

**78.790 Board trustee of funds -- Investment committee -- Standards of conduct -- Registration of securities -- Application of open records law -- Cap on amount of assets managed by any one investment manager -- Investment procurement policy. (Effective April 1, 2021)**

- (1) (a) The board shall be the trustee of the several funds created by KRS 78.510 to 78.852, and the County Employees Retirement System insurance trust fund as provided by KRS 61.701, and shall have full and exclusive power to invest and reinvest such funds in accordance with federal law.
- (b)
  1. The board shall establish an investment committee that shall include members of the board with investment experience, elected members, or other members as determined by the board chair, and may also include nonvoting members who have investment expertise.
  2. The investment committee shall have authority to implement the investment policies adopted by the board and act on behalf of the board on all investment-related matters and to acquire, sell, safeguard, monitor, and manage the assets and securities of the several funds.
- (c) A trustee, officer, employee, employee of the Kentucky Public Pensions Authority, or other fiduciary shall discharge duties with respect to the system:
  1. Solely in the interest of the members and beneficiaries;
  2. For the exclusive purpose of providing benefits to members and beneficiaries and paying reasonable expenses of administering the system;
  3. With the care, skill, and caution under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with those matters would use in the conduct of an activity of like character and purpose;
  4. Impartially, taking into account any differing interests of members and beneficiaries;
  5. Incurring any costs that are appropriate and reasonable; and
  6. In accordance with a good-faith interpretation of the law governing the system.
- (d) In addition to the standards of conduct prescribed by paragraph (c) of this subsection:
  1. All internal investment staff, including investment staff of the Kentucky Public Pensions Authority, and investment consultants shall adhere to the Code of Ethics and Standards of Professional Conduct, and all board trustees shall adhere to the Code of Conduct for Members of a Pension Scheme Governing Body. All codes cited in this subparagraph are promulgated by the CFA Institute; and
  2. Investment managers shall comply with all applicable provisions of the federal Investment Advisers Act of 1940, as amended, and the rules and regulations promulgated thereunder, and shall comply with all other

applicable federal securities statutes and related rules and regulations that apply to investment managers.

- (2) All securities acquired under the authority of KRS 78.510 to 78.852 shall be registered in the name County Employees Retirement System or nominee name as provided by KRS 286.3-225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished pursuant to written policies adopted by the board.
- (3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.
- (4) The contents of real estate appraisals, engineering or feasibility estimates, and evaluations made by or for the system relative to the acquisition or disposition of property, until such time as all of the property has been acquired or sold, shall be excluded from the application of KRS 61.870 to 61.884 and shall be subject to inspection only upon order of a court of competent jurisdiction.
- (5) Based upon market value at the time of purchase, the board shall limit the amount of assets managed by any one (1) active or passive investment manager to fifteen percent (15%) of the assets in the pension and insurance funds.
- (6) All contracts for the investment or management of assets of the system shall not be subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the following process to develop and adopt an investment procurement policy with which all prospective contracts for the investment or management of assets of the system shall comply:
  - (a) The board shall consult with the secretary of the Finance and Administration Cabinet or his or her designee to develop an investment procurement policy, which shall be written to meet best practices in investment management procurement;
  - (b) Thirty (30) days prior to adoption, the board shall tender the preliminary investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee for review and comment;
  - (c) Upon receipt of comments from the secretary of the Finance and Administration Cabinet or his or her designee, the board shall choose to adopt or not adopt any recommended changes;
  - (d) Upon adoption, the board shall tender the final investment procurement policy to the secretary of the Finance and Administration Cabinet or his or her designee;
  - (e) No later than thirty (30) days after receipt of the investment procurement policy, the secretary or his or her designee shall certify whether the board's investment procurement policy meets or does not meet best practices for investment management procurement; and
  - (f) Any amendments to the investment procurement policy shall adhere to the requirements set forth by paragraphs (b) to (e) of this subsection.

**Effective:** April 1, 2021

**History:** Amended 2020 Ky. Acts ch. 79, sec. 5, effective April 1, 2021. -- Amended 2010 Ky. Acts ch. 127, sec. 4, effective July 15, 2010; and ch. 173, sec. 10, effective July 15, 2010. -- Amended 2004 Ky. Acts ch. 36, sec. 35, effective July 13, 2004. -- Amended 2003 Ky. Acts ch. 169, sec. 14, effective March 31, 2003. -- Amended 1988 Ky. Acts ch. 349, sec. 40, effective July 15, 1988. -- Amended 1976 Ky. Acts ch. 321, sec. 40. -- Amended 1974 Ky. Acts ch. 128, sec. 35, effective March 26, 1974. -- Amended 1972 Ky. Acts ch. 116, sec. 72. -- Amended 1966 Ky. Acts ch. 34, sec. 13. -- Amended 1960 Ky. Acts ch. 165, Pt. III, sec. 3. -- Created 1958 Ky. Acts ch. 167, sec. 29.

**Legislative Research Commission Note** (7/12/2006). 2006 Ky. Acts ch. 247 instructs the Reviser of Statutes to adjust KRS references throughout the statutes to conform with the 2006 renumbering of the Financial Services Code, KRS Chapter 286. Such an adjustment has been made in this statute.