

1 STATE OF OKLAHOMA

2 1st Session of the 60th Legislature (2025)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1170

6 By: Lepak

7 COMMITTEE SUBSTITUTE

8 An Act relating to public finance; enacting the
9 Oklahoma Public Finance Protection Act; defining
10 terms; providing fiduciary's standard of care;
11 prohibiting consideration of nonpecuniary factors;
12 providing who has authority to vote on certain
13 shares; providing for delegation of authority;
14 providing that proxy votes be reported annually;
15 directing the State Treasurer to provide notice to
16 certain individuals in certain situations;
17 authorizing Treasurer to refer matter to Attorney
18 General; authorizing Attorney General to enforce act
19 and examine certain persons and records; providing
20 immunity for the State of Oklahoma and certain
21 individuals; providing for indemnification; providing
22 for severability; providing for codification;
23 providing an effective date; and declaring an
24 emergency.

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

SECTION 1. NEW LAW A new section of law to be codified
in the Oklahoma Statutes as Section 9101 of Title 62, unless there
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma Public
Finance Protection Act".

1 SECTION 2. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 9102 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 As used in the Oklahoma Public Finance Protection Act:

5 1. "Fiduciary" means a person who, with respect to a pension
6 benefit plan:

7 a. exercises any discretionary authority or discretionary
8 control respecting management of such plan or
9 exercises any authority or control respecting
10 management or disposition of its assets,

11 b. renders investment advice for a fee or other
12 compensation, direct or indirect, with respect to any
13 monies or other property of such plan, or has any
14 authority or responsibility to do so, or

15 c. has any discretionary authority or discretionary
16 responsibility in the administration of such plan,
17 including making recommendations or voting a plan's
18 shares or proxies;

19 2. "Material", when used to qualify a risk or return:

20 a. means a risk or return regarding which there is a
21 substantial likelihood that a reasonable investor
22 would attach importance when:
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1 (1) evaluating the potential financial risks and
2 financial returns of an existing or prospective
3 investment, or

4 (2) exercising, or declining to exercise, any rights
5 appurtenant to securities, and

6 b. does not include:

7 (1) furthering environmental, social, political,
8 ideological, or other nonpecuniary goals or
9 objectives, or

10 (2) any portion of a risk or return that primarily
11 relates to events that are not investment-
12 specific in nature;

13 3. "Nonpecuniary" includes any action taken or factor
14 considered by a fiduciary with any purpose to further environmental,
15 social, political, or ideological goals. A fiduciary purpose may be
16 reasonably determined by evidence, including, but not limited to, a
17 fiduciary's votes of shares or proxies and a fiduciary's statements
18 indicating its purpose in selecting investments, engaging with
19 portfolio companies, or voting shares or proxies, or any such
20 statements by any coalition, initiative, or organization that the
21 fiduciary has joined, participated in, or become a signatory to, in
22 its capacity as a fiduciary;

23 4. "Pecuniary factor" means a factor that has a material effect
24 on the financial risk or financial return of an investment based on

1 appropriate investment horizons consistent with the plan's
2 investment objectives and the funding policy. The term excludes
3 nonpecuniary factors; and

4 5. "Pension benefit plan" or "plan" shall mean any plan, fund,
5 or program which was heretofore or is hereafter established,
6 maintained, or offered by the State of Oklahoma or any subdivision,
7 county, municipality, agency, or instrumentality thereof, or any
8 school, college, university, administration, authority, or other
9 enterprise operated by the State of Oklahoma, to the extent that by
10 its terms or as a result of surrounding circumstances:

- 11 a. provides retirement income or other retirement
12 benefits to employees or former employees, or
- 13 b. results in a deferral of income by such employees for
14 a period extending to the termination of covered
15 employment or beyond, and
- 16 c. the term does not include a defined contribution plan
17 under the Retirement Freedom Act, established pursuant
18 to Section 935.1 et seq. of Title 74 of the Oklahoma
19 Statutes, except that investment options selected as
20 default investment options for participating employees
21 shall be selected in adherence to the requirements of
22 this act.

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1 SECTION 3. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 9103 of Title 62, unless there
3 is created a duplication in numbering, reads as follows:

4 A fiduciary shall discharge duties with respect to a plan solely
5 based on pecuniary factors and applicable state law requirements:

6 1. For the exclusive purpose of providing pecuniary benefits to
7 participants and their beneficiaries and defraying reasonable
8 expenses of administering the plan;

9 2. With the care, skill, prudence, and diligence under the
10 circumstances then prevailing that a prudent investor acting in a
11 like capacity and familiar with such matters would use in the
12 conduct of an enterprise of a like character and with like aims;

13 3. By diversifying the investments of the plan so as to
14 minimize the risk of large losses, unless under the circumstances it
15 is clearly prudent not to do so; and

16 4. In accordance with the documents and instruments governing
17 the plan and insofar as such documents and instruments are
18 consistent with the fiduciary responsibilities provided by law,
19 including the provisions of this act.

