

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM
2023 REGULAR SESSION
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Amend printed copy of **HB 236/HCS 1**

On page 1, line 25, delete "and"; and

On page 1, line 26, after "includes", insert "but is not limited to"; and

On page 1, line 27, after "interest" and before the period, insert:

" which does not have a direct and material connection to the financial risk or financial return of an investment; and

5. "Investment manager" shall have the same definition attributed to "investment adviser" under the federal Investment Advisers Act of 1940, 15 U.S.C. sec. 80b-2"; and

On page 2, delete lines 1 through 3 and insert in lieu thereof:

"(b) The board members, ~~or~~ any investment manager or other fiduciary, or proxy adviser shall discharge their duties with respect to the funds of the retirement system solely in the interest of the members and beneficiaries and:"; and

On page 3, delete lines 3 to 5 in their entirety and insert in lieu thereof:

"(5) In addition to the standards of conduct prescribed by subsection (2) of this section:

(a) Investment managers shall comply with all applicable provisions of the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other applicable federal securities statutes and related rules and regulations that apply to investment managers; and

Amendment No. HFA

Rep. Rep. Scott Sharp

Committee Amendment _____

Signed: _____

Floor Amendment _____

LRC Drafter: _____

Adopted: _____

Date: _____

Rejected: _____

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(b) Proxy advisers and proxy voting services shall comply with all applicable provisions of the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other federal statutes and related rules and regulations that apply to proxy advisers and proxy voting services."; and

On page 11, delete lines 6 through 24 in their entirety, and insert in lieu thereof:

"(9) (a) The board shall adopt:

1. Written proxy voting guidelines which are consistent with the fiduciary duties and other requirements of Section 1 of this Act; or
2. The proxy voting guidelines of a sole investment manager under contract with the board to act as a fiduciary in compliance with the duties and other requirements of Section 1 of this Act.

(b) The board shall not adopt the recommendations of a proxy adviser or proxy voting service and shall not allow such proxy adviser or proxy voting service to vote on its behalf, unless the proxy adviser or proxy voting service acknowledges in writing and accepts under contract its duties under Section 1 of this Act and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section and Section 1 of this Act.

(c) All shares held by or on behalf of the system, and which the system is entitled to vote under state, federal, or common laws, shall be voted according to the proxy voting guidelines adopted by the board and subject to the fiduciary duties and other requirements of this section by:

1. The board or investment committee of the board who are fiduciaries having the authority to make investments under Section 1 of this Act; or

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- 2. A proxy adviser, proxy voting service, or sole investment manager that acknowledges in writing and accepts under contract its duties under Section 1 of this Act and commits to follow the proxy voting guidelines adopted by the board when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.**"; and

On page 29, line 1, delete "**and**"; and

On page 29, line 2, after "**includes**", insert "**but is not limited to**"; and

On page 29, line 3, after "**interest**" and before the period, insert:

" **which does not have a direct and material connection to the financial risk or financial return of an investment; and**

e. "Investment manager" shall have the same definition attributed to "investment adviser" under the federal Investment Advisers Act of 1940, 15 U.S.C. sec. 80b-2"; and

On page 29, line 5, after "**manager,**", delete "**proxy adviser, or consultant,**" and

On page 29, line 6 after "fiduciary", insert "**, or proxy adviser**"; and

On page 30, line 10, after "Institute;", bracket and strikethrough "and"; and

On page 30, line 15, after "managers" and before the period, insert:

"; and

- 3. Proxy advisers and proxy voting services shall comply with all applicable provisions of the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other federal statutes and related rules and regulations that apply to proxy advisers and proxy voting services**"; and

On page 30, delete lines 16 through 18 in their entirety and on page 30, line 19, delete "**(f)**" and insert in lieu thereof "**(e)**"; and

On page 32, delete lines 9 through 25 in their entirety and insert in lieu thereof:

"(b) The board shall not adopt the recommendations of a proxy adviser or proxy voting service and shall not allow such proxy adviser or proxy voting service to vote on behalf of the system, unless the proxy adviser or proxy voting service acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.

