

House File 653 - Introduced

HOUSE FILE 653
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO HF 2)

A BILL FOR

1 An Act concerning public contracts by public funds with
2 companies that boycott certain companies or that engage in
3 nonpecuniary social investment policies.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 12.8, subsection 1, Code 2023, is amended
2 to read as follows:

3 1. The treasurer of state shall invest or deposit, subject
4 to chapters 12F, 12H, and 12J, and 12K and as provided by law,
5 any of the public funds not currently needed for operating
6 expenses and shall do so upon receipt of monthly notice from
7 the director of the department of administrative services of
8 the amount not so needed. In the event of loss on redemption
9 or sale of securities invested as prescribed by law, and if
10 the transaction is reported to the executive council, neither
11 the treasurer nor director of the department of administrative
12 services is personally liable but the loss shall be charged
13 against the funds which would have received the profits or
14 interest of the investment and there is appropriated from the
15 funds the amount so required.

16 Sec. 2. NEW SECTION. **12K.1 Legislative findings and intent.**

17 The general assembly intends to ensure that state funds and
18 funds administered by the state, including public employee
19 retirement funds, are protected from political influence
20 detrimental to the financial health of the state and its
21 citizens and promote the general assembly's goal of protecting
22 free enterprise.

23 Sec. 3. NEW SECTION. **12K.2 Definitions.**

24 As used in this chapter, unless the context otherwise
25 requires:

26 1. "*Boycott of certain companies*" means, except as otherwise
27 provided in chapters 12F, 12H, and 12J or without a reasonable
28 business purpose, refusal to invest in a company, termination
29 of business activities with a company, or another action that
30 is intended to penalize, inflict economic harm on, or limit
31 commercial relations with a company because the company does
32 any of the following:

33 a. Engages in, or does business with a company that engages
34 in, the exploration, production, utilization, transportation,
35 or sale of fossil fuel-based energy, timber, mining, or

1 production agriculture.

2 *b.* Engages in, or does business with a company that engages
3 in, the manufacturing, distribution, sale, import, export, or
4 lawful use of firearms, firearm parts, firearm accessories, or
5 ammunition.

6 2. "*Company*" means any business or business entity, bank,
7 national banking association, nonbank financial institution,
8 financial services company, investment company, bank and trust
9 company, trust company, savings and loan association, building
10 and loan association, mutual savings bank, credit union, or
11 savings bank, including a wholly owned subsidiary, majority-
12 owned subsidiary, parent company, or affiliate of such business
13 or business entity, that exists for the purpose of making a
14 profit.

15 3. "*Nonpecuniary social investment*" means, except as
16 otherwise provided in this chapter and chapters 12F, 12H,
17 and 12J, investment or commitment of public funds to further
18 environmental, social, governance, political, or ideological
19 interests and for the purpose of obtaining an effect other than
20 a maximized return to the public fund without a reasonable
21 business purpose.

22 4. "*Public fund*" means the treasurer of state, the state
23 board of regents, the public safety peace officers' retirement
24 system created in chapter 97A, the Iowa public employees'
25 retirement system created in chapter 97B, the statewide fire
26 and police retirement system created in chapter 411, or the
27 judicial retirement system created in chapter 602.

28 5. "*Reasonable business purpose*" means includes any purpose
29 directly related to any of the following:

30 *a.* Promoting the financial success or stability of a
31 company.

32 *b.* Mitigating risk to a company.

33 *c.* Complying with legal or regulatory requirements.

34 *d.* Limiting liability of a company.

35 6. "*Scrutinized company*" means any company that engages in

1 nonpecuniary social investment on behalf of a public fund or a
2 boycott of certain companies on behalf of a public fund.

3 **Sec. 4. NEW SECTION. 12K.3 Public funds — contract and**
4 **investment requirements.**

5 1. A public fund shall not enter into a contract with a
6 company to provide investment or management of securities
7 services to the public fund so long as such company engages
8 in nonpecuniary social investment or a boycott of certain
9 companies on behalf of the public fund.