20 SECTION 4. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 9104 of Title 62, unless there
22 is created a duplication in numbering, reads as follows:

23 A fiduciary's evaluation of an investment, or evaluation or
24 exercise of any right appurtenant to an investment, must take into

1 account only pecuniary factors. Plan fiduciaries shall not promote
2 nonpecuniary benefits or any other nonpecuniary goals.
3 Notwithstanding the previous provision, environmental, social,
4 political, ideological, corporate governance, or other similarly
5 oriented goals, objectives, or considerations may be incidentally
6 advanced if they present economic risks or opportunities that
7 qualified investment professionals would treat as material economic
8 considerations under generally accepted investment theories. The
9 weight given to those factors should solely reflect a prudent
10 assessment of their impact on risk and return.

11 SECTION 5. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 9105 of Title 62, unless there
13 is created a duplication in numbering, reads as follows:

14 A. All proxies held by or on behalf of a pension benefit plan
15 or the beneficiaries thereof shall be voted solely in the pecuniary
16 interest of plan participants. Voting to further nonpecuniary or
17 other benefits or goals is prohibited.

18 B. Unless no economically practicable alternative is available,
19 a fiduciary may not adopt a practice of following the
20 recommendations of a proxy advisory firm or other service provider
21 unless such firm or service provider has a practice of, and in
22 writing commits to, following proxy voting guidelines that are
23 consistent with the plan's fiduciary obligation to act based only on
24 pecuniary factors.

1 C. Unless no economically practicable alternative is available,
2 plan assets shall not be entrusted to a fiduciary unless that
3 fiduciary has a practice of, and in writing commits to, following
4 guidelines, when engaging with portfolio companies and vote shares
5 or proxies that match the plan's obligation to act based only on
6 pecuniary factors.

7 D. With respect to the pension benefit plans, all such proxy
8 voting authority shall reside with the respective Board of Trustees,
9 except that the Board of Trustees may delegate such authority to a
10 person who has a practice of, and in writing commits to, following
11 guidelines that match the plan's obligation to act based only on
12 pecuniary factors.

13 E. All proxy votes shall be tabulated and reported annually to
14 the respective Board of Trustees. For each vote, the report shall
15 contain a vote caption, the plan's vote, the recommendation of
16 company management, and, if applicable, the proxy advisor's
17 recommendation. These reports shall be posted on a publicly
18 available webpage.

19 SECTION 6. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 9106 of Title 62, unless there
21 is created a duplication in numbering, reads as follows:

22 A. If the State Treasurer has reasonable cause to believe that
23 a person has engaged in, is engaging in, or is about to engage in a
24 violation of this act, notification shall be provided to the Speaker

1 of the Oklahoma House of Representatives, the President Pro Tempore
2 of the Oklahoma State Senate, the Pension Oversight Commission, and
3 the matter may be referred to the Attorney General for enforcement.

4 B. This act may be enforced by the Attorney General, who is
5 authorized to:

6 1. Require such person to file on such forms as he or she
7 prescribes a statement or report in writing, under oath, as to all
8 the facts and circumstances concerning the violation, and such other
9 data and information as he or she may deem necessary;

10 2. Examine under oath any person in connection with the
11 violation;

12 3. Examine any record, book, document, or paper as he or she
13 may deem necessary; and

14 4. Pursuant to an order of the Supreme Court of Oklahoma,
15 impound any record, book, document, paper, or sample or material
16 relating to such practice and retain the same in his or her
17 possession until the completion of all proceedings undertaken under
18 this act or in the courts.

19 SECTION 7. NEW LAW A new section of law to be codified
20 in the Oklahoma Statutes as Section 9107 of Title 62, unless there
21 is created a duplication in numbering, reads as follows:

22 A. The State of Oklahoma, pension benefit plans as defined in
23 this act, as well as officers, board members, and employees of the
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1 state or the pension benefit plans are immune from civil liability
2 for any act or omission related to any provision under this act.

3 B. In addition to the immunity provided under subsection A of
4 this section, officers, board members, and employees of the state or
5 the pension benefit plans are entitled to indemnification from the
6 pension benefit plan for all losses, costs and expenses, including
7 reasonable attorney fees, associated with defending against any
8 claim or suit related to any provision of this act.

9 SECTION 8. NEW LAW A new section of law to be codified
10 in the Oklahoma Statutes as Section 9108 of Title 62, unless there
11 is created a duplication in numbering, reads as follows:

12 Should a court of competent jurisdiction hold any provision of
13 this act to be invalid, such provision shall be deemed severable and
14 not affect the validity of any other provision of this act.

15 SECTION 9. This act shall become effective July 1, 2025.

16 SECTION 10. It being immediately necessary for the preservation
17 of the public peace, health or safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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