(c) All shares held by or on behalf of the system, and which the system is entitled to vote under state, federal, or common laws, shall be voted according to the proxy voting guidelines adopted by the board and subject to the fiduciary duties and other requirements of this section by:

- 1. The board, the investment committee of the board, or an employee or employees of the Authority who are fiduciaries under subsection (1) of this section and are appointed or otherwise authorized by the board; or**
- 2. A proxy adviser or proxy voting service that acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section."**; and

On page 50, line 3, delete "**and**"; and

On page 50, line 4, after "**includes**", insert "**but is not limited to**"; and

On page 50, line 5, after "**interest**" and before the period, insert:

" **which does not have a direct and material connection to the financial risk or financial return of an investment; and**

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e. "Investment manager" shall have the same definition attributed to "investment adviser" under the federal Investment Advisers Act of 1940, 15 U.S.C. sec. 80b-2"; and

On page 50, line 7, after "*manager*", delete "*proxy adviser, consultant,*" and

On page 50, line 8, after "fiduciary", insert "*, or proxy adviser*"; and

On page 50, line 21, after "*and fiduciaries*", insert "."; and

On page 51, line 11, bracket and strikethrough "and"; and

On page 51, line 16, after "managers" and before the period, insert:

"; and

3. Proxy advisers and proxy voting services shall comply with all applicable provisions of the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other federal statutes and related rules and regulations that apply to proxy advisers and proxy voting services"; and

On page 51, delete lines 17 through 19 in their entirety and on page 51, line 20, delete "*(f)*" and insert in lieu thereof "*(e)*"; and

On page 53, delete lines 10 through 26 in their entirety and insert in lieu thereof:

(b) The board shall not adopt the recommendations of a proxy adviser or proxy voting service and shall not allow such proxy adviser or proxy voting service to vote on behalf of the system, unless the proxy adviser or proxy voting service acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.

(c) All shares held by or on behalf of the system, and which the system is entitled to

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vote under state, federal, or common laws, shall be voted according to the proxy voting guidelines adopted by the board and subject to the fiduciary duties and other requirements of this section by:

1. The board, the investment committee of the board, or an employee or employees of the Authority who are fiduciaries under subsection (1) of this section and are appointed or otherwise authorized by the board; or
2. A proxy adviser or proxy voting service that acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section."; and

On page 63, line 5, delete "and"; and

On page 63, line 6, after "includes", insert "but is not limited to"; and

On page 63, line 7, after "interest" and before the period, insert:

" which does not have a direct and material connection to the financial risk or financial return of an investment; and

5. "Investment manager" and "investment consultant" shall have the same definition attributed to "investment adviser" under the federal Investment Advisers Act of 1940, 15 U.S.C. sec. 80b-2"; and

On page 63, line 8, after "managers,", delete "proxy advisers," and insert in lieu thereof "investment" before the word "consultants"; and

On page 63, line 9, after "fiduciaries", insert ", and proxy advisers"; and

On page 63, line 24, after "and fiduciaries", insert " . "; and

On page 64, after line 22, insert:

"(c) Proxy advisers and proxy voting services shall comply with all applicable provisions

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of the Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other federal statutes and related rules and regulations that apply to proxy advisers and proxy voting services."; and

On page 64, line 23, delete "(c)" and insert in lieu thereof "(d)"; and

Beginning on page 66, lines 16 through 27, and on page 67, lines 1 through 5, delete the lines in their entirety and insert in lieu thereof:

"(b) The board shall not adopt the recommendations of a proxy adviser or proxy voting service and shall not allow such proxy adviser or proxy voting service to vote on behalf of the system, unless the proxy adviser or proxy voting service acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities under this section.

(c) All shares held by or on behalf of the system, and which the system is entitled to vote under state, federal, or common laws, shall be voted according to the proxy voting guidelines adopted by the board and subject to the fiduciary duties and other requirements of this section by:

1. The board, the investment committee of the board, or an employee or employees of the system who are fiduciaries under this section and are appointed or otherwise authorized by the board; or

2. A proxy adviser or proxy voting service that acknowledges in writing and accepts under contract its duties under this section and commits to follow the board-adopted proxy voting guidelines when voting the system's shares in order to comply with the board's fiduciary duties and other responsibilities

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under this section.