

HB 1585-FN - AS INTRODUCED

2026 SESSION

26-3240

07/08

HOUSE BILL ***1585-FN***

AN ACT relative to environmental, social, and governance-related investment strategies by the state retirement system.

SPONSORS: Rep. Ammon, Hills. 42; Rep. Kofalt, Hills. 32; Rep. Miles, Hills. 12; Rep. Post, Hills. 42; Sen. McGough, Dist 11

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill requires state and local public retirement systems to discharge their duties solely in the financial interest of the participants and beneficiaries.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT relative to environmental, social, and governance-related investment strategies by the state retirement system.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 The State And Its Government; Public Retirement System Fiduciary Duty Act. New Chapter;
2 PUBLIC RETIREMENT SYSTEM FIDUCIARY DUTY ACT. Amend RSA by inserting after chapter
3 5-D the following new chapter:

4 CHAPTER 5-E

5 PUBLIC RETIREMENT SYSTEM FIDUCIARY DUTY ACT

6 5-E:1 Definitions. In this chapter:

7 I. "Fiduciary" means any person who exercises any discretionary authority or control of
8 management of the retirement system, exercises any authority or control over management or
9 disposition of its assets, renders investment advice for a fee or other compensation, whether direct or
10 indirect, with respect to any moneys or other property of the retirement system, or has the authority
11 or responsibility to do so, or has any discretionary authority or responsibility in the administration
12 of the retirement system.

13 II. "Fiduciary commitment" means any purpose or motive of a fiduciary in managing a
14 portfolio or the investment of state funds. Evidence of a fiduciary commitment may include any
15 evidence of a fiduciary's purpose or motive in managing assets as a fiduciary, including, but not
16 limited to, any of the following in a fiduciary's capacity as a fiduciary:

17 (a) Advertising, statements, explanations, reports, communications with portfolio
18 companies, shareholder votes by the fiduciary, statements of principles, or commitments; or

19 (b) Participation in, affiliation with, or status as a signatory to, any coalition, initiative,
20 joint statement of principles, or agreement to act or to endeavor to act in furtherance of
21 environmental, social, political, or ideological interests.

22 III. "Financial" means having been prudently determined by a fiduciary to have a material
23 effect on the financial risk or the financial return of an investment.

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

26 (b) A fiduciary may reasonably be determined to have taken an action, or considered a
27 factor, with a purpose to further environmental, social, political, or ideological interests based upon
28 evidence indicating such a purpose, including any fiduciary commitment to further, through portfolio
29 company engagement, board or shareholder votes, or otherwise as a fiduciary, any of the following
30 beyond what controlling federal or state law requires:

1 (1) Directly or indirectly eliminating, reducing, offsetting, or disclosing greenhouse
2 gas emissions, including by restricting the exploration, production, utilization, transportation, sale,
3 or manufacturing of timber, mining, agriculture, or fossil-fuel-based energy;

4 (2) Instituting or assessing corporate board, or employment, composition,
5 compensation, or disclosure criteria that incorporates characteristics protected in this state under
6 RSA 354-B;

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

9 (4) Access to abortion, sex or gender change or transgender surgery; or

10 (5) Divesting from, limiting investment in, or limiting the activities or investments
11 of, any company that engages in, facilitates, or supports the lawful manufacture, import,
12 distribution, marketing or advertising, sale, or use of firearms, ammunition or components parts and
13 accessories of firearms or ammunition.

14 IV. "Public retirement system" means any retirement or pension system or plan maintained,
15 provided or offered by:

16 (a) The state or any political subdivision of the state; or

17 (b) Any school, college, university, authority, or other enterprise operated by the state or
18 any political subdivision.

19 5-E:2 Fiduciary Duty.

20 I. In making, managing, and supervising investments of the reserve fund of a public
21 retirement system, an investment manager, fiduciary, or board of trustees shall discharge its duties
22 solely in the financial interest of the participants and beneficiaries for the exclusive purposes of:

23 (a) Providing financial benefits to participants and their beneficiaries; and

24 (b) Defraying reasonable expenses of administering the system.

25 II. A fiduciary shall take into account only financial factors when discharging its duties with
26 respect to a public retirement system.

27 III. All shares held directly or indirectly by or on behalf of a public retirement system and/or
28 the participants and their beneficiaries shall be voted solely in the financial interest of participants
29 and their beneficiaries.

30 IV. Unless no economically practicable alternative is available, a public retirement system
31 may not grant proxy voting authority to any person who is not a member, unless that person has a
32 practice of, and in a contract in writing commits to, follow guidelines that match the board of
33 trustees' obligation to act solely upon financial factors.

