

38-2104. Management and investment of Kansas endowment for youth fund and family and children endowment account of the family and children investment fund; investment standards and objectives; contracts with investment advisors and other consultants, requirements. (a) The board of trustees is responsible for the management and investment of the fund and shall discharge the board's duties with respect to the fund solely in the interests of the beneficiaries of the fund for the exclusive purpose of providing investment revenue for the purposes for which the moneys may be used and defraying reasonable expenses of administering the fund and shall invest and reinvest moneys in the fund and acquire, retain, manage, including the exercise of any voting rights and disposal of investments of the fund within the limitations and according to the powers, duties and purposes as prescribed by this section.

(b) Moneys in the fund shall be invested and reinvested to achieve the investment objective which is preservation of the fund to provide benefits to the beneficiaries of the fund and accordingly providing that the moneys are as productive as possible, subject to the standards set forth in this act. No moneys in the fund shall be invested or reinvested if the sole or primary investment objective is for economic development or social purposes or objectives.

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

(d) In the discharge of such management and investment responsibilities the board of trustees may contract for the services of one or more professional investment advisors or other consultants in the management and investment of moneys in the fund and otherwise in the performance of the duties of the board of trustees under this act.

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

(f) (1) Subject to the objective set forth in subsection (b) and the standards set forth in subsection (c), the board of trustees shall formulate and adopt policies and objectives for the investment and reinvestment of moneys in the fund and the acquisition, retention, management and disposition of investments of the fund. Such policies and objectives shall be in writing and shall include:

- (A) Specific asset allocation standards and objectives;
- (B) establishment of criteria for evaluating the risk versus the potential return on a particular investment; and
- (C) a requirement that all investment advisors, and any managers or others with similar duties and responsibilities as investment advisors, shall immediately report all instances of default on investments to the board of trustees and provide such board of trustees with recommendations and options, including, but not limited to, curing the default or withdrawal from the investment.

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

(g) (1) Except as provided in subsection (d) and this subsection, the custody of money and securities of the fund shall remain in the custody of the state treasurer, except that the board of trustees may arrange for the custody of such money and securities as it considers advisable with one or more member banks or trust companies of the federal reserve system or with one or more banks in the state of Kansas, or both, to be held in safekeeping by the banks or trust companies for the collection of the principal and interest or other income or of the proceeds of sale.

(2) The state treasurer and the board of trustees shall collect the principal and interest or other income of investments or the proceeds of sale of securities in the custody of the state treasurer and shall pay such moneys when so collected into the state treasury to the credit of the fund.

(3) The principal and interest or other income or the proceeds of sale of securities as provided in paragraph (1) of this subsection shall be reported to the state treasurer and the board of trustees and credited to the fund.

(h) All interest or other income of the investments of the moneys in the fund, after payment of any management fees, shall be considered income of the fund and shall be deposited in the state treasury to the credit of the fund.

(i) As used in this section:

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

(2) "Fiduciary" means a person who, with respect to the fund, is a person who:

- (A) Exercises any discretionary authority with respect to administration of the fund;
- (B) exercises any authority to invest or manage assets of the fund or has any authority or responsibility to do so;
- (C) provides investment advice for a fee or other direct or indirect compensation with respect to the assets of the fund or has any authority or responsibility to do so;
- (D) provides actuarial, accounting, auditing, consulting, legal or other professional services for a fee or other direct or indirect compensation with respect to the fund or has any authority or responsibility to do so; or
- (E) is a member of the board of trustees or of the staff of the board of trustees.

(3) "Fund" means the Kansas endowment for youth fund and the family and the children endowment account of the family and children investment fund.

(4) With respect to the investment of moneys in the Kansas endowment for youth fund, "purposes for which the moneys may be used" means the purposes for which the moneys in the children's initiatives fund may be used, as provided in K.S.A. 38-2102, and amendments thereto, and "beneficiaries of the fund" means the beneficiaries of the children's initiatives fund, as provided by K.S.A. 38-2102, and amendments thereto.

(5) With respect to the investment of moneys in the family and children endowment account of the family and children investment fund, "purposes for which the moneys may be used" means the purposes for which the moneys in the family and children trust account of the family and children investment fund may be used, as provided in subsection (c) of K.S.A. 38-1808, and amendments thereto, and "beneficiaries of the fund" means the beneficiaries of the family and children trust account of the family and children investment fund may be used, as provided in subsection (c) of K.S.A. 38-1808, and amendments thereto.

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