

HOUSE BILL NO. HB0080

Stop ESG-State funds fiduciary duty act.

Sponsored by: Representative(s) Knapp, Angelos, Banks,
Bear, Haroldson, Neiman, Singh, Tarver, Webb
and Winter and Senator(s) Steinmetz

A BILL

for

1 AN ACT relating to the administration of the government;
2 specifying requirements for the hiring and retention of
3 investment managers, trustees and fiduciaries who invest
4 state funds as specified; specifying proxy voting
5 requirements for investment managers, trustees and
6 fiduciaries who invest state funds; providing definitions;
7 making conforming amendments; specifying applicability; and
8 providing for an effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 9-4-722 is created to read:

13

14 **9-4-722. Investment of state funds; consideration of**
15 **only financial purposes.**

1

2 (a) As used in this section:

3

4 (i) "Fiduciary" means as defined by W.S.
5 9-3-434(a)(xi) and includes any investment trustee, manager
6 or other person responsible for making investment decisions
7 or investment policies concerning state funds;

8

9 (ii) "Fiduciary commitment" means any material
10 evidence of a fiduciary's or trustee's purpose in managing
11 the investment of state funds, including:

12

13 (A) Advertising, statements, explanations,
14 reports, letters to clients, communications with portfolio
15 companies, statements of principles or commitments; or

16

17 (B) Participation in, affiliation with or
18 status as a signatory to any coalition, initiative, joint
19 statement of principles or agreement.

20

21 (iii) "Investment entity" means the state
22 treasurer, the state loan and investment board, the Wyoming
23 retirement board, the Wyoming retirement system and any

1 other entity responsible for the investment or management
2 of the investment of state funds;

3

4 (iv) "Non-pecuniary financial factors" means
5 fiduciary decisions that do not provide confidence in
6 increased returns or lower risk and instead cause alarm or
7 concern. "Non-pecuniary financial factors" includes
8 diversions from fiduciary responsibilities that will most
9 likely result in lower returns and increased risk resulting
10 in less funding being available to the state of Wyoming in
11 general;

12

13 (v) "Pecuniary financial factors" means
14 prudently determined based fiduciary decisions based on
15 appropriate investment horizons consistent with the fund's
16 objective and investment policies while adhering to
17 compliance with statutory and regulatory guidance.
18 "Pecuniary financial factors" does not include
19 non-pecuniary financial factors or the furtherance of
20 environmental, social, governance, political or ideological
21 interests;

22

1 (vi) "State funds" means permanent funds as
2 defined by W.S. 9-4-714(a)(v), the retirement account
3 established in W.S. 9-3-407(a), any other funds invested by
4 the Wyoming retirement system and any other funds invested
5 by the state treasurer.

6

7 (b) In making and supervising investments of state
8 funds, each investment entity shall discharge its
9 investment duties solely in the financial interest of the
10 beneficiaries of the applicable state funds for the
11 exclusive purposes of:

12

13 (i) Providing financial benefits to the
14 beneficiaries of the state funds;

15

16 (ii) Defraying reasonable expenses of
17 administering the investment of state funds;

18

19 (iii) Meeting other purposes required by law and
20 not relating to the actions and considerations prohibited
21 by this section.

22

1 (c) Any person or fiduciary designated as a custodian
2 of any state funds and any person or fiduciary retained to
3 invest state funds shall be subject to the same fiduciary
4 duties as an investment entity has under this section.

5

6 (d) Each fiduciary shall take into account only
7 pecuniary financial factors when discharging its duties in
8 investing state funds.

9

10 (e) All shares of stock held directly or indirectly
11 by or on behalf of an investment entity or on behalf of the
12 investment entity's beneficiaries shall be voted solely in
13 the financial interest of the beneficiaries.

14

15 (f) Unless no economically practicable alternative is
16 available:

17

18 (i) The investment entity shall not grant proxy
19 voting authority to any person who is not part of the
20 investment entity or who is not employed by the investment
21 entity, except that the investment entity may grant proxy
22 voting authority to a person who has a practice of, and
23 commits in writing to, follow guidelines that match the

1 investment entity's obligation to act solely upon pecuniary
2 financial factors as required by this section;

3

4 (ii) State funds shall not be entrusted to a
5 fiduciary unless the fiduciary has a practice of, and
6 commits in writing to, follow guidelines when engaging with
7 portfolio companies and voting shares or proxies that match
8 the investment entity's obligation to act solely upon
9 pecuniary financial factors as required by this section;

10

11 (iii) No fiduciary shall adopt a practice of
12 following the recommendations of a proxy advisor or other
13 service provider unless the advisor or service provider has
14 a practice of, and commits in writing to, following proxy
15 voting guidelines that match the investment entity's
16 obligation to act solely upon pecuniary financial factors
17 as required by this section.

18

19 (g) All proxy votes shall be tabulated and reported
20 annually by the investment entity not later than September
21 1 of each year. For each vote, the report shall contain a
22 vote caption, the plan's vote, the recommendation of
23 company management and, if applicable, the proxy advisor's

1 recommendation. Each report prepared under this subsection
2 shall be posted on the investment entity's website.

