

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1384 Session of
1982INTRODUCED BY HOWARD, REIBMAN, HELFRICK, HESS AND HAGER,
APRIL 4, 1982

AS AMENDED ON THIRD CONSIDERATION, MAY 25, 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 shall consist of one member from the
12 majority and one member from the minority. The members from the
13 House of Representatives shall be appointed by the Speaker of
14 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.

(c) Expenses.--The board shall, through the Governor, submit to the General Assembly annually a budget covering the administrative expenses of this part. Such expenses as approved by the General Assembly in an appropriation bill shall be paid from investment earnings of the fund [in excess of valuation interest, except that if in any year such earnings are not sufficient the balance required shall be appropriated from the General Fund].

* * *

(o) Independent audit.--The board shall provide for an annual audit of the system by an independent certified public accounting firm.

Section 3. Subsections (a), (d), (G), (h) and (k) of section 8521 of Title 24 are amended and subsections are added to read:

§ 8521. Management of fund and accounts.

(a) Control and management of fund.--The members of the board shall be the trustees of the fund and shall have exclusive control and management of the said fund and full power to invest the same, subject, however, to the exercise of that degree of judgment and care under the circumstance CIRCUMSTANCES then prevailing which persons of prudence, discretion and intelligence WHO ARE FAMILIAR WITH SUCH MATTERS exercise in the management of their own affairs not in regard to speculation, but in regard to the permanent disposition of the fund, considering the probable income to be derived therefrom as well as the probable safety of their capital, and further subject to all the terms, conditions, limitations, and restrictions imposed by this part or other law upon the making of investments.

Subject to like terms, conditions, limitations, and restrictions, said trustees shall have the power to hold,

1 purchase, sell, lend, assign, transfer, or dispose of any of the
2 securities and investments in which any of the moneys in the
3 fund shall have been invested as well as of the proceeds of said
4 investments and of any moneys belonging to said fund.

5 * * *

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

10 * * *

11 (G) DEPOSITS IN BANKS AND TRUST COMPANIES.--FOR THE PURPOSE <—
12 OF MEETING DISBURSEMENTS FOR ANNUITIES AND OTHER PAYMENTS IN
13 EXCESS OF THE RECEIPTS, THERE SHALL BE KEPT AVAILABLE BY THE
14 STATE TREASURER AN AMOUNT, NOT EXCEEDING 10% OF THE TOTAL AMOUNT
15 IN THE FUND, ON DEPOSIT IN ANY BANK [OR BANKS], SAVINGS BANK OR
16 SAVINGS AND LOAN ASSOCIATION IN THIS COMMONWEALTH ORGANIZED
17 UNDER THE LAWS THEREOF OR UNDER THE LAWS OF THE UNITED STATES OR
18 WITH ANY TRUST COMPANY OR COMPANIES INCORPORATED BY ANY LAW OF
19 THIS COMMONWEALTH, PROVIDED ANY OF SUCH BANKS [OR], TRUST
20 COMPANIES, SAVINGS BANKS OR SAVINGS AND LOAN ASSOCIATIONS SHALL
21 FURNISH ADEQUATE SECURITY FOR SAID DEPOSIT. THE SUM DEPOSITED IN
22 ANY ONE BANK OR TRUST COMPANY SHALL NOT EXCEED 25% OF THE PAID-
23 UP CAPITAL AND SURPLUS OF SAID BANK OR TRUST COMPANY, OR IN THE
24 CASE OF SAVINGS BANKS OR SAVINGS AND LOAN ASSOCIATIONS, SHALL
25 NOT EXCEED 25% OF THE UNAPPROPRIATED SURPLUS.

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

1 (j) whose shares are traded in United States dollars on the New
2 York Stock Exchange and American Stock Exchange shall be an
3 authorized investment of the fund, provided that they fulfill
4 certain guidelines in paragraph (1), regardless of any other
5 provisions of law provided that:

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

13 (2)] (1) in the case of any stock other than stock of a
14 bank or insurance company, the stock is listed or traded (or
15 if unlisted or not entitled to trading privileges shall be
16 eligible for listing and application for such listing shall
17 have been made) on the New York Stock Exchange or [any other
18 exchange approved by the Secretary of Banking;] American
19 Stock Exchange. No investment in the stock of corporations
20 not organized under the laws of the United States or of any
21 commonwealth or state thereof or of the District of Columbia
22 shall be made which would cause the book value of such
23 investment to exceed 5% of the book value of the total assets
24 of the fund. Shares of banks and insurance companies shall be
25 eligible for purchase whether or not traded on the New York
26 Stock Exchange. The shares of unlisted nonfinancial companies
27 shall be eligible for purchase provided such corporations
28 produce revenue of \$200,000,000 or more in their most recent
29 fiscal year end and have paid cash dividends for the past
30 five or more consecutive years;

1 [(3)] (2) no investment in common stock be made which at
2 that time would cause the book value of the investments in
3 common stock to exceed [25%] 50% of the total assets of the
4 fund;

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

10 [(5)] (3) the amount invested in the common stock of any
11 one company shall not exceed at cost 2% of the book value of
12 the assets of the fund at the time of purchase and shall not
13 exceed 5% of the issued and outstanding common stock of that
14 company; and

15 [(6)] (4) the percentage limitations of [paragraphs]
16 paragraph (3) [and (4)] shall not apply to the reinvestment
17 of funds realized from the sale or transfer of common stocks
18 and no sale or other liquidation of any investment shall be
19 required solely because of any change in market values
20 whereby the percentages of stocks set forth in this
21 subsection are exceeded.

22 * * *

23 (k) Investment in real estate and mortgages.--Real estate
24 [subject to a lease to one or more financially responsible
25 tenants which lease], whether direct or through pooled funds,
26 including but not limited to real estate which shall not require
27 managerial responsibility by the board; and bonds, notes and
28 deeds of trust, of individuals or corporations secured by
29 mortgages on real estate located in any state, district or
30 territory of the United States, shall be an authorized

1 investment of the board regardless of any other provision of
2 law. [The board shall promulgate regulations to implement the
3 foregoing to insure the safety of investments made pursuant to
4 this subsection which regulations shall be in accordance with
5 generally accepted standards and investment principles for
6 pension funds of comparable size.] All instruments, transfers of
7 interest, and all records pertaining to real estate, mortgages
8 or bonds invested in by the board, shall be open to public
9 inspection. [Reports as requested by the board, shall be
10 submitted on all real estate and mortgage investments by
11 mortgage advisors and correspondents.]

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

25 (m) Obligation of United States to be authorized
26 investments.--Regardless of any other provision of law,
27 obligations of the United States Government and its agencies
28 shall be authorized investments of the fund.

29 Section 4. This act shall take effect in 60 days.