

Amendment No. 1 to HB1286

Hazlewood
Signature of Sponsor

AMEND Senate Bill No. 955*

House Bill No. 1286

by deleting all language after the caption and substituting:

WHEREAS, through the state treasurer's investment and reinvestment of program funds, it is the state treasurer's duty to maximize investment returns for the programs under the state treasurer's responsibility and oversight; and

WHEREAS, while there is a global movement to make investment decisions based on environmental, social, and governance interests, the state treasurer shall make investment decisions based on financial factors; now, therefore,

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 9, Chapter 4, is amended by adding the following as a new part:

9-4-1401.

As used in this part:

(1) "Environmental, social, and governance interests" means interests that are not financial;

(2) "Financial":

(A) Means, with regard to a factor or reason, having been prudently determined to have a material effect on the financial risk or the financial return of an investment for a program based on the appropriate investment horizon consistent with the program's articulated funding and investment objectives for the exclusive benefit of the purposes of the program;

(B) Includes, but is not limited to, data-based economic decisions and forecasting based on financial trends or themes; and

(C) Does not include environmental, social, and governance interests that may not be material to the financial analysis of the investment; and

(3) "Program" means any of the following which are established by law and for which the state treasurer has, or has been delegated, investment authority, oversight, and responsibility:

(A) A trust fund;

(B) An endowment fund;

(C) Deferred or tax-sheltered compensation plan or plans, including profit sharing or salary reduction plans, established pursuant to title 8, chapter 25, parts 1, 2, and 3;

(D) Programs under the Tennessee College Savings Trust Act, compiled in title 49, chapter 7, part 8; and

(E) Programs under The Achieving a Better Life Experience (ABLE) Act, compiled in title 71, chapter 4, part 8.

9-4-1402.

Consistent with the prudent investor rule pursuant to § 35-14-103, the standard of care pursuant to § 35-14-104, and the exercise of reasonable care in delegation of investment and management functions pursuant to § 35-14-111 and § 8-37-112, the department of treasury investment division staff, under the supervision of the state treasurer, shall invest, reinvest, manage, and select investment options for program assets for financial reasons for the exclusive benefit of the beneficiaries of the programs while maximizing long-term shareholder value.

9-4-1403.

(a) Notwithstanding another law or policy to the contrary, the state treasurer has the sole authority to exercise, in person or by proxy, all voting rights with respect to securities held by a program and to give general or special proxies or powers of attorney with or without power of substitution.

(b) The authority conferred by subsection (a) must be exercised for financial reasons, impartially and solely in the interests of the beneficiaries of the program as determined from the purposes, terms, distribution requirements, and other circumstances of the program, and the terms of the respective program's investment and proxy voting policies or guidelines.

(c) The state treasurer may delegate the authority conferred by subsection (a), in whole or in part, to the department of treasury staff, which authority includes, but is not limited to, conducting research, providing due diligence, and casting votes.

9-4-1404.

(a) The state treasurer has final authority over an investment or proxy voting decision for a program.

(b) The state treasurer may make and enter into contracts, agreements, and other instruments with an individual or entity to effectuate this part, including, but not limited to, advisors, research providers, consultants, and other contractors, who must be compensated as the state treasurer may deem just.

(c) Notwithstanding another law to the contrary, in cases where the interest of the state treasurer requires additional legal counsel to effectuate this part and to advise on issues concerning the state treasurer's fiduciary obligations and responsibilities, the state treasurer, with the approval of the attorney general and reporter, may contract with additional counsel, who must be paid such compensation for services as the treasurer may deem just.

SECTION 2. This act takes effect upon becoming a law, the public welfare requiring it, and applies to investments made on or after July 1, 2023.