

SB 361 A STAFF MEASURE SUMMARY

Carrier: Sen. Fagan

Senate Committee On Judiciary

Action Date: 03/26/19

Action: Do pass with amendments. (Printed A-Eng.)

Vote: 4-3-0-0

Yeas: 4 - Fagan, Gelser, Manning Jr, Prozanski

Nays: 3 - Bentz, Linthicum, Thatcher

Fiscal: No fiscal impact

Revenue: No revenue impact

Prepared By: Channa Newell, Counsel

Meeting Dates: 2/4, 3/26

WHAT THE MEASURE DOES:

Allows trustee to consider the intent, desire, and personal values of the settlor, including the settlor's preferences in sustainable or socially responsible investment strategies when administering a trust under a prudent investor standard. Allows trustee to consider the needs of the beneficiaries, including values and desires to engage in sustainable or socially responsible investing strategies. Allows terms of trust to be modified in regards to the manner in which the trustee invests assets, including engaging in sustainable or socially responsible investment strategies.

ISSUES DISCUSSED:

- Ability for investor to consider values other than maximization of investment performance
- History of prudent investor rules
- Delaware allows consideration of non-financial factors
- Fiduciary will continue to be bound by underlying fiduciary duties and prudent investor standards

EFFECT OF AMENDMENT:

Replaces the measure.

BACKGROUND:

A trustee who invests and manages money on behalf of beneficiaries must adhere to the prudent investor rules. A prudent investor must exercise reasonable care, skill, and caution in considering investments and financial management. Additionally, trustees must consider all relevant circumstances, such as general economic conditions, possible effects of inflation or deflation, tax consequences, the portfolio as a whole, income and appreciation of capital, the need for liquidity and regularity of income, other resources of the beneficiaries, and any special value of an asset.

Senate Bill 361 A allows a trustee to consider additional factors within the role of a prudent investor, such as the intent, desire, or personal values of the settlor or the beneficiaries, including the desire to have the investments managed with socially responsible or sustainable investment strategies.