

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1170

By: Lepak

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5
6 AS INTRODUCED

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

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

22 SECTION 1. NEW LAW A new section of law to be codified
23 in the Oklahoma Statutes as Section 9101 of Title 62, unless there
24 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".

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

1 As used in the Oklahoma Public Finance Protection Act:

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

- 4 a. exercises any discretionary authority or discretionary
5 control respecting management of such plan or
6 exercises any authority or control respecting
7 management or disposition of its assets,
8 b. renders investment advice for a fee or other
9 compensation, direct or indirect, with respect to any
10 monies or other property of such plan, or has any
11 authority or responsibility to do so, or
12 c. has any discretionary authority or discretionary
13 responsibility in the administration of such plan,
14 including making recommendations or voting a plan's
15 shares or proxies;

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

- 17 a. means a risk or return regarding which there is a
18 substantial likelihood that a reasonable investor
19 would attach importance when:
20 (1) evaluating the potential financial return and
21 financial risks of an existing or prospective
22 investment, or
23 (2) exercising, or declining to exercise, any rights
24 appurtenant to securities, and

1 b. does not include:

2 (1) furthering nonpecuniary, environmental, social,
3 political, ideological, or other goals or
4 objectives, or

5 (2) any portion of a risk or return that primarily
6 relates to events that are not investment-
7 specific in nature;

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

18 4. "Pecuniary factor" means a factor that has a material effect
19 on the financial risk or financial return of an investment based on
20 appropriate investment horizons consistent with the plan's
21 investment objectives and the funding policy. The term excludes
22 nonpecuniary factors; and

23 5. "Pension benefit plan" or "plan" shall mean any plan, fund,
24 or program which was heretofore or is hereafter established,

1 maintained, or offered by the State of Oklahoma or any subdivision,
2 county, municipality, agency, or instrumentality thereof, or any
3 school, college, university, administration, authority, or other
4 enterprise operated by the State of Oklahoma, to the extent that by
5 its terms or as a result of surrounding circumstances:

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

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

21 A fiduciary shall discharge his duties with respect to a plan
22 solely in the pecuniary interest of the participants and
23 beneficiaries:
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1 1. For the exclusive purpose of providing pecuniary benefits to
2 participants and their beneficiaries and defraying reasonable
3 expenses of administering the plan;

4 2. With the care, skill, prudence, and diligence under the
5 circumstances then prevailing that a prudent man acting in a like
6 capacity and familiar with such matters would use in the conduct of
7 an enterprise of a like character and with like aims;

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

11 4. In accordance with the documents and instruments governing
12 the plan and insofar as such documents and instruments are
13 consistent with the fiduciary responsibilities provided by law,
14 including the provisions of this act.

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

18 A fiduciary's evaluation of an investment, or evaluation or
19 exercise of any right appurtenant to an investment, must take into
20 account only pecuniary factors. Plan fiduciaries are not permitted
21 to promote nonpecuniary benefits or any other nonpecuniary goals.
22 Environmental, social, ideological, corporate governance, or other
23 goals, objectives, or similarly oriented considerations are
24 pecuniary factors only if they present economic risks or

1 opportunities that qualified investment professionals would treat as
2 material economic considerations under generally accepted investment
3 theories. The weight given to those factors should solely reflect a
4 prudent assessment of their impact on risk and return. Fiduciaries
5 considering environmental, social, corporate governance, or other
6 similarly oriented factors as pecuniary factors are also required to
7 examine the level of diversification, degree of liquidity, and the
8 potential risk-return in comparison with other available alternative
9 investments that would play a similar role in their plans'
10 portfolios. Any pecuniary consideration of environmental, social,
11 or governance factors must necessarily include evaluating whether
12 greater returns can be achieved through investments that rank poorly
13 on such factors.

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

17 A. All proxies held by or on behalf of a pension benefit plan
18 or the beneficiaries thereof shall be voted solely in the pecuniary
19 interest of plan participants. Voting to further nonpecuniary,
20 environmental, social, political, ideological or other benefits or
21 goals is prohibited.

22 B. Unless no economically practicable alternative is available,
23 a fiduciary may not adopt a practice of following the
24 recommendations of a proxy advisory firm or other service provider

1 unless such firm or service provider has a practice of, and in
2 writing commits to, following proxy voting guidelines that are
3 consistent with the plan's fiduciary obligation to act based only on
4 pecuniary factors.

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

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

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

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

4 A. This act may be enforced by the Attorney General.

5 B. If the Attorney General has reasonable cause to believe that
6 a person has engaged in, is engaging in, or is about to engage in a
7 violation of this act, he or she may:

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

12 2. Examine under oath any person in connection with the
13 violation;

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

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

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

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

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

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

14 Should a court of competent jurisdiction hold any provision of
15 this chapter to be invalid, such action will not affect any other
16 provision of this act.

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

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

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