

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 982 Session of 2015

INTRODUCED BY TEPLITZ, SCHWANK, COSTA, YUDICHAK AND HUGHES,
AUGUST 25, 2015

REFERRED TO FINANCE, AUGUST 25, 2015

AN ACT

1 Amending Titles 24 (Education) and 71 (State Government) of the
2 Pennsylvania Consolidated Statutes, in retirement for school
3 employees, further providing for the Public School Employees'
4 Retirement Board, for administrative duties of board and for
5 management of fund and accounts; and, in retirement for State
6 employees and officers, further providing for the State
7 Employees' Retirement Board, for administrative duties of the
8 board and for management of fund and accounts.

9 The General Assembly of the Commonwealth of Pennsylvania

10 hereby enacts as follows:

11 Section 1. Sections 8501(a) and 8502(b) and (e)(2) of Title
12 24 of the Pennsylvania Consolidated Statutes are amended and the
13 sections are amended by adding subsections to read:

14 § 8501. Public School Employees' Retirement Board.

15 (a) Status and membership.--The board shall be an
16 independent administrative board and shall consist of 15
17 members: the Secretary of Education, ex officio; the State
18 Treasurer, ex officio; two Senators; two members of the House of
19 Representatives; the executive secretary of the Pennsylvania
20 School Boards Association, ex officio; two to be appointed by
21 the Governor, one of whom shall have investment expertise and at

1 least one of whom shall not be a school employee or an officer
2 or employee of the State; three to be elected by the active
3 professional members of the system from among their number; one
4 to be elected by annuitants from among their number; one to be
5 elected by the active nonprofessional members of the system from
6 among their number; and one to be elected by members of
7 Pennsylvania public school boards from among their number. The
8 appointments made by the Governor shall be confirmed by the
9 Senate and each election shall be conducted in a manner approved
10 by the board. The terms of the appointed and nonlegislative
11 elected members shall be three years. The members from the
12 Senate shall be appointed by the President pro tempore of the
13 Senate and shall consist of one member from the majority and one
14 member from the minority. The members from the House of
15 Representatives shall be appointed by the Speaker of the House
16 of Representatives and shall consist of one member from the
17 majority and one member from the minority. The legislative
18 members shall serve on the board for the duration of their
19 legislative terms and shall continue to serve until 30 days
20 after the convening of the next regular session of the General
21 Assembly after the expiration of their respective legislative
22 terms or until a successor is appointed for the new term,
23 whichever occurs first. [The chairman of the board shall be
24 elected by the board members.] Each ex officio member of the
25 board and each legislative member of the board may appoint a
26 duly authorized designee to act in his stead.

27 (a.1) Chairman.--The members of the board shall elect a
28 chairman from among the members to serve for a fixed term of two
29 years. A chairman may be elected to serve successive terms.

30 * * *

1 (f) Conflict of interest.--The board shall adopt a conflict
2 of interest policy and shall provide guidelines applicable to
3 members of the board to enable them to avoid any perceived or
4 actual conflict of interest. At a minimum, the policy shall:

5 (1) Identify the minimum amount of a campaign
6 contribution that, if made to a member of the board, would
7 present a potential conflict of interest.

8 (2) Establish the circumstances under which a member of
9 the board must publicly disclose a potential conflict of
10 interest, abstain from voting and disclose on the record the
11 nature of the potential conflict of interest.

12 (g) Training.--The board shall maintain a formal training
13 program for members. The training, at a minimum, shall include
14 basic, intermediate and advanced investment classes, to be
15 offered annually. The board shall maintain training records,
16 including documentation of class attendance and completion.

17 (h) Governing principles.--To ensure that the accountability
18 and authority for governance and management of the system is
19 clearly stated, the board shall formally adopt governing
20 principles to identify and distinguish among the roles of the
21 board, its committees and officers and employees of the board,
22 and shall post the adopted governing principles on its Internet
23 website.

24 § 8502. Administrative duties of board.

25 * * *

26 (a.1) Secretary of the board.--In addition to other powers
27 and duties conferred upon and delegated to the secretary by the
28 board, for the purpose of assisting members in identifying
29 specific instances in which a member's vote may violate the
30 board's conflict of interest policy, the secretary of the board

1 shall:

2 (1) Obtain copies of all campaign finance reports that
3 members who are elected public officials are required to file
4 with the Department of State.

5 (2) Require that the investment firm associated with an
6 investment consultant, advisor or counselor who provides
7 services to the board submit a disclosure statement each time
8 the consultant, advisor or counselor makes a presentation to
9 the board. The disclosure statement shall include an up-to-
10 date, comprehensive listing of campaign contributions made to
11 a member by a principal or employee of the investment firm
12 within the previous 10 years.

13 (b) Professional personnel.--The board shall contract for
14 the services of a chief medical examiner, an actuary, investment
15 advisors, counselors, an investment coordinator, and such other
16 professional personnel as it deems advisable. Each contract
17 shall include a provision requiring the annual submission of a
18 disclosure statement as set forth under subsection (a.1).

