

PROPOSED AMENDMENT

HB 1008 # 19

DIGEST

Fiduciary duties. Requires the board of trustees of the Indiana public retirement system (board) to make investment decisions with the primary purpose of maximizing the target rate of return on the board's investments. Prohibits the board from making an investment decision with the purpose of influencing any social or environmental policy or attempting to influence the governance of any corporation for nonpecuniary purposes. Specifies an exception. Deletes sections that would: (1) provide that a fiduciary, in making and supervising investments of a reserve fund of the public pension system, shall discharge the fiduciary's duties solely in the financial interest of the participants and beneficiaries of the public pension system for certain purposes; (2) specify requirements for fiduciaries, proxy advisors, service providers, and proxy voting; and (3) provide that compliance with certain provisions does not impose any additional fiduciary obligations on a person, other than to the extent required by law or the applicable contract or agreement. Modifies provisions concerning tabulation and reporting of proxy votes. Provides that to the extent economically feasible, the board may not grant proxy voting authority to a fiduciary unless the fiduciary meets certain requirements. Requires the board to adopt a policy that assures that proxy voting and engagement shall be based primarily on maximizing the target rate of return on the board's investments. Specifies reporting requirements for proxy voting. Deletes sections that would: (1) provide that the treasurer of state shall enforce certain provisions; (2) specify, for the board and the treasurer of state, particular enforcement requirements and procedures if the treasurer of state determines that a person has engaged in, is engaging in, or is going to engage in a violation regarding fiduciary duties; (3) provide that certain persons and entities are immune from civil liability and entitled to indemnification; (4) require the board to amend the board's investment policies to comply with certain requirements on or before December 31, 2023; and (5) specify fiduciary duties, similar to the those that would apply to the public pension system, that would apply to the trustee of the state police pension trust. Makes conforming amendments.

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| 1 | Page 1, line 1, delete "IC 5-10.2-13" and insert "IC 5-10.5-8". |
| 2 | Page 1, line 4, delete "13." and insert "8.". |
| 3 | Page 1, delete lines 5 through 17, begin a new paragraph and insert: |
| 4 | "Sec. 1. The board, in accordance with the fiduciary duties |
| 5 | described in this article, shall make investment decisions with the |
| 6 | primary purpose of maximizing the target rate of return on the |
| 7 | board's investments. |
| 8 | Sec. 2. Except as otherwise provided by law, the board may not |
| 9 | make an investment decision with the purpose of: |
| 10 | (1) influencing any social or environmental policy; or |
| 11 | (2) attempting to influence the governance of any corporation |
| 12 | for nonpecuniary purposes.". |
| 13 | Delete pages 2 through 4. |

- 1 Page 5, delete lines 1 through 12.
- 2 Page 5, line 13, delete "15." and insert "3."
- 3 Page 5, line 14, delete "by any fiduciary".
- 4 Page 5, line 15, delete "a fund of the public pension system." and
- 5 insert **"the public pension and retirement funds of the system."**.
- 6 Page 5, delete lines 26 through 42, begin a new paragraph and insert:
- 7 **"Sec. 4. To the extent economically feasible, the board may not**
- 8 **grant proxy voting authority to a fiduciary unless the fiduciary:**
- 9 **(1) has a practice of following; and**
- 10 **(2) follows guidelines that meet the following requirements of**
- 11 **when the fiduciary engages with portfolio companies and**
- 12 **voting shares of proxies:**
- 13 **(A) In making and supervising investments of the public**
- 14 **pension system, a fiduciary shall discharge the fiduciary's**
- 15 **duties solely in the financial interests of the participants**
- 16 **and beneficiaries of the system for the exclusive purpose of**
- 17 **providing financial benefits to participants and**
- 18 **beneficiaries.**
- 19 **(B) In making and supervising investments of the system,**
- 20 **a fiduciary shall only consider financial factors when**
- 21 **discharging the fiduciary's duties with respect to a fund of**
- 22 **the system.**
- 23 **Sec. 5. The board shall adopt a policy that assures that proxy**
- 24 **voting and engagement shall be based primarily on maximizing the**
- 25 **target rate of return on the board's investments. If the board has**
- 26 **reasonable cause to believe that a violation of the policy on proxy**
- 27 **voting and engagement has occurred, the board shall report such**
- 28 **violation to the interim study committee on pension management**
- 29 **oversight, including any actions taken to remedy the potential**
- 30 **violation.**
- 31 **Sec. 6. This chapter shall not apply to private market funds**
- 32 **defined under IC 5-10.2-10-11."**
- 33 Delete pages 6 through 13.

(Reference is to HB 1008 as printed February 21, 2023.)