

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 725

Session of
1981

INTRODUCED BY HOWARD, SNYDER, MANBECK, PRICE, PECORA AND FISHER,
APRIL 27, 1981

REFERRED TO FINANCE, APRIL 27, 1981

AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania
2 Consolidated Statutes, further providing for the
3 administration, management and investment of certain funds.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Subsection (e) of section 5901, subsections (b),
7 (c) and (h) of section 5902, subsections (a), (d) and (h) of
8 section 5931, sections 5932 and 5939 of Title 71, act of
9 November 25, 1970 (P.L.707, No.230), known as the Pennsylvania
10 Consolidated Statutes, are amended and subsections are added to
11 sections 5902 and 5931 to read:

12 § 5901. The State Employees' Retirement Board.

13 * * *

14 (e) Corporate power and legal advisor.--For the purposes of
15 this part, the board shall possess the power and privileges of a
16 corporation. The [Attorney General] General Counsel of the
17 Commonwealth shall be the legal advisor of the board.

18 § 5902. Administrative duties of the board.

1 * * *

2 (b) Professional personnel.--The board shall contract for
3 the services of a chief medical examiner, an actuary, [an
4 investment counselor] investment advisors and counselors, and
5 such other professional personnel as it deems advisable. The
6 board may, with the approval of the General Counsel, contract
7 for legal services.

8 (c) Expenses.--The board shall, through the Governor, submit
9 to the General Assembly annually a budget covering the
10 administrative expenses of this part. Such expenses as approved
11 by the General Assembly in an appropriation bill shall be paid
12 from investment earnings of the fund [in excess of the required
13 interest, except that if in any year such earnings are not
14 sufficient the balance required, after pro rata assessments
15 payable by any other employer whose employees are members of the
16 system, shall be appropriated from the General Fund and the
17 special operating funds].

18 * * *

19 (h) Regulations and procedures.--The board shall, with the
20 advice of the [Attorney General] General Counsel and the
21 actuary, adopt and promulgate rules and regulations for the
22 uniform administration of the system. The actuary shall approve
23 in writing all computational procedures used in the calculation
24 of contributions and benefits prior to their application by the
25 board.

26 * * *

27 (n) Independent audit.--The board shall provide for an
28 annual audit of the system by an independent certified public
29 accountant.

30 § 5931. Management of fund and accounts.

1 (a) Control and management of fund.--The members of the
2 board shall be the trustees of the fund and shall have exclusive
3 control and management of the said fund and full power to invest
4 the same, subject, however, to the exercise of that degree of
5 judgment and care under the circumstances then prevailing which
6 persons of prudence, discretion and intelligence exercise in the
7 management of their own affairs not in regard to speculation,
8 but in regard to the permanent disposition of the funds,
9 considering the probable income to be derived therefrom as well
10 as the probable safety of their capital, and further subject to
11 all the terms, conditions, limitations and restrictions imposed
12 by this part or other law upon the making of investments.
13 Subject to like terms, conditions, limitations and restrictions,
14 said trustees shall have the power to hold, purchase, sell,
15 lend, assign, transfer or dispose of any of the securities and
16 investments in which any of the moneys in the fund shall have
17 been invested as well as of the proceeds of said investments and
18 of any moneys belonging to said fund.

19 * * *

20 (d) Payments from fund.--All payments from the fund shall be
21 made by the State Treasurer in accordance with requisitions
22 signed by the secretary of the board, or his designee, and
23 ratified by resolution of the board.

24 * * *

25 (h) Investment in corporate stocks.--Preferred and common
26 stock as defined in subsection (i) of any corporation as defined
27 in subsection (j) organized under the laws of the United States
28 or of any commonwealth or state thereof or of the District of
29 Columbia and preferred and common stock as defined in subsection
30 (i) of any corporation as defined in subsection (j) whose shares

1 are traded in United States dollars on the New York Stock
2 Exchange shall be [an] authorized [investment] investments of
3 the fund, regardless of any other provision of law provided
4 that:

5 [(1) such stock be purchased with the exercise of that
6 degree of judgment and care under the circumstances then
7 prevailing which men of prudence, discretion and intelligence
8 exercise in the management of their own affairs not in regard
9 to speculation, but in regard to the permanent disposition of
10 the funds, considering the probable income to be derived
11 therefrom as well as the probable safety of their capital;

