

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1384 Session of
1982INTRODUCED BY HOWARD, REIBMAN, HELFRICK, HESS AND HAGER,
APRIL 14, 1982

SENATOR HOWARD, FINANCE, AS AMENDED, APRIL 20, 1982

AN ACT

1 Amending Title 24 (Education) of the Pennsylvania Consolidated
2 Statutes, further providing for membership on the Public
3 School Employees' Retirement Board, FURTHER PROVIDING FOR
4 PROFESSIONAL PERSONNEL, EXPENSES, INDEPENDENT AUDITS AND THE
5 MANAGEMENT OF THE FUND AND ACCOUNTS. <—

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

8 Section 1. Section 8501(a) of Title 24, act of November 25,
9 1970 (P.L.707, No.230), known as the Pennsylvania Consolidated
10 Statutes, is amended to read:

11 § 8501. Public School Employees' Retirement Board.

12 (a) Status and membership.--The board shall be an
13 independent administrative board and shall consist of [11] 15
14 members: the Secretary of Education, ex officio; the State
15 Treasurer, ex officio; two Senators; two members of the House of
16 Representatives; the executive secretary of the Pennsylvania
17 School Boards Association, ex officio; two to be appointed by
18 the Governor, at least one of whom shall not be a school
19 employee or an officer or employee of the State; three to be

1 elected by the active professional members of the system from
2 among their number; one to be elected by annuitants from among
3 their number; one to be elected by the active nonprofessional
4 members of the system from among their number; and one to be
5 elected by members of Pennsylvania public school boards from
6 among their number. The appointments made by the Governor shall
7 be confirmed by the Senate and each election shall be conducted
8 in a manner approved by the board. The terms of the appointed
9 and nonlegislative elected members shall be three years. The
10 members from the Senate shall be appointed by the President pro
11 tempore of the Senate and the SHALL CONSIST OF ONE MEMBER FROM <—
12 THE MAJORITY AND ONE MEMBER FROM THE MINORITY. THE members from
13 the House of Representatives shall be appointed by the Speaker
14 of the House of Representatives AND SHALL CONSIST OF ONE MEMBER <—
15 FROM THE MAJORITY AND ONE MEMBER FROM THE MINORITY. The
16 legislative members shall serve on the board for the duration of
17 the terms for which they were elected and shall not vote on any
18 measure. The chairman of the board shall be elected by the board
19 members. Each ex officio member of the board may appoint a duly
20 authorized designee to act in his stead.

21 * * *

22 SECTION 2. SUBSECTIONS (B) AND (C) OF SECTION 8502 OF TITLE <—
23 24 ARE AMENDED AND A SUBSECTION IS ADDED TO READ:

24 § 8502. ADMINISTRATIVE DUTIES OF BOARD.

25 * * *

26 (B) PROFESSIONAL PERSONNEL.--THE BOARD SHALL CONTRACT FOR
27 THE SERVICES OF A CHIEF MEDICAL EXAMINER, AN ACTUARY, [AN
28 INVESTMENT COUNSELOR] INVESTMENT ADVISORS, COUNSELORS, AN
29 INVESTMENT COORDINATOR, AND SUCH OTHER PROFESSIONAL PERSONNEL AS
30 IT DEEMS ADVISABLE.

1 (C) EXPENSES.--THE BOARD SHALL, THROUGH THE GOVERNOR, SUBMIT
2 TO THE GENERAL ASSEMBLY ANNUALLY A BUDGET COVERING THE
3 ADMINISTRATIVE EXPENSES OF THIS PART. SUCH EXPENSES AS APPROVED
4 BY THE GENERAL ASSEMBLY IN AN APPROPRIATION BILL SHALL BE PAID
5 FROM INVESTMENT EARNINGS OF THE FUND [IN EXCESS OF VALUATION
6 INTEREST, EXCEPT THAT IF IN ANY YEAR SUCH EARNINGS ARE NOT
7 SUFFICIENT THE BALANCE REQUIRED SHALL BE APPROPRIATED FROM THE
8 GENERAL FUND].

