

1 STATE OF OKLAHOMA

2 1st Session of the 59th Legislature (2023)

3 SENATE BILL 1004

By: Jett

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5
6 AS INTRODUCED

7 An Act relating to public retirement systems;
8 creating the Oklahoma Pension Fiduciary Duty Act;
9 providing short title; defining terms; requiring the
10 discharge of duties solely in the financial interest
11 of certain participants and beneficiaries; requiring
12 certain fiduciary to be subject to certain duties;
13 limiting consideration upon discharge of certain
14 duties; requiring certain shares to be held solely
15 for certain financial interest; prohibiting the
16 granting of proxy voter status except under certain
17 circumstance; prohibiting adoption of certain
18 practice except under certain circumstance; requiring
19 the recording and publication of certain proxy votes;
20 authorizing Attorney General to investigate
21 violations of the Oklahoma Pension Fiduciary Duty
22 Act; providing for penalty for violation; providing
23 for noncodification; providing for codification; and
24 providing an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. NEW LAW A new section of law not to be
20 codified in the Oklahoma Statutes reads as follows:

21 This act shall be known and may be cited as the "Oklahoma
22 Pension Fiduciary Duty Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 3600 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A. As used in the Oklahoma Pension Fiduciary Duty Act:

5 1. "Fiduciary" means any person acting on behalf of a public
6 retirement system;

7 2. "Fiduciary commitment" means any evidence of a fiduciary's
8 purpose in managing assets as a fiduciary, including but not limited
9 to, any of the following in a fiduciary's capacity as a fiduciary:

10 a. advertising, statements, explanations, reports,
11 letters to clients, communications with portfolio
12 companies, statements of principles, or commitments,
13 or

14 b. participation in, affiliation with, or status as a
15 signatory to, any coalition, initiative, joint
16 statement of principles, or agreement;

17 3. "Financial" means having been prudently determined by a
18 fiduciary to have a material effect on the financial risk or the
19 financial return of an investment. Financial shall not mean any
20 action taken, or factor considered, by a fiduciary with any purpose
21 whatsoever to further social, political, or ideological interests.
22 A fiduciary shall have taken an action, or considered a factor, with
23 a purpose to further social, political, or ideological interests
24 based upon evidence indicating such a purpose, including but not

1 limited to, any fiduciary commitment to further, through portfolio
2 company engagement, board or shareholder votes, or otherwise as a
3 fiduciary, any of the following beyond the fiduciary's duties as
4 provided in the Oklahoma Statutes:

- 5 a. eliminating, reducing, offsetting, or disclosing
6 greenhouse gas emissions,
- 7 b. instituting board or employment composition,
8 compensation, or disclosure criteria that incorporates
9 characteristics based on race, sex, religion, or
10 ideology,
- 11 c. divesting from, limiting investment in, or limiting
12 the activities or investments of any company, for
13 failing or not committing, to meet standards or
14 disclosures relating to:
 - 15 (1) the environment,
 - 16 (2) abortion access, or
 - 17 (3) access to gender reassignment therapy or surgery,
18 or
- 19 d. divesting from, limiting investment in, or limiting
20 the activities or investments of any company that
21 engages in, facilitates, or supports the manufacture,
22 import, distribution, marketing or advertising, sale,
23 or lawful use of firearms, ammunition, or components
24 parts and accessories of firearms or ammunition;

1 4. "Proxy vote" means a ballot cast by a person or entity on
2 behalf of a public retirement system as a shareholder of a publicly
3 traded company; and

4 5. "Public retirement system" means the following:

- 5 a. the Oklahoma Firefighters Pension and Retirement
- 6 System,
- 7 b. the Oklahoma Police Pension and Retirement System
- 8 c. the Uniform Retirement System for Justices and Judges
- 9 d. the Oklahoma Law Enforcement Retirement System
- 10 e. the Teachers' Retirement System of Oklahoma
- 11 f. the Oklahoma Public Employees Retirement System, and
- 12 g. any retirement or pension system or plan maintained,
- 13 provided, or offered by any political subdivision of
- 14 this state.

15 B. In making and supervising investments of the reserve fund of
16 a public retirement system, a fiduciary or board of a public
17 retirement system shall discharge its duties solely in the financial
18 interest of the participants and beneficiaries for the exclusive
19 purposes of:

- 20 1. Providing financial benefits to participants and their
 - 21 beneficiaries; and
 - 22 2. Defraying reasonable expenses of administering the system.
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1 C. An investment manager appointed by a public retirement
2 system shall be subject to the same fiduciary duties as provided in
3 this act.

4 D. A fiduciary shall take into account only financial factors
5 when discharging its duties with respect to a plan.

6 E. All shares held directly or indirectly by or on behalf of a
7 public retirement system and/or the participants and their
8 beneficiaries shall be held solely in the financial interest of plan
9 participants and their beneficiaries.

10 F. A public retirement system shall not grant proxy voting
11 authority to any person who is not an employee of the system, unless
12 that person has a practice of, and in writing commits to, the
13 adherence to the provisions of this act.

14 G. A public retirement system's assets shall not be entrusted
15 to a fiduciary, unless that fiduciary has a practice of, and in
16 writing commits to, adherence to the provisions of this act when
17 engaging with portfolio companies and voting shares or proxies.

18 H. A public retirement system shall not adopt a practice of
19 following the recommendations of a proxy advisor or other service
20 provider, unless such advisor or service provider has a practice of,
21 and in writing commits to, adherence to the provisions of this act.

22 I. All proxy votes shall be tabulated and reported annually to
23 the governing board of every public retirement system. For each
24 vote, the report shall contain a vote caption, the plan's vote, the

1 recommendation of company management, and, if applicable, the proxy
2 advisor's recommendation. These reports shall be posted on a
3 publicly available webpage on the governing board's website.

4 J. Violations of this act may be investigated by the Attorney
5 General who shall, upon finding reasonable cause after
6 investigation, require a fiduciary to file on such forms as he or
7 she prescribes a statement or report in writing, under oath, as to
8 all the facts and circumstances concerning the violation and to
9 provide other data or information the Attorney General deems
10 necessary.

11 K. Any company who contracts with a public retirement system
12 that violates the provisions of this act shall be obligated to pay a
13 penalty to the public retirement system an amount equal to three (3)
14 times the required annual payments for services rendered pursuant to
15 the contract.

16 SECTION 3. This act shall become effective November 1, 2023.

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