10 2. In accordance with sound investment criteria and
11 consistent with fiduciary obligations, a public fund shall
12 terminate a contract to provide investment or management of
13 securities services with a company that begins to engage
14 in nonpecuniary social investment or a boycott of certain
15 companies on behalf of the public fund. The contract will be
16 terminated within six months of a written notice to terminate
17 sent to the company.

18 3. This section does not apply to a public fund acting on
19 behalf of a participant directing investments in a retirement
20 account in which the participant has the authority to make such
21 a decision independently from the public fund.

22 **Sec. 5. NEW SECTION. 12K.4 Annual report.**

23 On October 1, 2024, and each October 1 thereafter, each
24 public fund shall make available to the public, and file with
25 the general assembly, an annual report covering the prior
26 fiscal year that includes all contracts terminated as provided
27 in section 12K.3 during the fiscal year.

28 **Sec. 6. NEW SECTION. 12K.5 Public funds — legal**
29 **obligations.**

30 1. With respect to actions taken in compliance with this
31 chapter, including all good-faith determinations regarding
32 companies as required by this chapter, the public fund shall
33 be immune from any liability and exempt from any conflicting
34 statutory or common law obligations, including any such
35 obligations in respect to choice of asset managers, investment

1 funds, or investments for the public fund's securities
2 portfolios.

3 2. This chapter shall not limit the ability of a public fund
4 to terminate the contract of an investment manager or other
5 vendor at any time and for any reason in the exercise of the
6 public fund's fiduciary duties.

7 Sec. 7. Section 35A.13, subsection 4, paragraph a, Code
8 2023, is amended to read as follows:

9 a. Notwithstanding [subsection 5](#), moneys in the fund, except
10 so much of the fund as may be necessary to be kept on hand
11 for the making of disbursements under [this section](#), shall
12 be invested by the treasurer of state, in consultation with
13 the commission and the public retirement systems committee
14 established by [section 97D.4](#), in any investments authorized for
15 the Iowa public employees' retirement system in [section 97B.7A](#),
16 including common stock, and subject to the requirements of
17 chapters [12F](#), [12H](#), and [12J](#), and [12K](#), and the earnings therefrom
18 shall be credited to the fund. The treasurer of state may
19 execute contracts and agreements with investment advisors,
20 consultants, and investment management and benefit consultant
21 firms in the administration of investments of moneys in the
22 fund.

23 Sec. 8. Section 97A.7, subsection 1, Code 2023, is amended
24 to read as follows:

25 1. The board of trustees shall be the trustees of the
26 retirement fund created by [this chapter](#) as provided in section
27 97A.8 and shall have full power to invest and reinvest funds
28 subject to the terms, conditions, limitations, and restrictions
29 imposed by [subsection 2](#) and [chapters 12F](#), [12H](#), and [12J](#), and
30 [12K](#) and subject to like terms, conditions, limitations, and
31 restrictions said trustees shall have full power to hold,
32 purchase, sell, assign, transfer, or dispose of any of the
33 securities and investments of the retirement fund which have
34 been invested, as well as of the proceeds of said investments
35 and any moneys belonging to the retirement fund. The board

1 of trustees may authorize the treasurer of state to exercise
2 any of the duties of [this section](#). When so authorized the
3 treasurer of state shall report any transactions to the board
4 of trustees at its next monthly meeting.

5 Sec. 9. Section 97B.4, subsection 5, Code 2023, is amended
6 to read as follows:

7 5. *Investments*. The system, through the chief investment
8 officer, shall invest, subject to [chapters 12F, 12H, and 12J,](#)
9 [and 12K](#) and in accordance with the investment policy and
10 goal statement established by the board, the portion of the
11 retirement fund which, in the judgment of the system, is not
12 needed for current payment of benefits under [this chapter](#)
13 subject to the requirements of [section 97B.7A](#).

