

HOUSE BILL No. 2577

By Committee on Financial Institutions and Pensions

Requested by Representative Lewis on behalf of the Office of the State Treasurer

1-24

1 AN ACT concerning state moneys; relating to the investment and
2 management thereof; providing discretionary authority to the state
3 treasurer to transfer moneys certified as equivalent to the aggregate net
4 amount received for unclaimed property to the board of trustees of the
5 Kansas public employees retirement system and to liquidate such
6 moneys for investment by the pooled money investment board or for
7 necessary payments to owners of unclaimed property; amending K.S.A.
8 2023 Supp. 75-2263 and repealing the existing section.
9

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

11 Section 1. K.S.A. 2023 Supp. 75-2263 is hereby amended to read as
12 follows: 75-2263. (a) (1) *The state treasurer shall certify to the board of*
13 *trustees a portion of state moneys available for investment by the pooled*
14 *money investment board that is equivalent to the aggregate net amount*
15 *received for unclaimed property. The state treasurer may transfer the*
16 *amount certified to the board of trustees. All such moneys shall be*
17 *considered moneys in the state treasury for purposes of K.S.A. 75-6704,*
18 *and amendments thereto.*

19 (2) Subject to the provisions of subsection—(j) (h), the board of
20 trustees is responsible for the management and investment of that portion
21 of state moneys available for investment by the pooled money investment
22 board that is certified by the state treasurer to the board of trustees as being
23 equivalent to the aggregate net amount received for unclaimed property
24 and shall discharge the board's duties with respect to such moneys solely
25 in the interests of the state general fund and shall invest and reinvest such
26 moneys and acquire, retain, manage, including the exercise of any voting
27 rights and disposal of investments of such moneys within the limitations
28 and according to the powers, duties and purposes as prescribed by this
29 section.

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

1 (c) In investing and reinvesting moneys specified in subsection (a)
2 and in acquiring, retaining, managing and disposing of investments of the
3 moneys, the board of trustees shall exercise the judgment, care, skill,
4 prudence and diligence under the circumstances then prevailing, ~~which~~
5 *that* persons of prudence, discretion and intelligence acting in a like
6 capacity and familiar with such matters would use in the conduct of an
7 enterprise of like character and with like aims by diversifying the
8 investments of the moneys so as to minimize the risk of large losses,
9 unless under the circumstances it is clearly prudent not to do so, and not in
10 regard to speculation but in regard to the permanent disposition of similar
11 moneys, considering the probable income as well as the probable safety of
12 their capital.

13 (d) In the discharge of such management and investment
14 responsibilities the board of trustees may:

15 (1) Contract for the services of one or more professional investment
16 advisors or other consultants in the management and investment of such
17 moneys and otherwise in the performance of the duties of the board of
18 trustees under this section; *and*

19 (2) *arrange for the custody of such moneys as the board of trustees*
20 *considers advisable with one or more member banks or trust companies of*
21 *the federal reserve system or with one or more banks in the state of*
22 *Kansas, or both, to be held in safekeeping by the banks or trust companies*
23 *for the collection of the principal and interest or other income or of the*
24 *proceeds of sale.*

25 (e) The board of trustees shall require that each person contracted
26 with under subsection (d) to provide services shall obtain commercial
27 insurance that provides for errors and omissions coverage for such person
28 in an amount to be specified by the board of trustees. The amount of such
29 coverage specified by the board of trustees shall be at least the greater of
30 \$500,000 or 1% of the funds entrusted to such person up to a maximum of
31 \$10,000,000. The board of trustees shall require a person contracted with
32 under subsection (d) to provide services to give a fidelity bond in a penal
33 sum as may be fixed by law or, if not so fixed, as may be fixed by the
34 board of trustees, with corporate surety authorized to do business in this
35 state. Such persons contracted with the board of trustees pursuant to
36 subsection (d) and any persons contracted with such persons to perform
37 the functions specified in subsection (b) shall be deemed to be fiduciary
38 agents of the board of trustees in the performance of contractual
39 obligations.

40 (f) (1) Subject to the objective set forth in subsection (b) and the
41 standards set forth in subsection (c), the board of trustees shall formulate
42 and adopt policies and objectives for the investment and reinvestment of
43 such moneys and the acquisition, retention, management and disposition of

1 investments of the moneys. Such policies and objectives shall be in writing
2 and shall include:

3 (A) Specific asset allocation standards and objectives;

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

6 (C) a requirement that all investment advisors, and any managers or
7 others with similar duties and responsibilities as investment advisors, shall
8 immediately report all instances of default on investments to the board of
9 trustees and provide such board of trustees with recommendations and
10 options, including, but not limited to, curing the default or withdrawal
11 from the investment.

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

15 ~~(g) Except as provided in subsection (d) and this subsection, the~~
16 ~~custody of such moneys shall remain in the custody of the state treasurer,~~
17 ~~except that the board of trustees may arrange for the custody of such~~
18 ~~moneys as it considers advisable with one or more member banks or trust~~
19 ~~companies of the federal reserve system or with one or more banks in the~~
20 ~~state of Kansas, or both, to be held in safekeeping by the banks or trust~~
21 ~~companies for the collection of the principal and interest or other income~~
22 ~~or of the proceeds of sale. All such moneys shall be considered moneys in~~
23 ~~the state treasury for purposes of K.S.A. 75-6704, and amendments~~
24 ~~thereto.~~

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

28 ~~(i) The state treasurer shall certify to the board of trustees a portion of~~
29 ~~state moneys available for investment by the pooled money investment~~
30 ~~board that is equivalent to the aggregate net amount received for~~
31 ~~unclaimed property. The state treasurer shall transfer the amount certified~~
32 ~~to the board of trustees.~~

33 ~~(j)(h)~~ *The state treasurer shall maintain the discretionary authority to*
34 *liquidate some or a portion of such moneys transferred to the board of*
35 *trustees pursuant to subsection (a) for:*

36 (1) *Investment by the pooled money investment board; or*

37 (2) *necessary payments to owners as defined in K.S.A. 58-3934(m),*
38 *and amendments thereto.*

39 (i) As used in this section:

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

43 (2) "Fiduciary" means a person who, with respect to the moneys

1 invested under this section:

2 (A) Exercises any discretionary authority with respect to
3 administration of the moneys;

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

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

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

12 (E) is a member of the board of trustees or of the staff of the board of
13 trustees.

14 (3) *"Pooled money investment board" means the pooled money*
15 *investment board established by K.S.A. 75-4221a, and amendments*
16 *thereto.*

17 Sec. 2. K.S.A. 2023 Supp. 75-2263 is hereby repealed.

18 Sec. 3. This act shall take effect and be in force from and after its
19 publication in the ~~statute book~~ {**Kansas register**}.