State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SENATE BILL 1500

AN ACT

AMENDING TITLE 35, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 35-320; AMENDING TITLE 35, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 4; RELATING TO HANDLING OF PUBLIC FUNDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 35, chapter 2, article 2, Arizona Revised Statutes, is amended by adding section 35-320, to read:

35-320. State investments; investment managers; list; posting

A. The state treasurer shall post a current list of state investments by name on the state treasurer’s publicly accessible website. The state treasurer shall update any changes to the list within a reasonable period of time.

B. The state treasurer shall post the current list of investment managers on the state treasurer’s publicly accessible website and shall update any changes to the list within a reasonable period of time.

C. All state investments shall be made in the sole interest of the beneficiary taxpayer. The state treasurer’s evaluation of an investment must be based on pecuniary factors as prescribed in Article 4 of this chapter, and the state treasurer may not take unnecessary investment risks or promote nonpecuniary benefits or other nonpecuniary social goals.

Sec. 2. Title 35, chapter 2, Arizona Revised Statutes, is amended by adding article 4, to read:

ARTICLE 4. GOVERNMENT INVESTMENTS PROTECTION ACT

35-351. Definitions

In this article, unless the context otherwise requires:

1. "Boycott of an energy company" means engaging in a refusal to deal, terminating business activities or performing other actions that are intended to penalize, inflict economic harm or limit commercial relations with an entity if those actions are taken without a reasonable business purpose because the entity does any of the following:
   (a) engages in exploring, producing, using, transporting, selling or manufacturing fossil fuel-based or nuclear-based energy.
   (b) engages in exploring, producing, using, transporting, selling or manufacturing fossil fuel-based or nuclear-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law.
   (c) does business with an entity that engages in exploring, producing, using, transporting, selling or manufacturing fossil fuel-based or nuclear-based energy.

2. "Fiduciary" means a person who does any of the following:
   (a) exercises any discretionary authority or discretionary control with respect to a plan or who exercises any authority or control managing or disposing of the plan’s assets.
   (b) renders investment advice for a fee or other compensation, directly or indirectly, with respect to any monies or other property of a plan or who has the authority or responsibility to render investment advice.
   (c) has any discretionary authority or discretionary responsibility in administering a plan.
3. "NONPECUNIARY FACTOR" INCLUDES ANY FACTOR THAT IS INTENDED TO FURTHER OR IS BRANDED, ADVERTISED OR OTHERWISE PUBLICLY DESCRIBED BY THE OFFEROR OR FIDUCIARY AS FURTHERING ANY OF THE FOLLOWING:
   (a) INTERNATIONAL, DOMESTIC OR INDUSTRY AGREEMENTS RELATING TO ENVIRONMENTAL OR SOCIAL GOALS.
   (b) CORPORATE GOVERNANCE STRUCTURES BASED ON SOCIAL CHARACTERISTICS.
   (c) SOCIAL OR ENVIRONMENTAL GOALS.
   (d) A BOYCOTT OF AN ENERGY COMPANY.

4. "PECUNIARY FACTOR" MEANS A FACTOR THAT HAS A MATERIAL EFFECT ON THE FINANCIAL RISK OR THE FINANCIAL RETURN OF AN INVESTMENT BASED ON APPROPRIATE INVESTMENT HORIZONS CONSISTENT WITH A PLAN'S INVESTMENT OBJECTIVES AND FUNDING POLICY.

5. "PLAN" MEANS ANY PLAN, FUND OR PROGRAM THAT IS ESTABLISHED OR MAINTAINED BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE, INCLUDING A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF REGENTS AND A COMMUNITY COLLEGE DISTRICT AS DEFINED IN SECTION 15-1401, TO DO ANY OF THE FOLLOWING:
   (a) PROVIDE RETIREMENT INCOME OR OTHER RETIREMENT BENEFITS TO EMPLOYEES OR FORMER EMPLOYEES.
   (b) DEFER INCOME BY EMPLOYEES FOR A PERIOD OF TIME EXTENDING TO THE TERMINATION OF COVERED EMPLOYMENT OR BEYOND.
   (c) INVEST TAXPAYER MONIES FOR ANY PURPOSE.

