

2023 Kansas Statutes

75-42a01. Kansas public investments and contracts protection act; citation of act; definitions.

(a) The provisions of K.S.A. 2023 Supp. 75-42a01 through 75-42a06, and amendments thereto, shall be known and may be cited as the Kansas public investments and contracts protection act.

(b) As used in this act:

(1) "Act" means the Kansas public investments and contracts protection act.

(2) "Board" means the board of trustees of the Kansas public employees retirement system.

(3) "Company" means any organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, limited liability company or other entity of business association, including a wholly owned subsidiary, majority-owned subsidiary, parent company or affiliate of such entities or business associations that exists for the purpose of making a profit. "Company" does not mean a sole proprietorship.

(4) "Environmental, social and governance criteria" means any criterion that gives preferential treatment or discriminates based on whether a company meets or fails to meet one or more of the following criteria:

(A) Engaging in the exploration, production, utilization, transportation, sale or manufacturing of:

(i) Fossil fuel-based energy;

(ii) nuclear energy; or

(iii) any other natural resource;

(B) engaging in the production of agriculture;

(C) engaging in the production of lumber;

(D) engaging in mining;

(E) emitting greenhouse gases or not disclosing or offsetting such greenhouse gas emissions;

(F) engaging in the manufacturing, distribution or sale of firearms, firearms accessories, ammunition or ammunition components;

(G) having a governing corporate board or other officers whose race, ethnicity, sex or sexual orientation meets or does not meet any criteria;

(H) facilitating or assisting or not facilitating or assisting employees in obtaining abortions or gender reassignment services; and

(I) doing business with any company described by subparagraphs (A) through (H).

(5) "Fiduciary" means any person acting on behalf of the board or system as an investment manager, proxy advisor or contractor, including the system's board of trustees.

(6) "Fiduciary commitment" means any evidence of a fiduciary's purpose in managing assets as a fiduciary, including, but not limited to, any of the following in a fiduciary's capacity as a fiduciary, specifically on assets managed on behalf of the system:

(A) Advertisements, statements, explanations, reports, communications with portfolio companies, statements of principles or commitments; or

(B) participation in, affiliation with or status as a signatory to any coalition, initiative, joint statement of principles or agreement.

(7) (A) "Financial" means having been prudently determined by a fiduciary to have a material effect on the financial risk or the financial return of an investment.

(B) "Financial" does not include any action taken or factor considered by a fiduciary with any purpose whatsoever to further social, political or ideological interests.

(C) A fiduciary may reasonably be determined to have taken an action or considered a factor with a purpose to further social, political or ideological interests based upon evidence indicating such a purpose, including, but not limited to, any fiduciary commitment to further, through portfolio company engagement, board or shareholder votes or otherwise as a fiduciary, any of the following beyond what controlling federal or state law requires, specifically on assets managed on behalf of the system:

(i) Eliminating, reducing, offsetting or disclosing greenhouse gas emissions;

(ii) instituting or assessing corporate board, employment, composition,

compensation or disclosure criteria that incorporates characteristics protected under state law;

(iii) divesting from, limiting investment in or limiting the activities or investments of any company for failing or not committing to meet environmental standards or disclosures;

(iv) accessing abortion, sex or gender change or transgender surgery; or

(v) divesting from, limiting investment in or limiting the activities or investments of any company that engages in, facilitates or supports the manufacture, import, distribution, marketing, advertising, sale or lawful use of firearms, ammunition or component parts and accessories of firearms or ammunition.

(8) "Fossil fuels" means coal, natural gas, petroleum or oil formed by natural processes through decomposition of dead organisms.

(9) "Natural resources" means fossil fuels, minerals, metal ores or any other nonrenewable or finite resource that cannot be readily replaced by natural means at the speed at which it is consumed.

(10) "System" means the Kansas public employees retirement system. "System" does not include participant-directed individual account plans.

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