34 V. Unless no economically practicable alternative is available, public retirement system
35 assets shall not be entrusted to a fiduciary, unless that fiduciary has a practice of, and in a contract
36 in writing commits to, follow guidelines, when engaging with portfolio companies and voting shares
37 or proxies, that match the board of trustees' obligation to act solely upon financial factors.

1 VI. Unless no economically practicable alternative is available, an investment manager,
2 fiduciary, or board of trustees may not adopt a practice of following the recommendations of a proxy
3 advisor or other service provider, unless such advisor or service provider has a practice of, and in a
4 contract in writing commits to, follow proxy voting guidelines that match the board of trustees'
5 obligation to act solely upon financial factors.

6 VII. All proxy votes shall be tabulated and reported annually to the board of trustees. For
7 each vote, the report shall contain a vote caption, the plan's vote, the recommendation of company
8 management, and, if applicable, the proxy advisor's recommendation. These reports shall be posted
9 on a publicly available webpage on the public retirement system's website.

10 5-D:3 Enforcement. This chapter, or any contract subject to this chapter, may be enforced by
11 the attorney general. If the attorney general has reasonable cause to believe that a person has
12 engaged in, is engaging in, or is about to engage in, a violation of this chapter, she or he may:

13 I. Require such person to file on such forms as the attorney general prescribes a statement
14 or report in writing, under oath, as to all the facts and circumstances concerning the violation, and
15 such other data and information as the attorney general may deem necessary.

16 II. In addition to any other remedies available at law or equity, a company who serves as a
17 fiduciary and who violates RSA 5-E:2 shall be obligated to pay damages to the state in an amount
18 equal to 3 times all moneys paid to the company by the public retirement system for the company's
19 services.

20 2 New Subparagraph; Public Officers and Employees; New Hampshire Retirement System;
21 Management of Funds. Amend RSA 100-A:15, II by inserting after subparagraph (c) the following
22 new subparagraph:

23 (d) Discharge its duties solely in the interest of members and beneficiaries in accordance
24 with RSA 100-A:58 through 100-A:65, for the purposes of:

- 25 (1) Providing benefits to members and their beneficiaries; and
26 (2) Defraying reasonable expenses of administering the system.

27 3 New Subdivision; New Hampshire Retirement System Financial Interest Standards. Amend
28 RSA 100-A by inserting after section 58 the following new subdivision:

29 New Hampshire Retirement System Financial Interest Standards

30 100-A:59 Definitions.

31 I. "Financial factor" means a factor that can be objectively demonstrated, with clear and
32 quantifiable evidence, to have a direct and material impact on the risk or return of an investment
33 over the applicable investment horizon, consistent with the system's investment objectives and
34 funding policy.

35 II. "Non-financial factor" means any consideration that is supplemental to, or distinct from,
36 financial analysis, including:

- 37 (a) Furthering environmental, social, political, or ideological interests;

1 (b) Advancing state, federal, or international policy objectives; or

2 (c) Relying on environmental, social, political, or ideological ratings, indices, or scores
3 that incorporate non-financial criteria.

4 III. "Public retirement system" means any retirement or pension system or plan maintained,
5 administered, or offered by:

6 (a) The state or any political subdivision thereof; or

7 (b) Any authority, board, agency, or instrumentality of the state or political subdivision
8 thereof.

9 IV. "Investment manager" means any person retained to manage, acquire, or dispose of
10 assets of a public retirement system.

11 V. "Proxy advisor" means any person who sells, markets, or provides advice,
12 recommendations, or research regarding proxy voting to a public retirement system or investment
13 manager.

14 VI. "Fiduciary" means any person who exercises any discretionary authority or control of
15 management of the retirement system, exercises any authority or control over management or
16 disposition of its assets, renders investment advice for a fee or other compensation, whether direct or
17 indirect, with respect to any moneys or other property of the retirement system, or has the authority
18 or responsibility to do so, or has any discretionary authority or responsibility in the administration
19 of the retirement system.

20 100-A:60 Investment Standards and Fiduciary Duty.

21 I. All investment decisions by any fiduciary shall be based solely on financial factors as
22 defined in RSA 100-A:59.

23 II. Fiduciaries shall not rely on environmental, social, political, or ideological ratings,
24 indices, or scores unless they can be demonstrated, through objective and verifiable evidence, to be
25 based exclusively on financial performance metrics.

26 III. No fiduciary duty shall be construed to include the intent to advance environmental,
27 social, political, or ideological interests.

28 IV. A fiduciary shall not be deemed in violation of this section if they:

29 (a) Document in writing the financial factors considered;

30 (b) Demonstrate with quantifiable evidence that the decision is based solely on financial
31 factors; and

32 (c) Disclose such documentation to the board of trustees and make it publicly available.

33 100-A:61 Proxy Voting Requirements.

34 I. All proxy votes shall be cast solely based on financial factors.

35 II. The retirement system shall not engage any proxy advisory service that incorporates
36 environmental, social, political, or ideological interests, rather than making decisions solely based on
37 financial factors.

