benefit also conveys enormous power on them. Because institutional investors still own about 30% of all global assets ([INDEFI, 2022, p. 4](#)), ISS's and Glass Lewis' effect on the outcome of a proxy vote can be equal to or greater than the Big Three.

The primary problem with proxy advising firms, outside of the market power wielded by ISS and Glass Lewis, is that they have many natural incentives to support shareholder activism and ESG. Proxy advisors sell consulting services to both investors and issuers, which not only can bias their recommendations ([Li, 2016](#)) but also gives them a strong economic incentive to encourage a larger number of controversial shareholder resolutions and engagements that generate a greater need for their services among investors that must increasingly execute more complex voting decisions. Both ISS ([n.d.](#)) and Glass Lewis ([n.d.-a](#)) aggressively promote services related to ESG, including corporate ESG scores, ESG research, and engagement consulting. As noted on ISS's website under a section titled "ESG no longer optional," "ISS ESG's full product portfolio supports the implementation of global stewardship codes and principles in the investment industry, including the PRI [United Nations Principles for Responsible Investing]" ([ISS, n.d.](#)). It is not an overstatement to say that these firms are "all in" on ESG.

Ideally, Texas pensions should avoid using proxy advisors that, by default, do not follow the pensions' fiduciary policies and that require extensive oversight to cast votes in line with the pensions' policies. However, the dominance of ISS and Glass Lewis in this market leaves few options available. As ERS officials noted in a May 2021 Texas Senate State Affairs Committee hearing, ISS was the sole eligible bidder on their request for services ([Texas Senate, 2022a, 2:50:30](#)), and they are under a multiyear contract with the firm. This is likely also the case for TRS, which also uses ISS, and other Texas pensions. Texas pensions should



continue to review the market for other providers, especially with the potential for new proxy advisors to enter the market in response to the growing public backlash against ESG, but in the absence of more aligned advisors, Texas pensions need to work with their existing advisors to develop custom voting policies that ensure they are not voting in favor of ESG proposals.

## Proxy Voting Record of TRS and ERS in Public Energy Company Elections

Texas has several state pensions as well as pensions that cover municipal, county, and emergency services personnel for local entities that are too small to efficiently manage their own pensions and therefore combine their pension management into a single statewide entity. The two largest state pensions, TRS and ERS, publish a limited history of their proxy voting records online ([TRS, n.d.-b](#) and [ERS, n.d.-b](#)) and are worthy of closer inspection given their much larger size. With that said, the reforms proposed later in this paper should apply to all Texas pensions.

While TRS and ERS share the same proxy advisor, ISS, they do not always vote the same way on activist shareholder proposals. Part of this discrepancy might be due to how ISS, in crafting ERS's proxy voting policy, interprets ERS's prohibition against "establishing or endorsing social policy" in their proxy voting decisions ([ERS, 2011, p. 4](#)).

Intangible factors such as social and environmental issues are increasingly being incorporated into valuation models to better quantify the risks and opportunities of long-term investing in a company. ERS' voting of social and environmental proposals will be based solely on enhancing or protecting long-term value to ERS and not on establishing or endorsing social policy. As part of its fiduciary duty, ERS shall consider only those factors that relate to the economic value of ERS' investment and shall not subordinate the interests of ERS' participants and beneficiaries to unrelated objectives.

TRS only adopted a formal investment policy regarding ESG factors in September 2021 ([TRS, 2022](#)), and their policy is less stringent than ERS's.

Environmental, social, and governance (ESG) factors influence the performance of TRS's investments. In making investment decisions, the Investment Division will consider ESG factors that are material to long-term returns and levels of risk. Materiality of specific

ESG factors vary across strategies, companies, sectors, geographies, and asset classes. All investments must be made prudently and in accordance with fiduciary and ethical standards, without promoting interests unrelated to the portfolio's stated objectives of controlling risk and achieving a long-term rate of return. ([p. 8](#))

While the policy discrepancy is notable, what matters is how the policies are being applied, and the voting records of TRS and ERS indicate that they do not appear to apply their policies consistently. A simple case study is to consider the votes of TRS and ERS on 19 environmentally focused shareholder proposals at ExxonMobil and Chevron between 2019 and 2022. Among domestic energy companies, these two companies have fielded by far the most ESG-related proposals. Studying multiple proposals at the same company across multiple years is a better way to measure voting patterns than studying distinct proposals at many different companies. Of these 19 proposals, TRS voted in favor of 10, while ERS voted in favor of 6 (see **Table 1**).