9 * * *

10 (O) INDEPENDENT AUDIT.--THE BOARD SHALL PROVIDE FOR AN
11 ANNUAL AUDIT OF THE SYSTEM BY AN INDEPENDENT CERTIFIED PUBLIC
12 ACCOUNTING FIRM.

13 SECTION 3. SUBSECTIONS (A), (D), (H) AND (K) OF SECTION 8521
14 OF TITLE 24 ARE AMENDED AND SUBSECTIONS ARE ADDED TO READ:

15 § 8521. MANAGEMENT OF FUND AND ACCOUNTS.

16 (A) CONTROL AND MANAGEMENT OF FUND.--THE MEMBERS OF THE
17 BOARD SHALL BE THE TRUSTEES OF THE FUND AND SHALL HAVE EXCLUSIVE
18 CONTROL AND MANAGEMENT OF THE SAID FUND AND FULL POWER TO INVEST
19 THE SAME, SUBJECT, HOWEVER, TO THE EXERCISE OF THAT DEGREE OF
20 JUDGMENT AND CARE UNDER THE CIRCUMSTANCE THEN PREVAILING WHICH
21 PERSONS OF PRUDENCE, DISCRETION AND INTELLIGENCE EXERCISE IN THE
22 MANAGEMENT OF THEIR OWN AFFAIRS NOT IN REGARD TO SPECULATION,
23 BUT IN REGARD TO THE PERMANENT DISPOSITION OF THE FUND,
24 CONSIDERING THE PROBABLE INCOME TO BE DERIVED THEREFROM AS WELL
25 AS THE PROBABLE SAFETY OF THEIR CAPITAL, AND FURTHER SUBJECT TO
26 ALL THE TERMS, CONDITIONS, LIMITATIONS, AND RESTRICTIONS IMPOSED
27 BY THIS PART OR OTHER LAW UPON THE MAKING OF INVESTMENTS.
28 SUBJECT TO LIKE TERMS, CONDITIONS, LIMITATIONS, AND
29 RESTRICTIONS, SAID TRUSTEES SHALL HAVE THE POWER TO HOLD,
30 PURCHASE, SELL, LEND, ASSIGN, TRANSFER, OR DISPOSE OF ANY OF THE

1 SECURITIES AND INVESTMENTS IN WHICH ANY OF THE MONEYS IN THE
2 FUND SHALL HAVE BEEN INVESTED AS WELL AS OF THE PROCEEDS OF SAID
3 INVESTMENTS AND OF ANY MONEYS BELONGING TO SAID FUND.

4 * * *

5 (D) PAYMENTS FROM FUND.--ALL PAYMENTS FROM THE FUND SHALL BE
6 MADE BY THE STATE TREASURER IN ACCORDANCE WITH REQUISITIONS
7 SIGNED BY THE SECRETARY OF THE BOARD, OR HIS DESIGNEE, AND
8 RATIFIED BY RESOLUTION OF THE BOARD.

9 * * *

10 (H) INVESTMENT IN CORPORATE STOCKS.--PREFERRED AND COMMON
11 STOCK OF ANY CORPORATION ORGANIZED UNDER THE LAWS OF THE UNITED
12 STATES OR OF ANY COMMONWEALTH OR STATE THEREOF OR OF THE
13 DISTRICT OF COLUMBIA AND PREFERRED AND COMMON STOCK AS DEFINED
14 IN SUBSECTION (I) OF ANY CORPORATION AS DEFINED IN SUBSECTION
15 (J) WHOSE SHARES ARE TRADED IN UNITED STATES DOLLARS ON THE NEW
16 YORK STOCK EXCHANGE AND AMERICAN STOCK EXCHANGE SHALL BE AN
17 AUTHORIZED INVESTMENT OF THE FUND, PROVIDED THAT THEY FULFILL
18 CERTAIN GUIDELINES IN PARAGRAPH (1), REGARDLESS OF ANY OTHER
19 PROVISIONS OF LAW PROVIDED THAT:

