

A STATE-BY-STATE SNAPSHOT OF THE ESG POLICY LANDSCAPE

Assessing the Implications of the 2022 Midterm Elections

State officials across the country are increasingly engaged in heated debates over policies and legislation that support and oppose ESG, the approach of valuing companies based on their commitment to environmental, social and governance principles. The once obscure financial acronym is now at the center of U.S. politics.

On one end of the spectrum, states like Texas and Florida are leading the anti-ESG movement denouncing Wall Street as “environmental crusaders.” On the other end of the spectrum, states such as Massachusetts and Washington are considering an array of proposals promoting investments in clean energy and addressing social and racial inequalities.

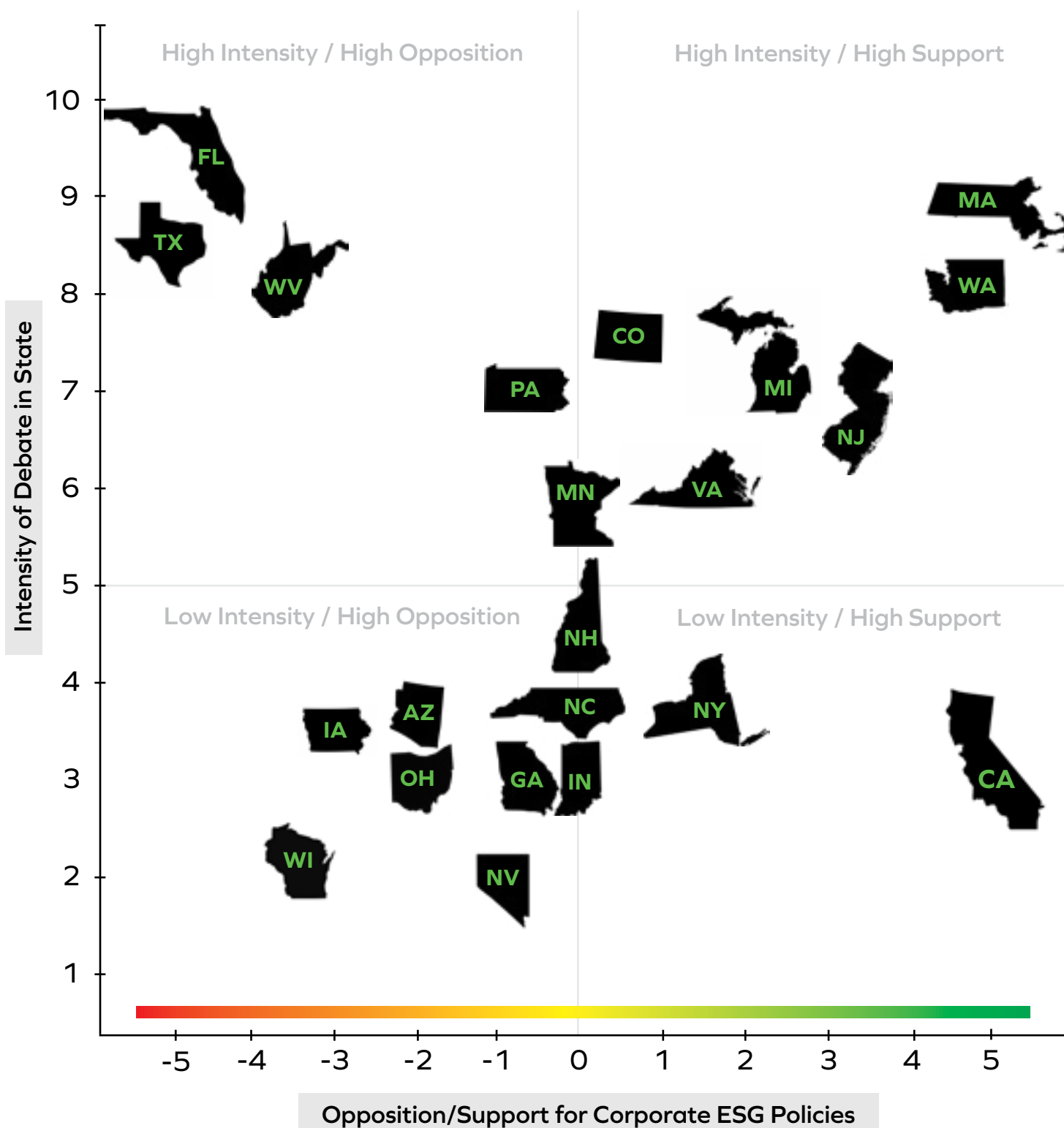
The results of the 2022 midterm elections only exacerbated these differences in ESG policy-making. With the elections in the rearview mirror, BCW and its grassroots partner agency, Direct Impact (DI), conducted an in-depth assessment of the ESG political landscape on the state level and analyzed how it will shape public policy over the next two years. One thing is clear:

In 2023, corporate America will encounter a fragmented and polarized ESG landscape across the nation’s state capitals, marked by varying levels of intensity among political leaders either embracing ESG commitments or leading the backlash.

