

# House Bill 3 (HB3) Florida ESG Legislation

## Impact On Broward Health Investments

### Summary

HB3 was signed into law by the Governor on May 2, 2023, and will go into effect on July 1, 2023. This legislation requires governmental entities, including special districts, to evaluate risk and return and any factors that affect risk and return in a material/pecuniary manner. The legislation does not permit consideration of social, political, or ideological interests when selecting investments.

### Investments Affected

The legislation affects the majority of Broward Health's investments including Broward Health's Cash Balance Pension Plan, its unrestricted investments, its operating funds, and any investments of surplus funds. The legislation excludes defined contribution plans such as Broward Health's 403(b) and 457(b) plans.

Specifically, both the pension and unrestricted funds include a large cap equity index fund, SSgA S&P 500 excluding Tobacco. At the time this investment was selected, the Committee may have considered non-pecuniary factors. Therefore, the Committee should consider a replacement fund, such as the SSgA S&P 500 index fund, at the June Pension and Investment Committee meeting.

### Requirements and Next Steps

Currently, Broward Health's Investment Policy Statements (IPS) do not contain language where non-pecuniary factors are considered. The Pension and Investment Committee along with our Investment Advisors look for the best managers with the best returns over time. All factors that would materially affect the returns should be considered. However, management is recommending adding the following statement to both the Cash Balance Pension Plan and the Unrestricted funds Investment Policy Statements in order to comply with the intent of the legislation.

*The Board, and to the extent delegated to the Committee, the Committee, has sole discretion to select and replace the Investment Managers based solely on pecuniary factors or factors expected to have a material effect on the risk or returns of an investment based on appropriate investment horizons consistent with the District's investment objectives and policy. Additionally, the same standards apply to the exercise of shareholder rights, including the voting of proxies, where plans may only consider pecuniary factors.*

### Compliance

In addition to the above, the legislation requires certain actions be taken to confirm compliance with the law. Beginning on December 15, 2023, Broward Health must report compliance with the law to the Florida Department of Management Services (DMS) on a biennial basis. The specifics on how to report such compliance, however, are not included in the legislation.

The legislation also requires any contracts executed, amended, or renewed on or after July 1, 2023, to include a provision requiring the investment manager to include a disclaimer in the investment manager's external communications if the investment manager has invested public funds and discusses social, political, or ideological interests. The required disclaimer must state:

*The views and opinions expressed in this communication are those of the sender and do not reflect the views and opinions of the people of the state of Florida.*

We are currently implementing procedures to ensure Broward Health's compliance with the law moving forward.