

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 126 Session of  
2005

INTRODUCED BY GODSHALL, NICKOL, VEON, PHILLIPS, CALTAGIRONE,  
CLYMER, CRAHALLA, EACHUS, GEIST, HENNESSEY, KILLION, LEH,  
O'NEILL, PALLONE, RUBLEY, HARPER, YOUNGBLOOD AND GOODMAN,  
FEBRUARY 1, 2005

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,  
AS AMENDED, FEBRUARY 15, 2005

## AN ACT

1 Amending Title 71 (State Government) of the Pennsylvania  
2 Consolidated Statutes, defining "alternative investment"; and  
3 further providing for administrative duties of the State  
4 Employees' Retirement Board.

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

7 Section 1. Section 5102 of Title 71 of the Pennsylvania  
8 Consolidated Statutes is amended by adding a definition to read:  
9 § 5102. Definitions.

10 The following words and phrases as used in this part, unless  
11 a different meaning is plainly required by the context, shall  
12 have the following meanings:

13 \* \* \*

14 "Alternative investment." A private equity or venture  
15 capital investment.

16 \* \* \*

17 Section 2. Section 5902(e) of Title 71 is amended to read:

1 § 5902. Administrative duties of the board.

2 \* \* \*

3 (e) Records.--

4 (1) The board shall keep a record of all its proceedings  
5 which shall be open to inspection by the public[.], except as  
6 otherwise provided in this part or by other law.

7 (2) Any records, material or data received, prepared,  
8 used or retained by the board or its employees, investment  
9 professionals or agents relating to investments shall not be  
10 required to be open to inspection by the public and shall not  
11 constitute a public record under the act of June 21, 1957  
12 (P.L.390, No.212), referred to as the Right-to-Know Law, if,  
13 in the reasonable judgment of the board, the disclosure  
14 would:

15 (i) in the case of an alternative investment,  
16 involve the release of sensitive investment or financial  
17 information which the fund was able to obtain only upon  
18 the condition of maintaining its confidentiality;

19 (ii) cause substantial competitive harm to the  
20 person from whom the information was received, subject,  
21 however, to the condition that such information shall be  
22 subject to public inspection once its release no longer  
23 causes substantial competitive harm to the person from  
24 whom the information was received; or

25 (iii) have an adverse impact on the value of an  
26 investment to be acquired, held or disposed of by the  
27 fund, subject, however, to the condition that such  
28 information shall be subject to public inspection once  
29 its release no longer has a detrimental impact on the  
30 value of an investment of the fund.

1       Section 3. Nothing in this act shall be construed or deemed  
2 to imply that, but for the exclusions provided in 71 Pa.C.S. §  
3 5902(e)(2), any of the types of records, materials or data  
4 described in that provision are required to be open to  
5 inspection by the public or constitute a public record, or that  
6 any record not excluded ~~herein~~ IN SECTION 5902(E)(2) is a public <—  
7 record, under the act of June 21, 1957 (P.L.390, No.212),  
8 referred to as the Right-to-Know Law.

9       Section 4. Nothing in this act shall be construed or deemed  
10 to limit the authority of the Auditor General to obtain copies  
11 of any records, materials or data described ~~herein~~ IN 71 PA.C.S. <—  
12 § 5902(E)(2) in connection with a lawfully conducted audit.

13       ~~Section 5. This act shall take effect in 60 days.~~ <—

14       SECTION 5. NOTHING IN THIS ACT SHALL BE CONSTRUED OR DEEMED <—  
15 TO IMPLY THAT THE RELEASE OR MAKING PUBLIC OF ANY RECORD,  
16 MATERIAL OR DATA DESCRIBED IN 71 PA.C.S. § 5902(E)(2) AS NOT  
17 BEING A PUBLIC RECORD IS A VIOLATION OF THE STATE EMPLOYEES'  
18 RETIREMENT BOARD'S FIDUCIARY DUTIES.

19       SECTION 6. THIS ACT SHALL APPLY TO ALL RECORDS, MATERIAL OR  
20 DATA DESCRIBED IN 71 PA.C.S. § 5902(E)(2), WITHOUT REGARD TO  
21 WHETHER THE RECORD, MATERIAL OR DATA WAS CREATED, GENERATED OR  
22 STORED BEFORE THE EFFECTIVE DATE OF THIS SECTION, WITHOUT REGARD  
23 TO WHETHER THE RECORD, MATERIAL OR DATA HAS PREVIOUSLY BEEN  
24 RELEASED OR MADE PUBLIC AND WITHOUT REGARD TO WHETHER A REQUEST  
25 FOR THE RECORD, MATERIAL OR DATA HAS BEEN MADE OR IS PENDING  
26 FINAL RESPONSE UNDER THE ACT OF JUNE 21, 1957 (P.L.390, NO.212),  
27 REFERRED TO AS THE RIGHT-TO-KNOW LAW.

28       SECTION 7. IN THE EVENT THAT THE STATE EMPLOYEES' RETIREMENT  
29 SYSTEM HAS COLLECTED A FEE OR OTHER MONETARY CHARGE FOR THE  
30 PREPARATION, DUPLICATION, PRODUCTION, REDACTION OR OTHER

1 EXPENSES ASSOCIATED WITH THE INSPECTION OR PROVISION OF RECORDS,  
2 MATERIAL OR DATA THAT AS A RESULT OF THE AMENDMENT OF 71 PA.C.S.  
3 § 5902(E) WILL NOT BE MADE AVAILABLE FOR INSPECTION BY AND WILL  
4 NOT BE PROVIDED TO THE REQUESTER WHO MADE THE PAYMENT, THE STATE  
5 EMPLOYEES' RETIREMENT SYSTEM SHALL RETURN THE FEE OR MONEY TO  
6 THE REQUESTER.

7 SECTION 8. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.