

HOUSE BILL No. 2193

By Committee on Appropriations

1-26

1 AN ACT concerning the investment of state moneys; reestablishing the
2 provisions of law authorizing the state treasurer to certify and transfer a
3 portion of state moneys, equivalent to the aggregate net amount
4 received for unclaimed property, available for investment to the
5 KPERS board of trustees; amending K.S.A. 2022 Supp. 75-2263 and
6 repealing the existing section.
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 Section 1. K.S.A. 2022 Supp. 75-2263 is hereby amended to read as
10 follows: 75-2263. (a) ~~Subject to the provisions of subsection (j),~~ The board
11 of trustees is responsible for the management and investment of that
12 portion of state moneys available for investment by the pooled money
13 investment board that is certified by the state treasurer to the board of
14 trustees as being equivalent to the aggregate net amount received for
15 unclaimed property and shall discharge the board's duties with respect to
16 such moneys solely in the interests of the state general fund and shall
17 invest and reinvest such moneys and acquire, retain, manage, including the
18 exercise of any voting rights and disposal of investments of such moneys
19 within the limitations and according to the powers, duties and purposes as
20 prescribed by this section.

21 (b) Moneys specified in subsection (a) shall be invested and
22 reinvested to achieve the investment objective, which is preservation of
23 such moneys and accordingly providing that the moneys are as productive
24 as possible, subject to the standards set forth in this section. No such
25 moneys shall be invested or reinvested if the sole or primary investment
26 objective is for economic development or social purposes or objectives.

27 (c) In investing and reinvesting moneys specified in subsection (a)
28 and in acquiring, retaining, managing and disposing of investments of the
29 moneys, the board of trustees shall exercise the judgment, care, skill,
30 prudence and diligence under the circumstances then prevailing, which
31 persons of prudence, discretion and intelligence acting in a like capacity
32 and familiar with such matters would use in the conduct of an enterprise of
33 like character and with like aims by diversifying the investments of the
34 moneys so as to minimize the risk of large losses, unless under the
35 circumstances it is clearly prudent not to do so, and not in regard to
36 speculation but in regard to the permanent disposition of similar moneys,

1 considering the probable income as well as the probable safety of their
2 capital.

3 (d) In the discharge of such management and investment
4 responsibilities the board of trustees may contract for the services of one
5 or more professional investment advisors or other consultants in the
6 management and investment of such moneys and otherwise in the
7 performance of the duties of the board of trustees under this section.

8 (e) The board of trustees shall require that each person contracted
9 with under subsection (d) to provide services shall obtain commercial
10 insurance that provides for errors and omissions coverage for such person
11 in an amount to be specified by the board of trustees. The amount of such
12 coverage specified by the board of trustees shall be at least the greater of
13 \$500,000 or 1% of the funds entrusted to such person up to a maximum of
14 \$10,000,000. The board of trustees shall require a person contracted with
15 under subsection (d) to provide services to give a fidelity bond in a penal
16 sum as may be fixed by law or, if not so fixed, as may be fixed by the
17 board of trustees, with corporate surety authorized to do business in this
18 state. Such persons contracted with the board of trustees pursuant to
19 subsection (d) and any persons contracted with such persons to perform
20 the functions specified in subsection (b) shall be deemed to be fiduciary
21 agents of the board of trustees in the performance of contractual
22 obligations.

23 (f) (1) Subject to the objective set forth in subsection (b) and the
24 standards set forth in subsection (c), the board of trustees shall formulate
25 and adopt policies and objectives for the investment and reinvestment of
26 such moneys and the acquisition, retention, management and disposition of
27 investments of the moneys. Such policies and objectives shall be in writing
28 and shall include:

29 (A) Specific asset allocation standards and objectives;

30 (B) establishment of criteria for evaluating the risk versus the
31 potential return on a particular investment; and

32 (C) a requirement that all investment advisors, and any managers or
33 others with similar duties and responsibilities as investment advisors, shall
34 immediately report all instances of default on investments to the board of
35 trustees and provide such board of trustees with recommendations and
36 options, including, but not limited to, curing the default or withdrawal
37 from the investment.

38 (2) The board of trustees shall review such policies and objectives,
39 make changes considered necessary or desirable and readopt such policies
40 and objectives on an annual basis.

41 (g) Except as provided in subsection (d) and this subsection, the
42 custody of such moneys shall remain in the custody of the state treasurer,
43 except that the board of trustees may arrange for the custody of such

1 moneys as it considers advisable with one or more member banks or trust
2 companies of the federal reserve system or with one or more banks in the
3 state of Kansas, or both, to be held in safekeeping by the banks or trust
4 companies for the collection of the principal and interest or other income
5 or of the proceeds of sale. All such moneys shall be considered moneys in
6 the state treasury for purposes of K.S.A. 75-6704, and amendments
7 thereto.

8 (h) All interest or other income of the investments of the moneys
9 invested under this section, after payment of any management fees, shall
10 be deposited in the state treasury to the credit of the state general fund.

11 (i) The state treasurer shall certify to the board of trustees a portion of
12 state moneys available for investment by the pooled money investment
13 board that is equivalent to the aggregate net amount received for
14 unclaimed property. The state treasurer shall transfer the amount certified
15 to the board of trustees. ~~During fiscal years 2022, 2023 and 2024, the state~~
16 ~~treasurer shall not certify or transfer any state moneys available for~~
17 ~~investment pursuant to this subsection.~~

18 (j) As used in this section:

19 (1) "Board of trustees" means the board of trustees of the Kansas
20 public employees retirement system established by K.S.A. 74-4905, and
21 amendments thereto.

22 (2) "Fiduciary" means a person who, with respect to the moneys
23 invested under this section:

24 (A) Exercises any discretionary authority with respect to
25 administration of the moneys;

26 (B) exercises any authority to invest or manage such moneys or has
27 any authority or responsibility to do so;

28 (C) provides investment advice for a fee or other direct or indirect
29 compensation with respect to such moneys or has any authority or
30 responsibility to do so;

31 (D) provides actuarial, accounting, auditing, consulting, legal or other
32 professional services for a fee or other direct or indirect compensation with
33 respect to such moneys or has any authority or responsibility to do so; or

34 (E) is a member of the board of trustees or of the staff of the board of
35 trustees.

36 Sec. 2. K.S.A. 2022 Supp. 75-2263 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after its
38 publication in the Kansas register.