35-352. Plans; fiduciaries; duties
A. A FIDUCIARY SHALL DISCHARGE THE FIDUCIARY'S DUTIES WITH RESPECT TO A PLAN SOLELY IN THE INTEREST OF THE PARTICIPANTS AND BENEFICIARIES OF THE PLAN FOR THE EXCLUSIVE PURPOSE OF PROVIDING PECUNIARY BENEFITS TO THE PARTICIPANTS AND THEIR BENEFICIARIES, DEFRAyyING REASONABLE EXPENSES OF ADMINISTERING THE PLAN AND EARNING A RETURN ON THE INVESTMENT.
B. A FIDUCIARY MUST TAKE INTO ACCOUNT ONLY PECUNIARY FACTORS WHEN EVALUATING AN INVESTMENT OR DISCHARGING THE FIDUCIARY'S DUTIES WITH RESPECT TO A PLAN. THE FIDUCIARY MAY NOT TAKE INTO ACCOUNT ANY NONPECUNIARY FACTORS OR OTHER FACTORS WHEN EVALUATING AN INVESTMENT.

35-353. Plans; voting of ownership interests
A. ONLY A GOVERNMENTAL ENTITY THAT ESTABLISHES OR MAINTAINS A PLAN MAY VOTE THE SHARES HELD BY THE PLAN. THE GOVERNMENTAL ENTITY MAY NOT GRANT PROXY VOTING AUTHORITY TO ANY PERSON WHO IS NOT A PART OF THE GOVERNMENTAL ENTITY UNLESS THAT PERSON Follows GUIDELINES CONSISTENT WITH THE GOVERNMENTAL ENTITY'S OBLIGATION TO ACT BASED ONLY ON PECUNIARY FACTORS.
B. THE SHARES HELD DIRECTLY OR INDIRECTLY BY A PLAN SHALL BE VOTED ONLY IN THE PECUNIARY INTEREST OF THE PLAN. THE SHARES MAY NOT BE VOTED TO FURTHER NONPECUNIARY, ENVIRONMENTAL, SOCIAL, POLITICAL, IDEOLOGICAL OR OTHER BENEFITS OR GOALS. THE PLAN MAY NOT ENTRUST ANY PLAN ASSETS TO A FIDUCIARY THAT:
1. HAS A PRACTICE OF ENGAGING WITH, OR COMMITS TO ENGAGING WITH, A COMPANY BASED ON NONPECUNIARY FACTORS.
2. HAS A PRACTICE OF VOTING SHARES BASED ON NONPECUNIARY FACTORS.
C. A FIDUCIARY MAY NOT ADOPT A PRACTICE OF FOLLOWING THE RECOMMENDATIONS OF A PROXY ADVISORY FIRM OR OTHER SERVICE PROVIDER UNLESS THE PROXY ADVISORY FIRM'S OR THE SERVICE PROVIDER'S PROXY VOTING GUIDELINES ARE CONSISTENT WITH THE FIDUCIARY'S OBLIGATION TO ACT BASED ONLY ON PECUNIARY FACTORS.

Sec. 3. Findings
The legislature finds that:
1. The state treasurer has the authority and duty to invest state monies, to ensure transparency of state investments and to safeguard the pecuniary interests of this state.
2. State investments must be made in the pecuniary interest of beneficiaries.
3. Environmental, social and governance investing has increasingly become a significant strategy in state investments in states other than this state.
4. Environmental, social and governance investing strategies are implemented to achieve nonpecuniary goals.
5. Environmental, social and governance investing consistently underperforms market indexes and yields lower returns for beneficiaries.
6. Environmental, social and governance investing strategies violate the duty of fiduciaries to maximize the financial return on state investments for beneficiaries.
7. Shares held directly or indirectly by a plan established or maintained by this state or a political subdivision of this state shall be voted only in the pecuniary interest of the plan.