Some of the individual votes in the table seem to indicate a lack of consistency with TRS's and ERS's stated policies. ERS's policy clearly states that "establishing or endorsing social policy" is forbidden, and TRS cannot promote "interests unrelated to the portfolio's stated objectives of controlling risk and achieving a long-term rate of return." Yet ERS and TRS voted for proposals that required reports on Chevron and ExxonMobil's lobbying activities align with the Paris Agreement. The supporting statements for these proposals make it clear that the proponents want to pressure the companies to lobby national governments to take "the actions required to prevent the worst effects of climate change" ([ExxonMobil, 2021b](#)). The objective of the proposals appears to be promoting the social and political goals of the Paris Agreement, not improving the financial performance of the company. If TRS and ERS believe these proposals will improve financial performance, despite the apparent non-financial intent of the proposals, they should be required to explain how.

There seems to be a pattern of voting for some, but not all, proposals to produce disclosures and reports but voting against more prescriptive proposals regarding company investments. However, it is not clear why TRS voted for a proposal requiring Chevron to "substantially reduce the greenhouse gas (GHG) emissions of their energy products" in 2021, especially when they voted against a different GHG emissions proposal for ExxonMobil and Chevron from the same activist group, Follow This, in 2022. ERS voted against

**Table 1**

*Summary of TRS and ERS Votes on Environmentally Focused Shareholder Resolutions at ExxonMobil and Chevron from 2019 to 2022*

Company	Date	Proposal	Votes For	TRS	ERS
ExxonMobil	5/29/2019	Report on Risks of Petrochemical Operations in Flood Prone Areas	25.00%	Against	Against
ExxonMobil	5/29/2019	Establish Environmental/Social Issue Board Committee	7.40%	Against	Against
ExxonMobil	5/27/2020	Report on Risks of Petrochemical Operations in Flood Prone Areas	24.50%	Against	Against
ExxonMobil	5/26/2021	Issue Audited Report on Financial Impacts of IEA's Net Zero 2050 Scenario	48.90%	For	For
ExxonMobil	5/26/2021	Report on Climate Lobbying	63.80%	For	For
ExxonMobil	5/25/2022	Set GHG Emissions Reduction Targets Consistent with Paris Agreement Goal	27.10%	Against	Against
ExxonMobil	5/25/2022	Report on Low Carbon Business Planning	10.50%	Against	Against
ExxonMobil	5/25/2022	Report on Scenario Analysis Consistent with IEA's Net Zero by 2050	51.00%	Against	Against
ExxonMobil	5/25/2022	Report on Reducing Plastic Pollution	36.50%	For	Against
Chevron	5/29/2019	Report on Reducing Carbon Footprint	33.20%	For	Against
Chevron	5/29/2019	Climate Change Board Committee	7.60%	Against	Against
Chevron	5/27/2020	Report on Climate Lobbying	53.50%	For	For
Chevron	5/27/2020	Create Board Committee on Climate Risk	8.20%	For	For
Chevron	5/27/2020	Report on Petrochemical Risk	46.00%	For	For
Chevron	5/26/2021	Request Company to Substantially Reduce GHG Emissions	60.70%	For	Against
Chevron	5/26/2021	Report on Impacts of Net Zero 2050 Scenario	47.80%	For	For
Chevron	5/25/2022	Oversee and Report on Reliability of Methane Emission Disclosures	98.00%	For	Against
Chevron	5/25/2022	Issue Audited Net-Zero Scenario Analysis Report	38.70%	Against	Against
Chevron	5/25/2022	Adopt Medium and Long-Term GHG Emissions Reduction Targets	32.60%	Against	Against

