

HCS HB 1725 -- FINANCIAL INVESTMENTS

SPONSOR: O'Donnell

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Financial Institutions by a vote of 13 to 0. Voted "Do Pass" by the Standing Committee on Rules- Regulatory Oversight by a vote of 9 to 0.

The following is a summary of the House Committee Substitute for HB 1725.

This bill relates to financial investments.

BONDS (Section 108.170)

This bill provides that bonds, notes, or other forms of indebtedness may be issued in book-entry rather than bearer form and bear interest at the current rate of 10% or at a rate up to 250 basis points above the longest maturity United States Treasury bond, whichever is greater. Such bonds may be sold at a competitive market yield not less than 50% rather than the current 95% of the par value. Such bonds may bear interest at 14% or at a rate up to 250 basis points above the longest maturity United States Treasury bond, whichever is greater, if sold at the lowest true interest cost bid received.

The bill prescribes similar requirements for industrial development revenue bonds, bonds issued by any housing authority, and revenue bonds issued for airport purposes. The bill repeals the current language which provides for a political subdivision to have an unenhanced bond rating of AA+ or higher or comparable rating, and replaces it with a bond rating that is one of the two highest long-term ratings or the highest short-term rating issued by a nationally recognized rating agency on its outstanding general obligation. The principal amount of general obligation bonds, currently \$12.5 million, is increased to \$20 million.

GREEN BONDS (Section 108.371)

Under the provisions of this bill, to be rated as a green bond, at least 85% of the bond proceeds should be used for eligible green projects, and interest on income from such bonds is exempt from income tax. Capital gains taxes on such bonds are not exempt from income taxation.

An "eligible green project" is a project or activity that supports a positive environmental impact that includes assets, investments

and other related expenditures that relate to categories such as renewable energy, energy efficiency, pollution prevention and control, environmentally sustainable management of living natural resources and land use, clean transportation, terrestrial and aquatic biodiversity, climate change adaptation, circular economy adapted products, sustainable water and wastewater management and green buildings, all as defined in the bill.

This bill provides that a municipality that issues a municipal green bond shall establish a green bond holder protection fund separate from the municipality's debt service reserve fund or an equivalent fund upon a finding by the state auditor that a bond does not meet the percentage required. The amount in the fund must be equal to at least the amount of interest paid each year multiplied by the top state income tax rate applicable to individuals under Section 143.011, RSMo.

PRIVATE TRUST COMPANIES (Section 362.245)

This bill exempts private trust companies described under Section 361.160, RSMo, from certain residency requirements governing board of directors of a corporation as indicated in the bill.

UNIFORM FIDUCIARY INCOME AND PRINCIPAL ACT (Sections 214.330, 469.399 to 469.467, and 469.471 to 469.487)

This bill specifies that the income and principal of the Endowed Care Trust Fund is determined under the laws applicable to trusts with an exception that the trustee has no power: of adjustment; of conversion; no discretion to determine or modify the unitrust rate or to determine applicable value to compute the unitrust amount beyond that granted by law. A unitrust definition of income shall be determined by the cemetery operator in the terms of the Endowed Care Trust Fund Agreement and not by the trustee. Further, no principal from the Trust Fund shall be distributed except if a unitrust amount is required under the Agreement. The cemetery operator may instruct by record for the trustee to distribute less than all the income distributable for the year if the cemetery operator determines that the money is not needed.

This bill establishes the "Missouri Uniform Fiduciary Income and Principal Act" (MUFIPA). Some of the current provisions of the Principal and Income Act (PIA) have been updated to achieve compliance with the MUFIPA.

The bill modifies certain definitions and adds definitions such as "asset-backed security", "court", "current income beneficiary",

"distribution", "estate", "independent person", "personal representative", "record", "settlor", "special tax benefit", "successive interest", "successor beneficiary", "trust", and "will". It removes reference to current definitions of "income beneficiary", "qualified beneficiary", and "remainder beneficiary".

The bill provides that the MUFIPA applies to a trust or estate and a life estate or other term interest in which the interest of one or more persons will be succeeded by the interest of one or more other persons, except as otherwise provided in the terms of a trust or in MUFIPA. In addition, the MUFIPA applies when Missouri is the principal place of administration of a trust or estate or the situs of property that is not held in a trust or estate and is subject to a life estate or other term interest.

This bill details the fiduciary's duties including the power to adjust, convert an income trust to a unitrust and vice versa. In addition, the bill specifies the business or other activity conducted by the fiduciary, the allocation of receipts, the determination of "internal income of a separate fund", "marital trust", interest in minerals, water or other natural resources, interest in land used for growing and cutting timber, "derivative", "asset-backed security", and disbursements from income, all as further explained in the bill. The bill calls for the application of MUFIPA to a trust or estate existing or created on or after August 28, 2024 with exceptions.

The bill defines "unitrust" to mean a trust for which net income is a unitrust amount, including an express unitrust.

The bill defines terms such as "applicable value", "express unitrust", "income trust", "net fair value of a trust", "unitrust policy", and "unitrust rate". The provisions that apply to unitrusts do not create a duty to take or consider action or to inform a beneficiary about the applicability of the provisions. A fiduciary that in good faith takes or fails to take an action under the unitrust provisions is not liable to a person affected by the action or inaction.

The bill details the actions that the fiduciary can take without court approval. The bill specifies determinations, considerations, and procedures required of a fiduciary in taking actions. The requirements include sending a notice in a record, describing and proposing to take the action, to certain persons all as detailed in the bill. The MUFIPA includes provisions allowing these persons to object to a proposed action, whereupon the fiduciary or a beneficiary may request the court to have the proposed action taken as proposed, taken with modifications, or prevented. The bill

contains requirements relating to the unitrust policy and unitrust rate.

The bill provides for uniformity in the interpretation and application of the MUFIPA; contains a severability clause; and explains MUFIPA's interaction with the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et Seq. .

This bill contains provisions from HCS HB 1726, HB 1938, and HB 1987.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPOSERS: Supporters say that the bill makes green bonds more clear and simple. Instead of ongoing proof, the bond needs to qualify at the beginning. Because 85% must go to one of the defined categories, it should reduce greenwashing.

Testifying in person for the bill was Representative O'Donnell.

OPPOSERS: There was no opposition voiced to the committee.

OTHERS: Others testifying on the bill say the bill does a good job of preventing greenwashing. The bondholder protection fund creates an extra cost, especially for an entity that does nothing but green bonds.

Testifying in person on the bill was Tim Snoke, The Metropolitan St. Louis Sewer District.

Written testimony has been submitted for this bill. The full written testimony and witnesses testifying online can be found under Testimony on the bill page on the House website.