12 (2) in the case of any stock other than stock of a bank
13 or insurance company, the stock be listed or traded (or if
14 unlisted or not entitled to trading privileges shall be
15 eligible for listing and application for such listing shall
16 have been made) on the New York Stock Exchange or any other
17 exchange approved by the Secretary of Banking;

18 (3)] (1) no investment in common stock be made which at
19 that time would cause the book value of the investments in
20 common stock to exceed [25%] 50% of the total assets of the
21 fund;

22 [(4) no more than 5% of the total assets of the fund be
23 invested in common stocks in any one year, provided that any
24 unused portion may be used in subsequent years, but in no
25 event shall more than 8% of such assets be invested in common
26 stocks in any one year;

27 (5)] (2) the amount invested in the common stock of any
28 one company not exceed at cost 2% of the book value of the
29 assets of the fund at the time of purchase and shall not
30 exceed 5% of the issued and outstanding common stock of that

company; [and]

(3) no investment in the stock of corporations not organized under the laws of the United States or of any commonwealth or state thereof or of the District of Columbia shall be made which would cause the book value of such investment to exceed 5% of the book value of the total assets of the fund; and

[(6)] (4) no sale or other liquidation of any investment be required solely because of any change in market values whereby the percentages of stocks hereinabove set forth are exceeded.

* * *

(1) Investment in institutional real estate.--Institutional real estate funds shall be an authorized investment of the fund provided that no investment shall be made which, at the time of purchase, would cause the book value of such investments to exceed 15% of the book value of the total assets of the fund.

(m) Additional board power on investments.--Regardless of any limitations, conditions or restrictions imposed on the making of investments by this part or other law, the board may, at its discretion, invest a maximum of 10% of the book value of the assets of the fund in any investments not otherwise specifically authorized, provided that such investments are made with the exercise of that degree of judgment and care under the circumstances then prevailing which persons of prudence, discretion and intelligence exercise in the management of their own affairs not in regard to speculation, but in regard to the permanent disposition of the funds, considering the probable income to be derived therefrom as well as the probable safety of their capital.

1 (n) Obligation of United States to be authorized
2 investments.--Regardless of any other provision of law,
3 obligations of the United States Government and its agencies
4 shall be authorized investments of the fund.

5 § 5932. State Employees' Retirement Fund.

6 The fund shall consist of all [moneys] balances in the
7 several separate [funds in the State Treasury,] accounts set
8 apart to be used under the direction of the board for the
9 benefit of members of the system; and the Treasury Department
10 shall credit to the fund all moneys received from the Department
11 of Revenue arising from the contributions required under the
12 provisions of Chapter 55 (relating to contributions), and [all
13 interest] any income earned by the investments or moneys of said
14 fund. There shall be established and maintained by the board the
15 several ledger accounts specified in sections 5933 (relating to
16 members' savings account), 5934 (relating to State accumulation
17 account), 5935 (relating to annuity reserve account), 5936
18 (relating to State Police benefit account), 5937 (relating to
19 enforcement officers' benefit account), 5938 (relating to
20 supplemental annuity account) and 5939 (relating to interest
21 reserve account).

22 § 5939. Interest reserve account.

23 The interest reserve account shall be the ledger account to
24 which shall be credited all [moneys] income earned by the fund
25 and to which shall be charged all administrative and investment
26 expenses incurred by the fund. At the end of each year the
27 required interest shall be transferred from the interest reserve
28 account to the credit of each of the accounts in accordance with
29 the provisions of this subchapter. In addition, at the end of
30 each accounting period, the interest reserve account shall be

1 credited or charged with all recognized charges in the market
2 valuation of the investments of the fund. The administrative and
3 investment expenses of the board shall be [charged to the
4 interest reserve account and] paid from the fund out of earnings
5 [in excess of the total interest required for all accounts]. Any
6 [balance remaining] surplus or deficit in the interest reserve
7 account at the end of each year shall be transferred to the
8 State accumulation account.

9 Section 2. This act shall take effect in 60 days.