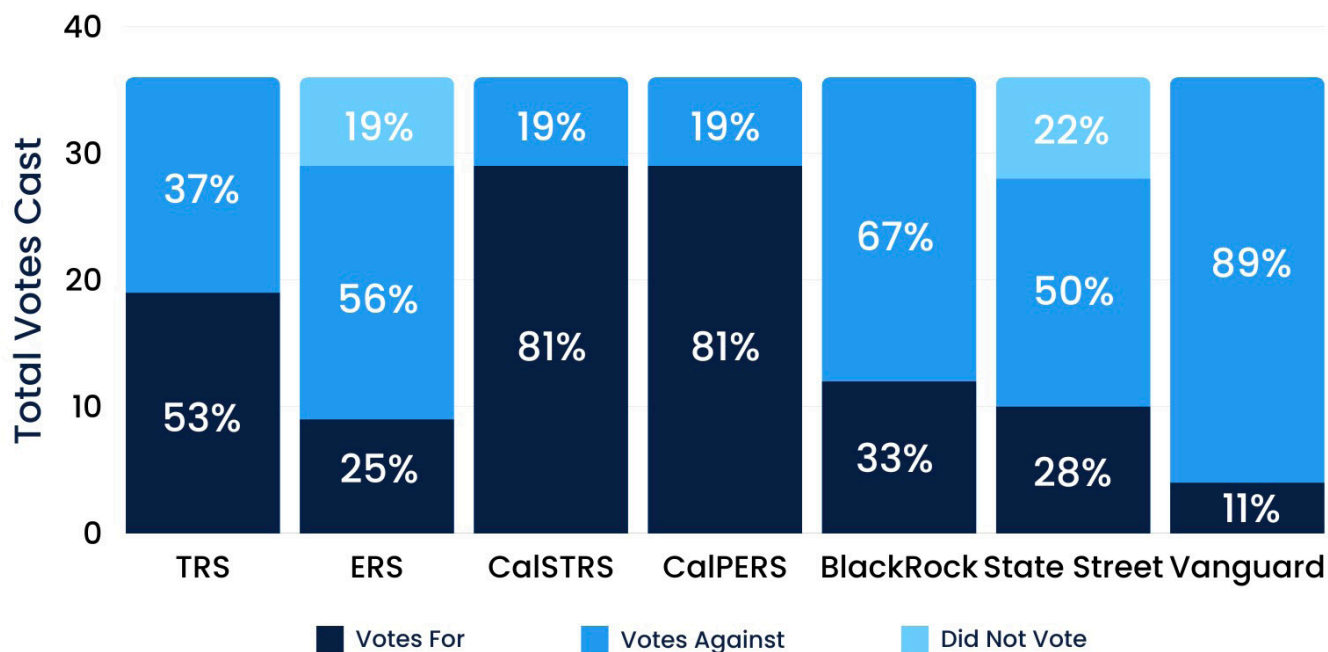
*Note.* Data for TRS and ERS votes are from *Proxy Voting Search*, Teacher Retirement System of Texas (<https://vds.issgovernance.com/vds/#/MzQ1Ng==>) and *Proxy Voting Search*, Employees Retirement System of Texas (<http://vds.issproxy.com/SearchPage.php?CustomerID=115>). Total vote count is from *Proxy Monitor*, Manhattan Institute (<https://www.proxymonitor.org/>). As of this writing, ERS proxy voting records prior to 2022 are no longer available on their website and must be obtained from ERS directly.

all these proposals. Regarding proposals to create a climate change board committee, TRS and ERS voted against such proposals for ExxonMobil and Chevron in 2019 but voted for a similar proposal for Chevron in 2020.

It is also important to note that only one of these proposals, the 2022 Chevron proposal to report on the reliability of methane emission disclosures, was supported by management. It is not common for management to support shareholder proposals, since those proposals are usually framed as critiques of management, but voting against the opinion of management, who ought to be the best-informed party about what will improve the financial performance of the

company, should require a high bar of evidence. This is especially true for proposals that endorse social policy, such as net-zero carbon emissions by 2050. It seems that the management opinion on these proposals is that they either (a) restrict the company from making the investments that they see as having the highest returns or (b) waste company resources on unnecessary disclosures that have the effect of endorsing political agendas. TRS and ERS should clearly explain how these proposals are “material to long-term value” or, if they are following ISS, to explain why they agree with ISS’s assessment of these proposals.