19 * * *

20 (e) Records.--

21 * * *

22 (2) Any record, material or data received, prepared,
23 used or retained by the board or its employees, investment
24 professionals or agents relating to an investment shall not
25 constitute a public record subject to public inspection under
26 the act of [June 21, 1957 (P.L.390, No.212), referred to]
27 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know
28 Law, if, in the reasonable judgment of the board, the
29 inspection would:

30 (i) in the case of an alternative investment or

1 alternative investment vehicle involve the release of
2 sensitive investment or financial information relating to
3 the alternative investment or alternative investment
4 vehicle which the fund was able to obtain only upon
5 agreeing to maintain its confidentiality;

6 (ii) cause substantial competitive harm to the
7 person from whom sensitive investment or financial
8 information relating to the investment was received; or

9 (iii) have a substantial detrimental impact on the
10 value of an investment to be acquired, held or disposed
11 of by the fund, or would cause a breach of the standard
12 of care or fiduciary duty set forth in this part.

13 * * *

14 (n.1) Audit functions.--The board shall establish the
15 Internal Audit Office as an independent unit. The Internal Audit
16 Office shall report directly to the system's Executive Director
17 and the board's Audit and Budget Committee.

18 (n.2) Audit and Budget Committee.--The board's Audit and
19 Budget Committee shall:

20 (1) Ensure and maintain the independence of the internal
21 audit process.

22 (2) Ensure that no unjustified restrictions or
23 limitations are placed on the internal audit staff.

24 (3) Review the effectiveness of the internal audit
25 function, including compliance with the most recent standards
26 of the Institute of Internal Auditors.

27 (4) Modify the charter of the Internal Audit Office so
28 that it is consistent with the independence standards of the
29 Institute of Internal Auditors' Standards for the
30 Professional Practice of Internal Auditing.

1 * * *

2 Section 2. Section 8521(a) of Title 24 is amended to read:

3 § 8521. Management of fund and accounts.

4 (a) Control and management of fund.--The members of the
5 board shall be the trustees of the fund. Regardless of any other
6 provision of law governing the investments of funds under the
7 control of an administrative board of the State government, the
8 trustees shall have exclusive control and management of the said
9 fund and full power to invest the same, in accordance with the
10 provisions of this section, subject, however, to the [exercise
11 of that degree of judgment, skill and care under the
12 circumstances then prevailing which persons of prudence,
13 discretion and intelligence who are familiar with such matters
14 exercise in the management of their own affairs not in regard to
15 speculation, but in regard to the permanent disposition of the
16 fund, considering the probable income to be derived therefrom as
17 well as the probable safety of their capital. The trustees shall
18 have the power to hold, purchase, sell, lend, assign, transfer,
19 or dispose of any of the securities and investments in which any
20 of the moneys in the fund shall have been invested as well as of
21 the proceeds of said investments, including any directed
22 commissions which have accrued to the benefit of the fund as a
23 consequence of the investments, and of any moneys belonging to
24 said fund, subject in every case to meeting the standard of
25 prudence set forth in this subsection.] prudent investor
26 provisions of 20 Pa.C.S. § 7203 (relating to prudent investor
27 rule).

28 Section 3. Section 5901(a) of Title 71 is amended and the
29 section is amended by adding subsections to read:

30 § 5901. The State Employees' Retirement Board.

1 (a) Status and membership.--The board shall be an
2 independent administrative board and consist of 11 members: the
3 State Treasurer, ex officio, two Senators, two members of the
4 House of Representatives and six members appointed by the
5 Governor, one of whom shall be an annuitant of the system and
6 one of whom shall have investment expertise, for terms of four
7 years, subject to confirmation by the Senate. At least five
8 board members shall be active members of the system, and at
9 least two shall have ten or more years of credited State
10 service. [The chairman of the board shall be designated by the
11 Governor from among the members of the board.] Each member of
12 the board who is a member of the General Assembly may appoint a
13 duly authorized designee to act in his stead.

14 (a.1) Chairman.--The members of the board shall elect a
15 chairman from among the members to serve for a fixed term of two
16 years. A chairman may be elected to serve successive terms.

17 * * *

18 (f) Conflict of interest.--The board shall adopt a conflict
19 of interest policy and shall provide guidelines applicable to
20 members of the board to enable them to avoid any perceived or
21 actual conflict of interest. At a minimum, the policy shall:

22 (1) Identify the minimum amount of a campaign
23 contribution that, if made to a member of the board, would
24 present a potential conflict of interest.

25 (2) Establish the circumstances under which a member of
26 the board must publicly disclose a potential conflict of
27 interest, abstain from voting and disclose on the record the
28 nature of the potential conflict of interest.

29 (g) Training.--The board shall maintain a formal training
30 program for members. The training, at a minimum, shall include

1 basic, intermediate and advanced investment classes, to be
2 offered annually. The board shall maintain training records,
3 including documentation of class attendance and completion.

