

1 STATE OF OKLAHOMA

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

3 HOUSE BILL 1170

By: Lepak

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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  
shares; providing for delegation of authority;  
12 providing that proxy votes be reported annually;  
authorizing Attorney General to enforce act and  
13 examine certain persons and records; providing  
immunity for the State of Oklahoma and certain  
individuals; providing for indemnification; providing  
for severability; providing for codification;  
providing an effective date; and declaring an  
emergency.

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

17 SECTION 1. NEW LAW A new section of law to be codified  
18 in the Oklahoma Statutes as Section 9101 of Title 62, unless there  
19 is created a duplication in numbering, reads as follows:

20 This act shall be known and may be cited as the "Oklahoma Public  
21 Finance Protection Act".

22 SECTION 2. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 9102 of Title 62, unless there  
24 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:

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.

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:

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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23          60-1-10216        CMA        01/11/25

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