

2023 Kansas Statutes

75-42a03. Fiduciary duties of Kansas public employees retirement system, investment managers, proxy advisors or contractors; limitations on use of proxy advisors or other service providers. (a) In making and supervising investments of the system, the system and any investment manager, proxy advisor or contractor thereof shall discharge its duties solely in the financial interest of the participants and beneficiaries for the exclusive purposes of:

- (1) Providing financial benefits to participants and their beneficiaries; and
 - (2) defraying reasonable expenses of administering the system.
- (b) An investment manager, proxy advisor or contractor retained by the system shall be subject to the same fiduciary duties as the system's board of trustees.
- (c) A fiduciary shall consider only financial factors when discharging such fiduciary's duties with respect to the system.
- (d) All shares held directly or indirectly by or on behalf of the system or the participants and their beneficiaries shall be voted solely in the financial interest of system participants and their beneficiaries.
- (e) Unless no economically practicable alternative is available, the system shall not grant proxy voting authority to any person who is not a part of the system, unless such person has a practice of, and in writing commits to, following guidelines that match the system's obligation to act solely upon financial factors, in which case the system may grant proxy voting authority to such person.
- (f) Unless no economically practicable alternative is available, in the selection of any proxy advisor, the system shall give preference to a proxy advisor service that commits in writing to engage in voting shares and making recommendations in a strictly fiduciary manner, and without consideration of policy objectives that are not the express policy objectives of the system, in which case the system may engage a proxy voting advisor.
- (g) Unless no economically practicable alternative is available, system assets shall not be entrusted to a fiduciary, unless such fiduciary has a practice of, and in writing commits to, following guidelines, when engaging with portfolio companies and voting shares or proxies, that follow the system's obligation to act solely upon financial factors and not upon policy considerations that are not the express policy objectives of the system, in which case the system may entrust engagement and share voting to a fiduciary.
- (h) Unless no economically practicable alternative is available, an investment manager or contractor shall not, in providing service for the system, follow the recommendations of a proxy advisor or other service provider, unless such advisor or service provider has a practice of, and in writing commits to, following proxy voting guidelines that follow the system's obligation to act solely upon financial factors, in which case the investment manager or contractor may follow the recommendations of a proxy or other service advisor.
- (i) All proxy votes shall be tabulated and reported annually to the system's board of trustees and to the joint committee on pensions, investments and benefits. For each vote, the report shall contain a vote caption, the system's vote, the recommendation of company management and, if applicable, the proxy advisor's recommendation. Such reports shall be posted on the system's website for review by the public.
- (j) Subsections (e) through (i) shall apply only to assets managed on behalf of the system and shall not apply to alternative or real estate investments as defined in K.S.A. 74-4921(5), and amendments thereto.

History: L. 2023, ch. 80, § 3; July 1.