4 (h) Governing principles.--To ensure that the accountability
5 and authority for governance and management of the system is
6 clearly stated, the board shall formally adopt governing
7 principles to identify and distinguish among the roles of the
8 board, its committees and officers and employees of the board,
9 and shall post the adopted governing principles on its Internet
10 website.

11 Section 4. Section 5902(b) and (e)(2) of Title 71 are
12 amended, subsection (a.1) is amended by adding a paragraph and
13 the section is amended by adding subsections to read:

14 § 5902. Administrative duties of the board.

15 * * *

16 (a.1) Secretary.--The secretary shall act as chief
17 administrative officer for the board. In addition to other
18 powers and duties conferred upon and delegated to the secretary
19 by the board, the secretary shall:

20 * * *

21 (7) For the purpose of assisting members in identifying
22 specific instances in which a member's vote may violate the
23 board's conflict of interest policy:

24 (i) Obtain copies of all campaign finance reports
25 that members who are elected public officials are
26 required to file with the Department of State.

27 (ii) Require that the investment firm associated
28 with an investment consultant, advisor or counselor who
29 provides services to the board submit a disclosure
30 statement each time the consultant, advisor or counselor

1 makes a presentation to the board. The disclosure
2 statement shall include an up-to-date, comprehensive
3 listing of campaign contributions made to a member by a
4 principal or employee of the investment firm within the
5 previous 10 years.

6 (b) Professional personnel.--The board shall contract for
7 the services of a chief medical examiner, an actuary, investment
8 advisors and counselors, and such other professional personnel
9 as it deems advisable. Each contract shall include a provision
10 requiring the annual submission of a disclosure statement as set
11 forth under subsection (a.1)(7). The board may, with the
12 approval of the Attorney General, contract for legal services.

13 * * *

14 (e) Records.--

15 * * *

16 (2) Any record, material or data received, prepared,
17 used or retained by the board or its employees, investment
18 professionals or agents relating to an investment shall not
19 constitute a public record subject to public inspection under
20 the act of [June 21, 1957 (P.L.390, No.212), referred to]
21 February 14, 2008 (P.L.6, No.3), known as the Right-to-Know
22 Law, if, in the reasonable judgment of the board, the
23 inspection would:

24 (i) in the case of an alternative investment or
25 alternative investment vehicle, involve the release of
26 sensitive investment or financial information relating to
27 the alternative investment or alternative investment
28 vehicle which the fund was able to obtain only upon
29 agreeing to maintain its confidentiality;

30 (ii) cause substantial competitive harm to the

1 person from whom sensitive investment or financial
2 information relating to the investment was received; or
3 (iii) have a substantial detrimental impact on the
4 value of an investment to be acquired, held or disposed
5 of by the fund or would cause a breach of the standard of
6 care or fiduciary duty set forth in this part.

7 * * *

8 (m.1) Audit functions.--The board shall establish the
9 Internal Audit Office as an independent unit. The Internal Audit
10 Office shall report directly to the system's Executive Director
11 and the board's Audit Committee.

12 (m.2) Audit Committee.--The board's Audit Committee shall:

13 (1) Ensure and maintain the independence of the internal
14 audit process.

15 (2) Ensure that no unjustified restrictions or
16 limitations are placed on the internal audit staff.

17 (3) Review the effectiveness of the internal audit
18 function, including compliance with the most recent standards
19 of the Institute of Internal Auditors.

20 (4) Modify the charter of the Internal Audit Office so
21 that it is consistent with the independence standards of the
22 Institute of Internal Auditors' Standards for the
23 Professional Practice of Internal Auditing.

24 * * *

25 Section 5. Section 5931(a) of Title 71 is amended to read:

26 § 5931. Management of fund and accounts.

27 (a) Control and management of fund.--The members of the
28 board shall be the trustees of the fund. Regardless of any other
29 provision of law governing the investments of funds under the
30 control of an administrative board of the State government, the

1 trustees shall have exclusive control and management of the said
2 fund and full power to invest the same in accordance with the
3 provisions of this section, subject, however, to the [exercise
4 of that degree of judgment, skill and care under the
5 circumstances then prevailing which persons of prudence,
6 discretion and intelligence, who are familiar with such matters,
7 exercise in the management of their own affairs not in regard to
8 speculation, but in regard to the permanent disposition of the
9 funds, considering the probable income to be derived therefrom
10 as well as the probable safety of their capital. The trustees
11 shall have the power to hold, purchase, sell, lend, assign,
12 transfer or dispose of any of the securities and investments in
13 which any of the moneys in the fund shall have been invested as
14 well as of the proceeds of said investments, including any
15 directed commissions which have accrued to the benefit of the
16 fund as a consequence of the investments, and of any moneys
17 belonging to said fund, subject in every case to meeting the
18 standard of prudence set forth in this subsection.] prudent
19 investor provisions of 20 Pa.C.S. § 7203 (relating to prudent
20 investor rule).

21 * * *

22 Section 6. This act shall take effect in 60 days.