

SB 361 A STAFF MEASURE SUMMARY

Carrier: Rep. Smith Warner

House Committee On Rules

Action Date: 06/13/19

Action: Do Pass the A-Eng bill.

Vote: 4-1-2-0

Yeas: 4 - Holvey, Nosse, Smith Warner, Williamson

Nays: 1 - Sprenger

Exc: 2 - Boles, Wilson

Fiscal: No fiscal impact

Revenue: No revenue impact

Prepared By: Josh Nasbe, Counsel

Meeting Dates: 6/10, 6/13

WHAT THE MEASURE DOES:

Establishes general rule, subject to exceptions, that terms of trust control over statutes pertaining to manner in which trustee invests assets of trust. Expands class of circumstances trustee may consider when investing and managing trust assets to include "intent, desire and personal values" of settlor and "needs of beneficiaries," including personal values and desire of beneficiary to engage in sustainable or socially responsible investment strategies.

ISSUES DISCUSSED:

- Socially responsible investing
- Clarification vs. change in law

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

A trustee who invests and manages money on behalf of beneficiaries must behave as a prudent investor would. A prudent investor must exercise reasonable care, skill, and caution in considering investments and financial management and must consider all relevant circumstances, including general economic conditions, tax consequences, income and appreciation of capital, the need for liquidity and income, other resources of the beneficiaries, and any special value of trust assets.

Senate Bill 361 A establishes a general rule that the terms of a trust control over statutes that govern the manner in which a trustee invests assets of trust, with or without regard to investment performance. In managing trust assets, Senate Bill 361 A authorizes the trustee to consider the personal values of the settlor of the trust, as well as the needs of the beneficiary, expressly including the beneficiaries' personal values and desire to engage in sustainable or socially responsible investing strategies.