**Figure 2**  
Vote Totals on 36 Environmentally Focused Shareholder Resolutions at 13 American Energy and Utility Companies from 2019 to 2022



Note. Data for TRS and ERS votes are from *Proxy Voting Search*, Teacher Retirement System of Texas (<https://vds.issgovernance.com/vds/#/MzQ1Ng==>) and *Proxy Voting Search*, Employees Retirement System of Texas (<http://vds.issproxy.com/SearchPage.php?CustomerID=115>). Data for CalPERS and CalSTRS are from *Proxy Voting Record*, California State Teachers’ Retirement System (<https://viewpoint.glasslewis.com/WD/?siteId=CalSTRS>) and *Proxy Voting Record*, California State Employees’ Retirement System (<https://viewpoint.glasslewis.com/WD/?siteId=CalPERS>). Data for BlackRock, State Street, and Vanguard are from SEC Form N-PX filings, found on *EDGAR/Company Filings*, Securities and Exchange Commission (<https://www.sec.gov/edgar/searchedgar/companysearch>).

The degree to which Texas pensions are following the ESG crowd can be discerned by comparing their votes to their peers. CalSTRS ([CalSTRS, n.d.-b](#)) and CalPERS ([CalPERS, n.d.-b](#)) each voted for 16 of these proposals at ExxonMobil and Chevron (but not all the same ones), BlackRock voted for 7, State Street voted for 6, and Vanguard voted for 2 ([SEC, n.d.](#)). Across a broader range of 13 American energy and utility companies, TRS voted for 53% of environmental proposals from 2019 to 2022, and ERS voted for 25% (see **Figure 2**), while BlackRock and State Street both voted for roughly 30%. So, while TRS and ERS are not as active in voting for these shareholder proposals as their California peers, TRS is probably more active than the average Wall Street investment firm.

The propensity of TRS and ERS to vote in favor of so many ESG proposals is likely due to voting with ISS recommendations and not applying a stringent screening procedure. According to research from Paul Rose, a professor at The Ohio State University, TRS voted with ISS more than 99.9% of the time in 2019 and 2020, and ERS voted with ISS 99.5%

of the time ([Rose, 2021, p. 21](#)). Close to 99% of proposals are management proposals, primarily uncontested board director elections that do not merit close scrutiny, with the remaining 1% being shareholder proposals, many of which relate to ESG issues ([BlackRock, 2022b, p. 19](#)). A large degree of voting alignment on management proposals makes sense, which is why Dr. Rose says that at least 99.5% alignment is needed to indicate an investor is following a proxy advisor’s benchmark policy ([p. 10](#)). However, with more than 100,000 proposals being voted on across the public company universe each year ([p. 10](#)), at least several hundred shareholder proposals each year require closer scrutiny, in addition to contested board elections.

In the May 2021 Texas Senate State Affairs hearing, ERS executives were questioned about a series of proxy votes in favor of shareholder proposals requiring financial institutions to stop financing new fossil fuel projects after 2023 ([Texas Senate, 2022, 2:40:20](#)). They explained that they had a problem with their custom voting policy with ISS, which had not properly updated the policy to incorporate

this type of proposal. TRS noted that they updated their proxy voting policy, including their policy on climate change proposals, in December 2021 and so were able to adjust to these new proposals and vote against them ([Texas Senate, 2022, 3:01:30](#)). These types of voting policies are something that Dr. Rose’s paper documents in greater detail ([Rose, 2021, p. 12](#)), and while they default to ISS’s recommendations, they do offer a high degree of customization that allows ERS and TRS to vote against ESG proposals that ISS might favor. Both ERS and TRS pledged to improve their oversight of these policies, but Texas has more than 300 state and local pensions ([Texas Pension Review Board, 2022](#)). Consistency in their proxy voting practices—supported by clear requirements in statute, good reporting, and sound implementation—is necessary to ensure these voting practices are not being proliferated across the hundreds of billions of dollars our state and local pensions manage.

As Texas seeks to implement SB 13 and SB 19 and end its relationships with many investment and banking firms, in part because of their support for ESG activism in proxy elections, it also has work to do to clean its own house. Fortunately, some legislative and policy changes can be quickly implemented to help solve this problem.