METHODOLOGY

BCW and DI surveyed our extensive nationwide network of local market experts to get their on-the-ground perspective on ESG initiatives in their state. Based on their conversations with local decisionmakers and opinion leaders along with their knowledge of the local landscape, our teams provided insights on the forces shaping ESG policymaking in 22 key states. These states include those that will likely be battlegrounds during the 2024 presidential election cycle as well as those taking a vocal stand in support of or against ESG initiatives.

ENVIRONMENTAL, SOCIAL AND GOVERNANCE (ESG) LANDSCAPE BY STATE



TOP TEN TREND-SETTING TAKEAWAYS



Florida state leaders are among the most vocal opponents of what they call “woke capitalism” driving ESG initiatives. Newly re-elected Governor Ron DeSantis has been one of the loudest critics elevating the issue on the national stage. On election night, he proclaimed Florida as the state where “woke goes to die,” and [previously stated](#), “We are protecting Floridians from woke capital and asserting the authority of our constitutional system over ideological corporate power.”

Following through on that promise, Florida Chief Financial Officer Jimmy Patronis recently announced the state government will divest \$2 billion in investments under management by BlackRock in 2023 because of the company’s ESG standards. Combined with newly minted supermajorities in both Florida chambers, Republican leaders in Tallahassee are positioned to continue curbing ESG initiatives in the state. This includes supporting legislation that would amend Florida’s Deceptive and Unfair Trade Practices statute to prohibit discriminatory practices by large financial institutions based on ESG social credit score metrics. Our Florida-based experts say ESG “will be the defining issue in the 2023 legislative session.”

TOP TEN TREND-SETTING TAKEAWAYS



Texas was the first in the nation to adopt a law to discourage ESG investing. Governor Gregg Abbott signed a bill last year that prohibits state agencies from contracting with or investing in companies that divest from oil, natural gas and coal companies. In August, Comptroller Glenn Hegar released a list of [10 financial firms that were banned](#) from doing any business in the state because they did not support the fossil fuel industry enough. As our Austin-based experts summed it up, “ESG is not welcome in Texas.”

Having taken a definitive stand on ESG in Texas, Governor Abbott and majority Republican leaders in the legislature plan to shift their focus to other priority issues in 2023, including school choice, property taxes, immigration, abortion and gun control. Legislators in Austin will also likely consider proposals to reinforce the state’s power grid, which notoriously collapsed during the winter of 2021.

TOP TEN TREND-SETTING TAKEAWAYS



WV

WEST VIRGINIA'S COUNTRY ROAD AWAY FROM ESG

Last year, Riley Moore, the state treasurer, led [a coalition of 15 state treasurers](#) seeking to “potentially curtail future business” associated with corporate policies that cut off financing for fossil fuel industries. In July, the state also said it would no longer award state business to JPMorgan Chase, Wells Fargo, Goldman Sachs, and other companies over their decisions to cut back on financing to coal companies.

Our West Virginia-based team explained that legislators in Charleston will continue to advance proposals that support fossil fuel production given its importance to the state’s economy. A slate of Republican officials seeking to run against Senator Joe Manchin, who is up for re-election in 2024, may also raise ESG policies as a campaign issue. Senator Manchin has signaled his opposition to ESG policies. He has opposed climate disclosures proposed by the Securities and Exchange Commission earlier this year. He said the federal policies will add “undue burdens on companies,” especially in the fossil fuel industry.

TOP TEN TREND-SETTING TAKEAWAYS



California lawmakers passed a series of bills this session dedicated to fighting climate change. One measure which generated significant coverage, the Climate Corporate Accountability Act, would have mandated companies operating in the state to report their greenhouse gas emissions. Although the measure failed to pass the California State Assembly, it generated support for greater corporate transparency and accountability. At the helm of the state's ESG efforts, Governor Newsom issued a first-in-the-nation executive order in the fall of 2020 to ban the sale of new internal combustion engine vehicles by 2035 (which has since been replicated by other states such as Washington).

That said, our California-based experts acknowledged, "The pendulum has swung too far toward ESG. It will swing back toward the middle." Additionally, the legislature experienced a 30 percent turnover due to term limits and legislators running for other offices (e.g., Congress) while voters ranked homelessness as the top issue lawmakers must address. Considering these factors, ESG will not be among the top priorities in Sacramento next year.

TOP TEN TREND-SETTING TAKEAWAYS

MA

MASSACHUSETTS – A TRUE BLUE SAFE HAVEN FOR ESG

The state has a strong record of promoting ESG-related policies into the mainstream discussion, most recently with its sweeping climate and clean energy legislation passed in the summer. Under the leadership of Governor-Elect Maura Healey and with newly expanded supermajorities in the state house, legislators are expected to introduce new policies that would more aggressively work to curb fossil fuel emissions and promote greater energy efficiencies – including the further adoption of electric energy sources, with Healey pledging “1 million electric vehicles on the road by 2030.”

