State of Arkansas *As Engrossed: H2/10/25 H2/17/25 S2/26/25*
95th General Assembly
Regular Session, 2025 HOUSE BILL 1307

A Bill

By: Representatives McAlindon, *R. Burkes*
By: Senator J. Bryant

For An Act To Be Entitled

AN ACT TO ENSURE RESPONSIBLE FUND MANAGEMENT; TO AMEND THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT (2006); AND FOR OTHER PURPOSES.

Subtitle

TO ENSURE RESPONSIBLE FUND MANAGEMENT; AND TO AMEND THE UNIFORM PRUDENT MANAGEMENT OF INSTITUTIONAL FUNDS ACT (2006).

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 28-69-802 is amended to read as follows:

28-69-802. Definitions.

In this subchapter:

(1) "Charitable purpose" means the relief of poverty, the advancement of education or religion, the promotion of health, the promotion of a governmental purpose, or any other purpose the achievement of which is beneficial to the community.

(2) "Endowment fund" means an institutional fund or part thereof that, under the terms of a gift instrument, is not wholly expendable by the institution on a current basis. The term does not include assets that an institution designates as an endowment fund for its own use.

(3) "Gift instrument" means a record or records, including an institutional solicitation, under which property is granted to, transferred to, or held by an institution as an institutional fund.

(4) "Institution" means:

(A) a person, other than an individual, organized and operated exclusively for charitable purposes;

(B) a government or governmental subdivision, agency, or instrumentality, to the extent that it holds funds exclusively for a charitable purpose; or

(C) a trust that had both charitable and noncharitable interests, after all noncharitable interests have terminated.

(5) "Institutional fund" means a fund held by an institution exclusively for charitable purposes. The term does not include:

(A) program-related assets;

(B) a fund held for an institution by a trustee that is not an institution; or

(C) a fund in which a beneficiary that is not an institution has an interest, other than an interest that could arise upon violation or failure of the purposes of the fund.

(6)(A) "Materially negative financial impact" means a materially negative financial impact on the institutional fund's total net investment performance, considering all financial returns received by the fund and all costs paid by the fund.

(B) "Materially negative financial impact" does not include the government institution's administrative costs that are not paid by the fund.

~~(6)~~(7) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency, or instrumentality, or any other legal or commercial entity.

~~(7)~~(8) "Program-related asset" means an asset held by an institution primarily to accomplish a charitable purpose of the institution and not primarily for investment.

~~(8)~~(9) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(10) "Service provider" means a person, including without limitation an affiliate, offering or providing financial services to the institutional fund, including without limitation:

(A) an investment manager, investment company, securities broker or dealer, investment advisor, or subadvisor; or

(B) a proxy advisor, including any person who provides corporate governance ratings, proxy research and analyses, proxy voting advice, or other similar services, for compensation and for the purpose of advising a shareholder on how to vote on measures under consideration by shareholders or proxy voting on behalf of a shareholder.

SECTION 2. Arkansas Code § 28-69-803, concerning the standard of conduct in managing and investing in an institutional fund, is amended to add additional subsections to read as follows:

(f) Except as provided under subsection (h) of this section, in managing and investing an institutional fund, an institution under § 28-69-802(4)(B), including without limitation a two-year or four-year state supported institution of higher education, shall not:

(1) Consider any of the goals under subdivisions (f)(2)(A) through (f)(2)(F) of this section, except as required to comply with subdivision (f)(2) of this section, regarding:

(A) A possible investment by the institutional fund;

(B) The selection of a service provider; or

(C) The voting of shares by the institutional fund; or

(2) Direct or allow any service provider, in connection with its duties to the institutional fund, to act in a way that is aligned with any of the following goals beyond what is required by controlling law:

(A) Directly or indirectly eliminating, reducing, offsetting, or disclosing a reduction target for greenhouse gas emissions, including without limitation by restricting the exploration, production, utilization, transportation, sale, or manufacturing of timber, mining, agriculture, or fossil-fuel-based energy;

(B) Instituting a corporate board or employment composition target or criterion that incorporate a characteristic protected in this state under the Arkansas Civil Rights Act of 1993, § 16-123-101 et seq.;

(C) Providing access to or facilitating an abortion, gender-reassignment, or sex-reassignment medication or procedure;

(D) Restricting public access to a firearm, ammunition, or a component part or accessory of a firearm, including without limitation by restricting the distribution, sale, manufacturing, importing, marketing, or advertising of a firearm, ammunition, or a component part or accessory of a firearm;

(E) Reducing the amount of business conducted with any entity for the purpose of advancing any of the goals under this subdivision (f)(2); or

(F) Advancing the purposes of any international agreement related to any of the goals under this subdivision (f)(2).

(g) Subdivision (f)(2) of this section shall not apply if the institution under § 28-69-802(4)(B) determines that subdivision (f)(2) of this section would require the selection of a service provider that would have a materially negative financial impact on the institutional fund, provided that the institution under § 28-69-802(4)(B):

(1) Contracts with a service provider that most closely meets the requirements of subdivision (f)(2) of this section and would not have a materially negative financial impact on the institutional fund;

(2) Documents the determination of the institution under § 28-69-802(4)(B), along with documenting evidence supporting its determination through a description of the services of at least three (3) alternative *service providers that were consulted and including without limitation a description of:*

(A) Fees;

(B) Historical investment performance; and

(C) Evidence of compliance with subdivision (f)(2) of this section; and

(3) Publicly posts notice seeking a service provider that would comply with subdivision (f)(2) of this section at the following times:

(A) No later than sixty (60) days after the selection of a service provider that does not meet the requirements of subdivision (f)(2) of this section;

(B) No later than sixty (60) days before the beginning of any following procurement period under which that service provider could be replaced; and

(C) As part of any following procurement announcement under which that service provider could be replaced; and

(4) Reevaluates its determination at least annually under

subdivisions (g)(1) — (3) of this section.

(h) The requirements under subsection (f) of this section shall not apply to the investment and management of special gifts for which the intent of a donor was:

(1) Contrary to subsection (f) of this section; and

(2) Expressed in the gift instruction before January 1, 2024.

/s/McAlindon

APPROVED: 3/18/25