

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 evidence
10 of a fiduciary's or trustee's purpose in managing the
11 investment of state funds, including but not limited to:

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) "Financial" means having been prudently
22 determined by a fiduciary or trustee to have a material
23 effect on the financial risk or the financial return of an

1 investment. "Financial" shall not include any action taken,
2 or factor considered, by a fiduciary or trustee with any
3 purpose whatsoever to further social, political or
4 ideological interests. A fiduciary may reasonably be
5 determined to have taken an action, or considered a factor,
6 with a purpose to further social, political or ideological
7 interests based upon evidence showing a fiduciary
8 commitment to further, through portfolio company
9 engagement, board or shareholder votes or other actions as
10 a fiduciary or a trustee, any of the following actions
11 beyond what state or federal law requires:

12

13 (A) Eliminating, reducing, offsetting or
14 disclosing greenhouse gas emissions;

15

16 (B) Instituting or assessing corporate
17 board or employment, composition, compensation or
18 disclosure criteria that incorporates characteristics
19 protected in this state as specified in W.S.
20 27-9-105(a)(i);

21

22 (C) Divesting from, limiting investment in
23 or limiting the activities or investments of any company

1 for failing or not committing to meet environmental
2 standards or disclosures;

3

4 (D) Providing or increasing access to
5 abortion, sex or gender changes, transgender surgery or any
6 treatment or procedure that would violate W.S.
7 35-4-1001(b);

8

9 (E) Divesting from, limiting investment in
10 or limiting the activities of any company that engages in,
11 facilitates or supports the manufacture, import,
12 distribution, marketing, advertising, sale or lawful use of
13 firearms, ammunition, components, parts or accessories of
14 firearms or ammunition.

15

16 (iv) "Investment entity" means the state
17 treasurer, the state loan and investment board, the Wyoming
18 retirement board, the Wyoming retirement system and any
19 other entity responsible for the investment or management
20 of the investment of state funds;

21

22 (v) "State funds" means permanent funds as
23 defined by W.S. 9-4-714(a)(v), the retirement account

1 established in W.S. 9-3-407(a), any other funds invested by
2 the Wyoming retirement system and any other funds invested
3 by the state treasurer.

4

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

10

11 (i) Providing financial benefits to the
12 beneficiaries of the state funds;

13

14 (ii) Defraying reasonable expenses of
15 administering the investment of state funds;

16

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

20

21 (c) Any person or fiduciary designated as a custodian
22 of any state funds and any person or fiduciary retained to

1 invest state funds shall be subject to the same fiduciary
2 duties as an investment entity has under this section.

3

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

7

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

12

13 (f) Unless no economically practicable alternative is
14 available:

15

16 (i) The investment entity shall not grant proxy
17 voting authority to any person who is not part of the
18 investment entity or who is not employed by the investment
19 entity, except that the investment entity may grant proxy
20 voting authority to a person who has a practice of, and
21 commits in writing to, follow guidelines that match the
22 investment entity's obligation to act solely upon financial
23 factors as required by this section;

1

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

8

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

16

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

1

2 (h) The attorney general may enforce any violation of
3 this section. If the attorney general believes that a
4 person has engaged in or is engaging in a violation of this
5 section, the attorney general may require the person to
6 file a statement or report in writing, under oath, as to
7 all of the facts and circumstances concerning the violation
8 and to provide any other data and information deemed
9 necessary.

10

11 (j) In addition to any other remedies available at
12 law or equity, any person who serves as a fiduciary and who
13 violates this section shall be liable for damages to the
14 investment entity in an amount equal to three (3) times the
15 amount paid to the person by the board for the person's
16 services. All amounts collected under this subsection shall
17 be deposited into the applicable state fund against which
18 the violation was committed.