Our Massachusetts team underscored the importance of Governor Healey’s election following eight years of a moderate Republican-led administration. They explain, “This is the first time in eight years that we have had a Democratically controlled legislature and Democratic governor...this will lead to a wide variety of policy proposals that embrace ESG or other progressive oriented positions.” In addition to tackling a number of ESG-focused policies, our local experts noted that Healey and state legislators will be faced with addressing other top issues that voters are energized around, including transportation reform and housing affordability.

TOP TEN TREND-SETTING TAKEAWAYS

Under the leadership of Governor Jay Inslee and a progressive legislature, every issue the state has addressed in recent years has been through the lens of climate change and ESG initiatives. Like California, the intensity of support for ESG policymaking has softened in Olympia as lawmakers face pressure to address affordable housing, public safety, and inflation.

Amid high inflation, according to our Washington-based team, “many progressive hallmark issues may not get the play they would have in previous legislative sessions.” It may also influence the 2024 gubernatorial race, when Governor Inslee is expected to run for a third term. Our team also shared that the legislature will exclusively focus on equity and social justice in developing their policy agenda next session. Policy decisions will be made based on their impact on underrepresented and marginalized communities.



TOP TEN TREND-SETTING TAKEAWAYS

CO

COLORADO'S BALANCING ACT

Colorado is a “wild card” on ESG. Although the state is strongly committed to protecting the environment, our Colorado-based team note that elected leaders – particularly pro-business Governor Jared Polis – welcome diverse viewpoints to the table when it comes to energy and environmental policies. “We support all kinds of energy here in the great state of Colorado. It’s about making sure that we can have a sustainable energy future,” Governor Polis said at a virtual policy forum in early October, as reported by [Colorado Newswire](#).

As chair of the Western Governors’ Association, Governor Polis has partnered with companies such as Chevron, BP and Halliburton on a geothermal energy initiative called the [“Heat Beneath Our Feet”](#) in exploring ways of further developing geothermal sources of energy.

TOP TEN TREND-SETTING TAKEAWAYS



VA

REASSESSING VIRGINIA'S ESG PRIORITIES LEADING UP TO NOVEMBER 2023

According to our Virginia-based team, ESG-related policies will receive some attention in 2023 as the Commonwealth's corporate leaders have urged Richmond, particularly the Democrat-controlled State Senate, to act. However, all 140 members of the split-party legislature (Republicans control the House of Delegates) are up for re-election in November 2023.

Meanwhile, Governor Glenn Youngkin, a potential 2024 presidential candidate, has voiced his support for significant revisions to a law enacted in 2020 that seeks to transition the state's electric grid to 100% clean energy by 2050. This includes supporting a repeal of the state's impending ban on internal combustion engine vehicles by 2035. As Governor Youngkin has said, "We cannot afford to be California."

TOP TEN TREND-SETTING TAKEAWAYS

Democrats won a thin majority in the Pennsylvania House of Representatives – the first time in more than a decade they will control the lower chamber in Harrisburg. Given their majority combined with Governor-Elect Josh Shapiro's (D) decisive win to replace term-limited Governor Tom Wolf, it is likely they will continue to build on the state's foundational environmental agenda established by Governor Wolf. During his tenure, Governor Wolf established the Office of Environmental Justice with the goal of ensuring at least 30 percent of the state's energy is produced by renewable sources by 2030 – ultimately achieving net zero emissions by 2050.

At the same time, we expect strong opposition to this agenda by the Republican-controlled Pennsylvania State Senate as well as Treasurer Stacy Garrity, who has threatened to divest from companies engaged in anti-fossil fuel activities. There are also three pending lawsuits in state courts challenging Governor Wolf's decision to join the Regional Greenhouse Gas Initiative (RGGI).

PA

SPLIT CONTROL OF THE KEYSTONE STATE

TOP TEN TREND-SETTING TAKEAWAYS

IN

NO RACE TO THE ESG FINISH LINE IN INDIANA

Reflecting national trends, pocketbook issues dominate people's concerns in the Hoosier State and the legislature plans to focus heavily on those issues in the upcoming session, a budget year in Indiana. Discussions around ESG issues are in nascent stages. ESG was not a topic of concern during the campaign season and it remains to be seen if Republican lawmakers, who hold super-majorities in the legislature and control all statewide offices, decide to make it a bigger issue.

Heading into 2023, Republicans continue to control all the levers of state government. The state legislature will focus on all things fiscal with a special emphasis on healthcare costs and public health investments, property taxes, workforce training, and education funding. Indiana continues to struggle to attract enough workers to the state and there could be federal/state collaborative efforts in the upcoming year around immigration issues to try to recruit a stronger workforce.