20 [(1) SUCH STOCK BE PURCHASED WITH THE EXERCISE OF THAT
21 DEGREE OF JUDGMENT AND CARE UNDER THE CIRCUMSTANCES THEN
22 PREVAILING WHICH MEN OF PRUDENCE, DISCRETION AND INTELLIGENCE
23 EXERCISE IN THE MANAGEMENT OF THEIR OWN AFFAIRS NOT IN REGARD
24 TO SPECULATION, BUT IN REGARD TO THE PERMANENT DISPOSITION OF
25 THE FUNDS, CONSIDERING THE PROBABLE INCOME TO BE DERIVED
26 THEREFROM AS WELL AS THE PROBABLE SAFETY OF THEIR CAPITAL;

27 (2)] (1) IN THE CASE OF ANY STOCK OTHER THAN STOCK OF A
28 BANK OR INSURANCE COMPANY, THE STOCK IS LISTED OR TRADED (OR
29 IF UNLISTED OR NOT ENTITLED TO TRADING PRIVILEGES SHALL BE
30 ELIGIBLE FOR LISTING AND APPLICATION FOR SUCH LISTING SHALL

HAVE BEEN MADE) ON THE NEW YORK STOCK EXCHANGE OR [ANY OTHER
EXCHANGE APPROVED BY THE SECRETARY OF BANKING;] AMERICAN
STOCK EXCHANGE. 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. SHARES OF BANKS AND INSURANCE COMPANIES SHALL BE
ELIGIBLE FOR PURCHASE WHETHER OR NOT TRADED ON THE NEW YORK
STOCK EXCHANGE. THE SHARES OF UNLISTED NONFINANCIAL COMPANIES
SHALL BE ELIGIBLE FOR PURCHASE PROVIDED SUCH CORPORATIONS
PRODUCE REVENUE OF \$200,000,000 OR MORE IN THEIR MOST RECENT
FISCAL YEAR END AND HAVE PAID CASH DIVIDENDS FOR THE PAST
FIVE OR MORE CONSECUTIVE YEARS;

[(3)] (2) NO INVESTMENT IN COMMON STOCK BE MADE WHICH AT
THAT TIME WOULD CAUSE THE BOOK VALUE OF THE INVESTMENTS IN
COMMON STOCK TO EXCEED [25%] 50% OF THE TOTAL ASSETS OF THE
FUND;

[(4)] NO MORE THAN 5% OF THE TOTAL ASSETS OF THE FUND BE
INVESTED IN COMMON STOCKS IN ANY ONE YEAR, PROVIDED THAT ANY
UNUSED PORTION MAY BE USED IN SUBSEQUENT YEARS, BUT IN NO
EVENT SHALL MORE THAN 8% OF SUCH ASSETS BE INVESTED IN COMMON
STOCKS IN ANY ONE YEAR;

(5)] (3) THE AMOUNT INVESTED IN THE COMMON STOCK OF ANY
ONE COMPANY SHALL NOT EXCEED AT COST 2% OF THE BOOK VALUE OF
THE ASSETS OF THE FUND AT THE TIME OF PURCHASE AND SHALL NOT
EXCEED 5% OF THE ISSUED AND OUTSTANDING COMMON STOCK OF THAT
COMPANY; AND

[(6)] (4) THE PERCENTAGE LIMITATIONS OF [PARAGRAPHS]
PARAGRAPH (3) [AND (4)] SHALL NOT APPLY TO THE REINVESTMENT

1 OF FUNDS REALIZED FROM THE SALE OR TRANSFER OF COMMON STOCKS
2 AND NO SALE OR OTHER LIQUIDATION OF ANY INVESTMENT SHALL BE
3 REQUIRED SOLELY BECAUSE OF ANY CHANGE IN MARKET VALUES
4 WHEREBY THE PERCENTAGES OF STOCKS SET FORTH IN THIS
5 SUBSECTION ARE EXCEEDED.