1 III. Proxy voting records shall be:

2 (a) Posted on the retirement system's website within 90 days of each annual meeting
3 season;

4 (b) Disclosed with proposal description, the system's vote, management's
5 recommendation, any proxy advisor recommendation, and supporting financial justification; and

6 (c) Independently audited annually for compliance.

7 100-A:62 Investment Manager Requirements.

8 I. Contracts with investment managers shall include:

9 (a) A requirement to act based solely on financial factors;

10 (b) A prohibition on reliance on environmental, social, political, or ideological ratings or
11 indices incorporating non-financial factors;

12 (c) Written confirmation that investment recommendations from the investment
13 manager will be based exclusively on financial factors; and

14 (d) Public disclosure of any environmental, social, political, or ideological-related factor
15 claimed to be financial, with supporting evidence.

16 100-A:63 Shareholder Proposals and Economic Analysis.

17 I. The retirement system or an investment manager shall not support any shareholder
18 proposal unless a written economic analysis demonstrates a clear and quantifiable financial benefit.

19 II. There shall be a rebuttable presumption that votes against shareholder proposals are
20 based solely on financial factors when such proposals:

21 (a) Exceed legal requirements;

22 (b) Impose costs without measurable financial benefit; or

23 (c) Restrict lawful and profitable business activities.

24 100-A:64 Implementation, Oversight, and Compliance.

25 I. This subdivision shall only apply to any new investments, contracts, and proxy votes
26 entered into on or after January 1, 2027.

27 II. The office of the legislative budget assistant shall appoint an independent auditor to
28 review all investment and proxy records annually for compliance with this subdivision. The auditor
29 shall prepare a report to be submitted to the president of the senate, the speaker of the house of
30 representatives, and the governor.

31 100-A:65 Enforcement.

32 I. This subdivision may be enforced by the attorney general. If the attorney general has
33 reasonable cause to believe that a person has engaged in, is engaging in, or is about to engage in, a
34 violation of this subdivision, she or he may require such person to file on such forms as the attorney
35 general prescribes a statement or report in writing, under oath, as to all the facts and circumstances
36 concerning the violation, and such other data and information as the attorney general may deem
37 necessary. The attorney general may bring a civil action to enforce this law.

1 II. The attorney general shall be empowered to seek specific performance and other
2 equitable remedies in addition money damages, including:

3 (a) Cease-and-desist orders;

4 (b) Corrective action requirements;

5 (c) Contract termination for repeated or willful violations; and

6 (d) Personal financial penalties of up to \$10,000 per violation and restitution for any
7 losses attributable to willful violations.

8 III. Fiduciaries acting in good faith with documented evidence of decision-making based
9 solely on financial factors shall be exempted from civil or administrative action by the attorney
10 general.

11 100-A:66 Severability and Construction.

12 I. If any provision of this subdivision shall be held invalid, the remainder shall remain in
13 force.

14 II. Nothing in this subdivision shall be construed to:

15 (a) Require divestiture from any company, industry, or investment;

16 (b) Prohibit consideration of material financial risks when objectively demonstrated; or

17 (c) Permit consideration of environmental, social, political, or ideological factors for any
18 non-financial purpose.

19 4 Effective Date. This act shall take effect January 1, 2027.

**HB 1585-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to environmental, social, and governance-related investment strategies by the state retirement system.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures*	\$0	\$0	\$55,000+	\$45,000+
<i>Funding Source(s)</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	\$0	\$0	Indeterminable	
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	\$0	Indeterminable	

METHODOLOGY:

This bill requires that all state and local public retirement systems in New Hampshire must act solely in the financial interest of their participants and beneficiaries. The bill prohibits the use of environmental, social, or political (ESG) factors in investment or proxy voting decisions unless those factors have a clear, quantifiable financial impact. The bill also enables the Attorney General and Department of Justice to investigate violations upon complaint.

The Legislative Budget Assistant (LBA) would be responsible for appointing an independent auditor to annually review compliance of the New Hampshire Retirement System investment and proxy records, with the first audit expected in FY 2028. The LBA estimates the audit would cost \$55,000 in FY 2028 and \$45,000 annually thereafter, which cannot be absorbed within its current budget.

The New Hampshire Retirement System (NHRS) states that while the bill's restrictions could negatively impact investment returns, the actual fiscal impact on employer contributions is indeterminable. Additionally, NHRS has concerns about possible costs due to administration, potential legal conflicts with existing fiduciary duties under state and federal law, and the effect the bill's penalties of up to \$10,000 per violation and restitution for any losses to willful violations could have on board participation and fiduciary engagement.

AGENCIES CONTACTED:

New Hampshire Retirement System and Office of Legislative Budget Assistant