

FIRST REGULAR SESSION

SENATE BILL NO. 389

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR BLACK.

1175S.01I

KRISTINA MARTIN, Secretary

AN ACT

To repeal section 105.688, RSMo, and to enact in lieu thereof two new sections relating to public employee retirement systems.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 105.688, RSMo, is repealed and two new
2 sections enacted in lieu thereof, to be known as sections
3 105.688 and 105.692, to read as follows:

105.688. The assets of a system may be invested,
2 reinvested and managed by an investment fiduciary subject to
3 the terms, conditions and limitations provided in sections
4 105.687 to 105.689. An investment fiduciary shall discharge
5 his or her duties in the interest of the participants in the
6 system and their beneficiaries and shall:

7 (1) Act with the same care, skill, prudence, and
8 diligence under the circumstances then prevailing that a
9 prudent person acting in a similar capacity and familiar
10 with those matters would use in the conduct of a similar
11 enterprise with similar aims;

12 (2) Act with due regard for the management,
13 reputation, and stability of the issuer and the character of
14 the particular investments being considered;

15 (3) Make investments for the purposes of providing
16 benefits to participants and participants' beneficiaries,
17 and of defraying reasonable expenses of investing the assets
18 of the system;

19 (4) Give appropriate consideration to those facts and
20 circumstances that the investment fiduciary knows or should
21 know are relevant to the particular investment or investment
22 course of action involved, including the role of the
23 investment or investment course of action plays in that
24 portion of the system's investments for which the investment
25 fiduciary has responsibility. For purposes of this
26 subdivision, "appropriate consideration" shall include, but
27 is not necessarily limited to a determination by the
28 investment fiduciary that a particular investment or
29 investment course of action is reasonably designed, as part
30 of the investments of the system, to further the purposes of
31 the system, taking into consideration the risk of loss and
32 the opportunity for gain or other return associated with the
33 investment or investment course of action; and consideration
34 of the following factors as they relate to the investment or
35 investment course of action:

36 (a) The diversification of the investments of the
37 system;

38 (b) The liquidity and current return of the
39 investments of the system relative to the anticipated cash
40 flow requirements of the system; and

41 (c) The projected return of the investments of the
42 system relative to the funding objectives of the system;

43 (5) Give appropriate consideration to investments
44 which would enhance the general welfare of this state and
45 its citizens if those investments offer the safety and rate
46 of return comparable to other investments available to the
47 investment fiduciary at the time the investment decision is
48 made;

49 (6) Not consider environmental, social, or governance
50 characteristics in a manner that would override his or her
51 fiduciary duties as described in this section;

52 (7) Not be subject to any legislative, regulatory, or
53 other mandates to invest with environmentally, socially, or
54 other noneconomically motivated influence unless such
55 mandates are consistent with the fiduciary's responsibility
56 as provided in this section or as provided in the system's
57 governing statutes, ordinances, charter, or documents with
58 respect to the investment of system assets or other duties
59 imposed by law relating to the investment, management,
60 deposit, or custody of system assets; and

61 (8) Not be subject to any legislative, regulatory, or
62 other mandates for divestment from any indirect holdings in
63 actively or passively managed investment funds or in private
64 assets unless such mandates are consistent with the
65 fiduciary's responsibility as provided in this section.

105.692. 1. All shares of common stock held directly
2 by a system, as such term is defined in section 105.687,
3 shall be voted solely in the economic interest of the
4 participants of the system. Voting shares for the sole
5 purposes of furthering noneconomic environmental, social,
6 political, ideological, or other goals is prohibited.

7 2. A system shall vote all proxies associated with its
8 directly held shares of common stock by one of the following
9 methods:

10 (1) By internal system staff; or

11 (2) By an investment manager or proxy voting service
12 provider who has committed in writing to vote the shares
13 pursuant to proxy voting guidelines chosen by the system or
14 has committed in writing to vote the shares in a manner

15 consistent with the obligation to act solely in the economic
16 interest of the participants of the system.

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