6 * * *

7 (K) INVESTMENT IN REAL ESTATE AND MORTGAGES.--REAL ESTATE,
8 WHETHER DIRECT OR THROUGH POOLED FUNDS, INCLUDING BUT NOT
9 LIMITED TO REAL ESTATE WHICH [SUBJECT TO A LEASE TO ONE OR MORE
10 FINANCIALLY RESPONSIBLE TENANTS WHICH LEASE] SHALL NOT REQUIRE
11 MANAGERIAL RESPONSIBILITY BY THE BOARD; AND BONDS, NOTES AND
12 DEEDS OF TRUST, OF INDIVIDUALS OR CORPORATIONS SECURED BY
13 MORTGAGES ON REAL ESTATE LOCATED IN ANY STATE, DISTRICT OR
14 TERRITORY OF THE UNITED STATES, SHALL BE AN AUTHORIZED
15 INVESTMENT OF THE BOARD REGARDLESS OF ANY OTHER PROVISION OF
16 LAW. [THE BOARD SHALL PROMULGATE REGULATIONS TO IMPLEMENT THE
17 FOREGOING TO INSURE THE SAFETY OF INVESTMENTS MADE PURSUANT TO
18 THIS SUBSECTION WHICH REGULATIONS SHALL BE IN ACCORDANCE WITH
19 GENERALLY ACCEPTED STANDARDS AND INVESTMENT PRINCIPLES FOR
20 PENSION FUNDS OF COMPARABLE SIZE. ALL INSTRUMENTS, TRANSFERS OF
21 INTEREST, AND ALL RECORDS PERTAINING TO REAL ESTATE, MORTGAGES
22 OR BONDS INVESTED IN BY THE BOARD, SHALL BE OPEN TO PUBLIC
23 INSPECTION. REPORTS AS REQUESTED BY THE BOARD, SHALL BE
24 SUBMITTED ON ALL REAL ESTATE AND MORTGAGE INVESTMENTS BY
25 MORTGAGE ADVISORS AND CORRESPONDENTS.]

26 (L) ADDITIONAL BOARD POWER ON INVESTMENTS.--REGARDLESS OF
27 ANY LIMITATIONS, CONDITIONS OR RESTRICTIONS IMPOSED ON THE
28 MAKING OF INVESTMENTS BY THIS PART OR OTHER LAW, THE BOARD MAY,
29 AT ITS DISCRETION, INVEST A MAXIMUM OF 10% OF THE BOOK VALUE OF
30 THE ASSETS OF THE FUND IN ANY INVESTMENTS NOT OTHERWISE

1 SPECIFICALLY AUTHORIZED, PROVIDED THAT SUCH INVESTMENTS ARE MADE
2 WITH THE EXERCISE OF THAT DEGREE OF JUDGMENT AND CARE UNDER THE
3 CIRCUMSTANCES THEN PREVAILING WHICH PERSONS OF PRUDENCE,
4 DISCRETION AND INTELLIGENCE EXERCISE IN THE MANAGEMENT OF THEIR
5 OWN AFFAIRS NOT IN REGARD TO SPECULATION, BUT IN REGARD TO THE
6 PERMANENT DISPOSITION OF THE FUND, CONSIDERING THE PROBABLE
7 INCOME TO BE DERIVED THEREFROM AS WELL AS THE PROBABLE SAFETY OF
8 THEIR CAPITAL.

9 (M) OBLIGATION OF UNITED STATES TO BE AUTHORIZED
10 INVESTMENTS.--REGARDLESS OF ANY OTHER PROVISION OF LAW,
11 OBLIGATIONS OF THE UNITED STATES GOVERNMENT AND ITS AGENCIES
12 SHALL BE AUTHORIZED INVESTMENTS OF THE FUND.

13 Section 2 4. This act shall take effect in 60 days.

<—