### What Texas Needs to Do

Given the increasing pervasiveness of ESG activism and the influence of investment managers and proxy voting advisors that are not just ideologically aligned with ESG principles but financially incented to promote them, Texas needs to actively guard against ESG in order to protect the financial interests of Texas pensioners and taxpayers. The Texas Legislature can start this process by enacting legislation that encompasses the following principles.

Clearly define in Texas statute that ESG investment strategies and ESG shareholder resolutions run counter to the fiduciary duty of Texas pensions and should be avoided in all forms. Several state attorneys general have already issued opinions noting that ESG investment practices violate state fiduciary standards ([Landry, 2022](#); [Iccarino & Richards, 2022](#)).

- Revoke all proxy voting authority that has been given to outside investment managers and third-party firms, unless those managers offer voting policies that enable Texas pensions to vote against ESG shareholder proposals.
- Require state officials and outside managers to vote any shares held by state pensions solely in the financial

interest of the beneficiaries of such funds and, when necessary, to justify that they are not acting for ideological, social, or political purposes.

- Determine a process for auditing and overseeing the proxy voting practices of state and local pensions and outside managers, with a focus on examining board elections and proxy votes that run counter to management recommendations.
- Task the Texas Pension Review Board with regularly surveying and reporting on the proxy votes of state and local pensions and provide reporting tools that enable the attorney general to quickly investigate and prosecute fiduciary violations in investments and proxy voting.

In addition to ensuring Texas pensions are not supporting ESG activism through their proxy voting and investment practices, Texas needs to develop other tools to mitigate the potential harm ESG practices can create for Texas taxpayers, pensioners, and businesses. Numerous industries, from private prisons to agriculture, are being targeted by ESG activists and should be incorporated within the framework of SB 13 and SB 19, which currently only cover energy, and firearms, respectively. The boycotting definitions within both bills need to be broadened and clarified to incorporate more types of boycotting activities while mitigating some of the ambiguity that currently exists around what is boycotting and what is not. Coordinated boycotts by insurance companies, ratings agencies, and other financial services providers should be investigated under existing antitrust laws.

The key challenge is how to implement these policies in a transparent and cost-efficient manner. There is no question that pensions will need extra resources to manage their proxy votes more actively and to enable more reporting. State and local entities will likely incur some costs by turning down offers from financial firms that are found to be in violation of SB 13 and SB 19. However, that resource allocation will be small compared to the benefit of ensuring Texas taxpayers will not be doing business with companies that sanction Texas individuals and businesses. Furthermore, by enacting these policies, Texas will send a message that it will stand as a bulwark against the assault of ESG on capitalism and that businesses and individuals should also fight the pernicious creep of ESG into their lives. ★

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## ABOUT THE AUTHORS

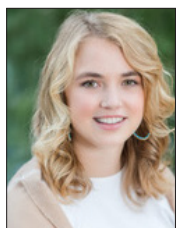


**Brent Bennett, Ph.D.**, is the policy director for Life:Powered, an initiative of the Texas Public Policy Foundation to raise America's energy IQ.

As part of the Life:Powered team, Dr. Bennett regularly speaks with policymakers, energy experts, and industry associations across the country. He is responsible for researching, fact-checking, and spearheading many of the team's policy and regulatory initiatives. He has written extensively on how America has improved its environment while growing its energy use and on future energy technologies.

Dr. Bennett has an M.S.E. and Ph.D. in materials science and engineering from the University of Texas at Austin and a B.S. in physics from the University of Tulsa. His graduate research focused on advanced chemistries for utility-scale energy storage systems. Prior to joining the Foundation, Dr. Bennett worked for a startup company selling carbon nanotubes to battery manufacturers, and he continues to provide technology consulting to energy storage companies.

As a native of Midland, Texas—the heart of the oil patch—Dr. Bennett is a passionate student of energy and proponent of freedom and human flourishing. He currently lives in Austin, Texas, with his wife, Erin, and their son, Jack.



**Anna Claire Long** was a summer 2022 research associate for the Texas Public Policy Foundation. She is from Austin, Texas, and is currently a student at the Institute for the Study of Capitalism at Clemson University, where she is a Lyceum Scholar and is majoring in Political Science.

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