3

4 (h) Every contract between an investment entity and a
5 fiduciary to invest state funds shall include a clause that
6 the fiduciary has been made aware of and has agreed to
7 follow the requirements of this section when making
8 investments.

9

10 **Section 2.** W.S. 9-3-405(a)(v), 9-3-408(b)(intro),
11 9-3-436(a), 9-3-440(a)(intro) and (b), 9-4-715(a)(intro)
12 and (b) and 9-4-716(a)(intro) are amended to read:

13

14 **9-3-405. Retirement board duties and powers.**

15

16 (a) In addition to any other duties prescribed by
17 law, the board shall:

18

19 (v) Serve as investment trustee of the funds of
20 the system. In serving as investment trustee under this
21 paragraph, the board shall comply with the requirements of
22 W.S. 9-4-722;

23

1 **9-3-408. Designated custodian of retirement account;**
2 **disbursements; investment of account monies.**

3

4 (b) The board, or its designee, which shall be
5 registered under the Investment Advisor's Act of 1940 as
6 amended, or any bank as defined in that act, upon written
7 authority, shall invest monies in the retirement account,
8 which investments shall not be considered disbursements for
9 the purposes of W.S. 9-4-214 and subsection (a) of this
10 section. In investing and managing monies in the retirement
11 account and subject to the requirements of W.S. 9-4-722,
12 the board, or its designee, shall exercise the judgment and
13 care that a prudent investor would, in light of the
14 purposes, terms, distribution requirements and all other
15 circumstances surrounding the monies in the retirement
16 account, including risk and return objectives established
17 by the board which are reasonably suitable to the purpose
18 of the Wyoming retirement system.

19

20 **9-3-436. Establishment of trust.**

21

22 (a) Except as otherwise provided in subsection (b) of
23 this section, all assets of a retirement system are held in

1 trust for the exclusive benefit of the members, retirees
2 and beneficiaries of the system, including reasonable
3 administrative expenses. The trustee has the exclusive
4 authority, subject to this act, to invest and manage those
5 assets, subject to the requirements of W.S. 9-4-722.

6

7 **9-3-440. Duties of trustee in investing and managing**
8 **assets of retirement system.**

9

10 (a) In investing and managing assets of a retirement
11 system pursuant to W.S. 9-3-439 and subject to W.S.
12 9-4-722, a trustee with authority to invest and manage
13 assets:

14

15 (b) A trustee with authority to invest and manage
16 assets of a retirement system shall adopt a statement of
17 investment objectives and policies for each retirement
18 program or appropriate grouping of programs, subject to the
19 requirements of W.S. 9-4-722. The statement shall include
20 the desired rate of return on assets overall, the desired
21 rates of return and acceptable levels of risk for each
22 asset class, asset-allocation goals, guidelines for the
23 delegation of authority and information on the types of

1 reports to be used to evaluate investment performance. At
2 least annually, the trustee shall review the statement and
3 change or reaffirm it.

4

5 **9-4-715. Permissible investments.**

6

7 (a) The state treasurer, in consultation with the
8 investment funds committee, shall employ a designated chief
9 investment officer who shall have minimum qualifications
10 including at least ten (10) years of experience managing
11 institutional investment portfolios of in excess of five
12 hundred million dollars (\$500,000,000.00), experience with
13 hiring and managing internal and external investment
14 managers and extensive experience in any two (2) or more of
15 the following areas: domestic equity, fixed income
16 securities, international equity or alternative
17 investments. The designated chief investment officer shall
18 provide the state treasurer with information and
19 recommendations regarding the investment of state funds and
20 additional information as requested by the state treasurer.
21 The state treasurer shall compile an annual report which
22 shall include investment, income, individual and aggregate
23 gains and losses by fund and the extent to which the state

1 investment policy is being implemented. Subject to
2 requirements of W.S. 9-4-722 and subsection (c) of this
3 section, state funds may be invested in any investment:
4

5 (b) The state treasurer, or his designee, which shall
6 be registered under the Investment Advisor's Act of 1940 as
7 amended if required to be registered by the terms of that
8 act as amended, may invest the permanent funds in equities,
9 including stocks of corporations in accordance with
10 subsections (a) through (e) of this section, ~~and~~ W.S.
11 9-4-716 and 9-4-722. The state treasurer shall report at
12 least annually to the select committee on capital financing
13 and investments, the joint appropriations committee and the
14 investment funds committee on the analysis conducted
15 pursuant to paragraph (d)(ii) of this section and W.S.
16 9-4-716(b)(ix) and (e).

17

18 **9-4-716. State investment policy; investment**
19 **consultant.**

20

21 (a) The board, in consultation with the investment
22 funds committee, shall adopt investment policy statements
23 for state funds and shall review those policy statements at

1 least annually. These policy statements shall be subject to
2 W.S. 9-4-722 and to the following:

3

4 **Section 3.** Nothing in this act shall be construed to
5 impair or otherwise modify any contract entered into before
6 July 1, 2025.

7

8 **Section 4.** This act is effective July 1, 2025.

9

10 (END)