14 Sec. 10. Section 262.14, unnumbered paragraph 1, Code 2023,
15 is amended to read as follows:

16 The board may invest funds belonging to the institutions,
17 subject to [chapters 12F, 12H, and 12J,](#) [and 12K](#) and the
18 following regulations:

19 Sec. 11. Section 411.7, subsection 1, Code 2023, is amended
20 to read as follows:

21 1. The board of trustees is the trustee of the fire
22 and police retirement fund created in [section 411.8](#) and
23 shall annually establish an investment policy to govern the
24 investment and reinvestment of the moneys in the fund, subject
25 to the terms, conditions, limitations, and restrictions
26 imposed by [subsection 2](#) and [chapters 12F, 12H, and 12J,](#) [and](#)
27 [12K](#). Subject to like terms, conditions, limitations, and
28 restrictions the system has full power to hold, purchase, sell,
29 assign, transfer, or dispose of any of the securities and
30 investments in which the fund has been invested, as well as of
31 the proceeds of the investments and any moneys belonging to the
32 fund.

33 Sec. 12. Section 602.9111, subsection 1, Code 2023, is
34 amended to read as follows:

35 1. So much of the judicial retirement fund as may not be

1 necessary to be kept on hand for the making of disbursements
2 under [this article](#) shall be invested by the treasurer of
3 state in any investments authorized for the Iowa public
4 employees' retirement system in [section 97B.7A](#) and subject to
5 the requirements of [chapters 12F, 12H, and 12J](#), and [12K](#), and
6 the earnings therefrom shall be credited to the fund. The
7 treasurer of state may execute contracts and agreements with
8 investment advisors, consultants, and investment management and
9 benefit consultant firms in the administration of the judicial
10 retirement fund.

11

EXPLANATION

12 The inclusion of this explanation does not constitute agreement with
13 the explanation's substance by the members of the general assembly.

14 This bill creates new Code chapter 12K, which restricts
15 public funds, defined as the treasurer of state, the state
16 board of regents, the Iowa public employees' retirement
17 system (IPERS), the public safety peace officers' retirement
18 system, the statewide fire and police retirement system, and
19 the judicial retirement system from generally entering into a
20 contract with certain companies engaged in nonpecuniary social
21 investment or a boycott of certain companies.

22 The bill defines "boycott of certain companies" as, without
23 a reasonable business purpose or as otherwise required under
24 Code chapters 12F, 12H, and 12J, to take any adverse action to
25 penalize or limit business opportunities for companies engaging
26 or doing business with fossil fuel-based energy, timber,
27 mining, production agriculture, firearms, firearm parts,
28 firearm accessories, or ammunition companies. "Nonpecuniary
29 social investment" is defined to mean, except as otherwise
30 provided in new Code chapter 12K in the bill and Code chapters
31 12F, 12H, and 12J, investment or commitment of public funds
32 to further environmental, social, governance, political, or
33 ideological interests without a reasonable business purpose.
34 The bill also defines "scrutinized company" as any company that
35 engages in nonpecuniary social investment on behalf of a public

1 entity or a boycott of certain companies on behalf of a public
2 entity.

3 New Code section 12K.3 requires that a public fund shall not
4 enter into a contract with a company to provide investment or
5 management of securities services to the public fund so long
6 as such company engages in nonpecuniary social investment or a
7 boycott of certain companies on behalf of the public fund. If
8 the public fund has a contract for investment services with a
9 company subject to termination, the public fund shall proceed
10 to terminate the contract with that company in six months,
11 as applicable, so long as the company remains a scrutinized
12 company. The bill provides that this requirement on public
13 funds does not apply to a public fund acting on behalf of a
14 participant directing investments in a retirement account.

15 The bill further requires each public fund to prepare
16 and make available to the public, and file with the general
17 assembly, an annual report, beginning October 1, 2024,
18 concerning actions taken by the public fund relative to the
19 requirements of new Code chapter 12K in the previous fiscal
20 year.

21 The bill further provides that with respect to actions
22 taken in compliance with the bill, including all good-faith
23 determinations regarding companies as required, the public
24 fund shall be immune from any liability and exempt from any
25 conflicting statutory or common law obligations, including
26 any such obligations in respect to choice of asset managers,
27 investment funds, or investments for the public fund. In
28 addition, the bill provides that the requirements of the bill
29 shall not limit the ability of a public fund to terminate
30 any contract of an investment manager or other vendor in the
31 exercise of the public fund's fiduciary duties.

32 The bill makes conforming changes to Code sections 12.8,
33 35A.13, 97A.7, 97B.4, 262.14, 411.7, and 602.9111.