

By: Leach

H.B. No. 4079

A BILL TO BE ENTITLED

AN ACT

relating to the provision of proxy advisory services in connection with certain entities domiciled in this state.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 2, Chapter 21, Business Organizations Code, is amended by adding Subchapter T to read as follows:

SUBCHAPTER T: PROXY ADVISORS

Sec. 21.1001. DEFINITIONS. In this subchapter:

(1) "Company" means a publicly traded, for-profit company organized or created under the laws of this state or having a principal place of business in this state.

(2) "Company proposal" means any proposal made by a company that is included in a company's proxy statement, including but not limited to proposals regarding director elections, executive compensation, corporate transactions and structure, auditor selections, and other similar measures.

(3) "Investment manager" means a person or company who, for compensation, provides professional investment management services. The term does not include:

(A) an employee or member of an advisory committee of a public retirement system; or

(B) a seller of security interests.

(4) "Proxy advisor" means a person or entity who, for compensation, provides proxy advisory services to the shareholders

1 of a company, or to other interested parties, including but not
2 limited to investment managers.

3 (5) "Proxy advisory services" includes the provision
4 of any of the following services in connection with or relating to a
5 company:

6 (A) advice or recommendations on how to vote with
7 regard to measures under shareholder consideration, including
8 proxy proposals and company proposals;

9 (B) proxy statement research and analyses,
10 including with regard to proxy proposals and company proposals;

11 (C) corporate governance ratings and research or
12 other similar services;

13 (D) proxy voting policy development; or

14 (E) proxy vote administration, including through
15 the use of proxy vote management software or other similar
16 services.

17 (6) "Proxy proposal" means any proposal made by a
18 shareholder to a company that is included in the company's proxy
19 statement.

20 (7) "Shareholder" includes a shareholder, unitholder,
21 limited partner, or other equity owner of a company.

22 Sec. 21.1002. OBLIGATION TO DISCHARGE DUTY BASED SOLELY ON
23 CERTAIN FINANCIAL INTERESTS. (a) Except as otherwise provided in
24 this section, a proxy advisor shall provide proxy advisory services
25 solely in the best financial interest of the shareholders of a
26 company, based on quantitative, impartial standards, for the sole
27 purpose of maximizing financial return and control associated

1 levels of risk.

2 (b) For purposes of this section, proxy advisory services
3 are not provided solely in the best financial interest of the
4 shareholders if based, all or in part, on non-financial factors,
5 including any commitments, initiatives, policies, targets, or
6 subjective or value-based standards pertaining to:

7 (1) environmental, social, or governance (ESG)
8 investment principles;

9 (2) diversity, equity, or inclusion;

10 (3) social credit or sustainability scores; or

11 (4) membership in, or association with, any non-profit
12 organization, coalition, initiative, institution, industry, or
13 similar organization that bases its evaluation or assessment of a
14 company's value on non-financial factors.

15 (c) For any proxy advisory services that are not provided
16 solely in the best financial interest of the shareholders, the
17 proxy advisor shall:

18 (1) include a conspicuous warning with the provision
19 of each such proxy advisory services that they are not made solely,
20 and may not be, in the best financial interest of the shareholders;

21 (2) use best efforts to obtain a prompt, written
22 acknowledgment of the warning required by subpart (a) herein from
23 each recipient shareholder or other interested party, as
24 applicable;

25 (3) immediately notify the company that is the subject
26 of such proxy advisory services, including full disclosure of all
27 related proxy advisory services, the basis of the proxy advisor's

1 advice and recommendations under this subsection, and all
2 recipients of each such proxy advisory services; and

3 (4) publicly and conspicuously disclose on the
4 homepage or front page of the proxy advisor's website that its
5 proxy advisory services include advice and recommendations that are
6 not made solely, and may not be, in the best financial interest of
7 shareholders.

8 Sec. 21.1003. VOTING RECOMMENDATIONS; CONFLICTS. (a) If a
9 proxy advisor provides proxy advisory services regarding a company
10 to multiple shareholders or other interested parties that include
11 voting recommendations that differ in any material respect
12 regarding the same proxy proposal or company proposal, the proxy
13 advisory services shall be considered not to be in the best
14 financial interest of the shareholders.

15 (b) For any proxy advisory services described in Subsection
16 (a), in addition to complying with the requirements of Section
17 21.1002(c), the proxy advisor shall immediately:

18 (1) notify each recipient shareholder or other
19 interested party in writing of the conflicting advice or
20 recommendations, including full disclosure of all related advice
21 or recommendations and the proxy advisor's basis for such advice or
22 recommendations;

23 (2) notify the company that is the subject of the proxy
24 advisory services in writing of the conflicting advice or
25 recommendations, including disclosure of all related
26 recommendations, the proxy advisor's basis for the recommendations
27 , and the recipients of each recommendation; and

1 (3) publicly and conspicuously disclose on the landing
2 page or front page of the proxy advisor's website that its proxy
3 advisory services include advice and recommendations that are in
4 material conflict with proxy advisory services provided to other
5 shareholders or interested parties.

6 Sec. 21.1004. VIOLATIONS; DECLARATORY JUDGMENT. An
7 affected party, including the company that is the subject of the
8 proxy advisory services, any shareholders of the company, or other
9 interested parties, may bring an action under Chapter 37, Civil
10 Practice and Remedies Code, to determine whether a proxy advisor
11 has committed a violation of this subchapter.

12 SECTION 2. The changes in law made by this Act apply only to
13 proxy advisory services rendered on or after the effective date of
14 this Act. Proxy advisory services rendered before the effective
15 date of this Act are governed by the law in effect on the date the
16 contract or other agreement for the services was entered into, and
17 the former law is continued in effect for that purpose.

18 SECTION 3. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2025.