19

20 **Section 2.** W.S. 9-3-405(a)(v), 9-3-408(b)(intro),
21 9-3-436(a), 9-3-440(a)(intro) and (b), 9-4-715(a)(intro)
22 and (b) and 9-4-716(a)(intro) are amended to read:

23

1 **9-3-405. Retirement board duties and powers.**

2

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

5

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

10

11 **9-3-408. Designated custodian of retirement account;**
12 **disbursements; investment of account monies.**

13

14 (b) The board, or its designee, which shall be
15 registered under the Investment Advisor's Act of 1940 as
16 amended, or any bank as defined in that act, upon written
17 authority, shall invest monies in the retirement account,
18 which investments shall not be considered disbursements for
19 the purposes of W.S. 9-4-214 and subsection (a) of this
20 section. In investing and managing monies in the retirement
21 account and subject to the requirements of W.S. 9-4-722,
22 the board, or its designee, shall exercise the judgment and
23 care that a prudent investor would, in light of the

1 purposes, terms, distribution requirements and all other
2 circumstances surrounding the monies in the retirement
3 account, including risk and return objectives established
4 by the board which are reasonably suitable to the purpose
5 of the Wyoming retirement system.

6

7 **9-3-436. Establishment of trust.**

8

9 (a) Except as otherwise provided in subsection (b) of
10 this section, all assets of a retirement system are held in
11 trust for the exclusive benefit of the members, retirees
12 and beneficiaries of the system, including reasonable
13 administrative expenses. The trustee has the exclusive
14 authority, subject to this act, to invest and manage those
15 assets, subject to the requirements of W.S. 9-4-722.

16

17 **9-3-440. Duties of trustee in investing and managing**
18 **assets of retirement system.**

19

20 (a) In investing and managing assets of a retirement
21 system pursuant to W.S. 9-3-439 and subject to W.S.
22 9-4-722, a trustee with authority to invest and manage
23 assets:

1

2 (b) A trustee with authority to invest and manage
3 assets of a retirement system shall adopt a statement of
4 investment objectives and policies for each retirement
5 program or appropriate grouping of programs, subject to the
6 requirements of W.S. 9-4-722. The statement shall include
7 the desired rate of return on assets overall, the desired
8 rates of return and acceptable levels of risk for each
9 asset class, asset-allocation goals, guidelines for the
10 delegation of authority and information on the types of
11 reports to be used to evaluate investment performance. At
12 least annually, the trustee shall review the statement and
13 change or reaffirm it.

14

15 **9-4-715. Permissible investments.**

16

17 (a) The state treasurer, in consultation with the
18 investment funds committee, shall employ a designated chief
19 investment officer who shall have minimum qualifications
20 including at least ten (10) years of experience managing
21 institutional investment portfolios of in excess of five
22 hundred million dollars (\$500,000,000.00), experience with
23 hiring and managing internal and external investment

1 managers and extensive experience in any two (2) or more of
2 the following areas: domestic equity, fixed income
3 securities, international equity or alternative
4 investments. The designated chief investment officer shall
5 provide the state treasurer with information and
6 recommendations regarding the investment of state funds and
7 additional information as requested by the state treasurer.
8 The state treasurer shall compile an annual report which
9 shall include investment, income, individual and aggregate
10 gains and losses by fund and the extent to which the state
11 investment policy is being implemented. Subject to
12 requirements of W.S. 9-4-722 and subsection (c) of this
13 section, state funds may be invested in any investment:

14

15 (b) The state treasurer, or his designee, which shall
16 be registered under the Investment Advisor's Act of 1940 as
17 amended if required to be registered by the terms of that
18 act as amended, may invest the permanent funds in equities,
19 including stocks of corporations in accordance with
20 subsections (a) through (e) of this section, ~~and~~ W.S.
21 9-4-716 and 9-4-722. The state treasurer shall report at
22 least annually to the select committee on capital financing
23 and investments, the joint appropriations committee and the

1 investment funds committee on the analysis conducted
2 pursuant to paragraph (d)(ii) of this section and W.S.
3 9-4-716(b)(ix) and (e).

4

5 **9-4-716. State investment policy; investment**
6 **consultant.**

7

8 (a) The board, in consultation with the investment
9 funds committee, shall adopt investment policy statements
10 for state funds and shall review those policy statements at
11 least annually. These policy statements shall be subject to
12 W.S. 9-4-722 and to the following:

13

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

17

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

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20

(END)