

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 974 Session of
1993INTRODUCED BY SCHWARTZ, AFFLERBACH, JONES, LEWIS, REIBMAN,
FATTAH, HART AND DAWIDA, APRIL 22, 1993SENATOR FUMO, APPROPRIATIONS, RE-REPORTED AS AMENDED,
MAY 28, 1993

AN ACT

1 Amending Titles 24 (Education) and 71 (State Government) of the
2 Pennsylvania Consolidated Statutes, revising provisions
3 relating to investments of the Public School Employees'
4 Retirement Board and the State Employees' Retirement Board,
5 respectively; excepting such boards from terms, conditions,
6 limitations and restrictions imposed on other administrative
7 boards of the Commonwealth in making investments; and
8 adopting prudent-person rule in lieu of specific "legal list"
9 of authorized investments.

10 The General Assembly of the Commonwealth of Pennsylvania
11 hereby enacts as follows:

12 Section 1. Section 8521 of Title 24 of the Pennsylvania
13 Consolidated Statutes is amended to read:

14 § 8521. Management of fund and accounts.

15 (a) Control and management of fund.--The members of the
16 board shall be the trustees of the fund [and]. Regardless of any
17 other provision of law governing the investments of funds under
18 the control of an administrative board of the Commonwealth, the
19 trustees shall have exclusive control and management of the said
20 fund and full power to invest the same in accordance with the

1 provisions of this section, subject, however, to the exercise of
2 that degree of judgment and care under the circumstances then
3 prevailing which persons of prudence, discretion and
4 intelligence who are familiar with such matters exercise in the
5 management of their own affairs not in regard to speculation,
6 but in regard to the permanent disposition of the fund,
7 considering the probable income to be derived therefrom as well
8 as the probable safety of their capital[, and further subject to
9 all the terms, conditions, limitations, and restrictions imposed
10 by this part or other law upon the making of investments.
11 Subject to like terms, conditions, limitations, and
12 restrictions, said]. The trustees shall have the power to hold,
13 purchase, sell, lend, assign, transfer, or dispose of any of the
14 securities and investments in which any of the moneys in the
15 fund shall have been invested as well as of the proceeds of said
16 investments and of any moneys belonging to said fund, subject in
17 every case to meeting the standard of prudence set forth in this
18 subsection.

19 (b) Crediting of interest.--The board annually shall allow
20 statutory interest to the credit of the members' savings account
21 on the mean amount of the accumulated deductions of all members
22 for whom interest is payable for the preceding year and
23 valuation interest on the mean amount of the annuity reserve
24 account for the preceding year to the credit of that account.
25 The board annually shall allow valuation interest calculated on
26 the mean amount for the preceding year of the balance in the
27 State accumulation account excluding any earnings of the fund
28 credited to the account during that year. In the event the total
29 earnings for the year do not exceed 5 1/2% of the mean amount
30 for the preceding year of the total assets of the fund less

1 earnings credited to the fund during that year plus the
2 administrative expenses of the board, the difference required to
3 be appropriated from the General Fund shall be credited to the
4 State accumulation account.

5 (c) Custodian of fund.--The State Treasurer shall be the
6 custodian of the fund.

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

11 (e) Fiduciary status of board.--The members of the board,
12 employees of the board, and agents thereof shall stand in a
13 fiduciary relationship to the members of the system regarding
14 the investments and disbursements of any of the moneys of the
15 fund and shall not profit either directly or indirectly with
16 respect thereto. ~~In exercising its fiduciary duties hereunder,~~ <—
17 ~~including its obligation to invest and manage the fund for the~~
18 ~~exclusive benefit of the members of the system, the board may~~
19 ~~consider whether an investment in any project or business~~
20 ~~enhances and promotes the general welfare of the Commonwealth~~
21 ~~and its citizens, including, but not limited to, investments~~
22 ~~that increase and enhance the employment of Pennsylvania~~
23 ~~residents, encourage the construction and retention of adequate~~
24 ~~housing and stimulate further investment and economic activity~~
25 ~~in this Commonwealth.~~ THE BOARD MAY, WHEN POSSIBLE AND <—
26 CONSISTENT WITH ITS FIDUCIARY DUTIES IMPOSED BY THIS SUBSECTION
27 OR OTHER LAW, INCLUDING ITS OBLIGATION TO INVEST AND MANAGE THE
28 FUND FOR THE EXCLUSIVE BENEFIT OF THE MEMBERS OF THE SYSTEM,
29 CONSIDER WHETHER AN INVESTMENT IN ANY PROJECT OR BUSINESS
30 ENHANCES AND PROMOTES THE GENERAL WELFARE OF THE COMMONWEALTH

1 AND ITS CITIZENS, INCLUDING, BUT NOT LIMITED TO, INVESTMENTS
2 THAT INCREASE AND ENHANCE THE EMPLOYMENT OF PENNSYLVANIA
3 RESIDENTS, ENCOURAGE THE CONSTRUCTION AND RETENTION OF ADEQUATE
4 HOUSING AND STIMULATE FURTHER INVESTMENT AND ECONOMIC ACTIVITY
5 IN THIS COMMONWEALTH.

6 (f) Name for transacting business.--By the name of "The
7 Public School Employees' Retirement System" or "The Public
8 School Employes' Retirement System" all of the business of the
9 system shall be transacted, its fund invested, all requisitions
10 for money drawn and payments made, and all of its cash and
11 securities and other property shall be held, except that, any
12 other law to the contrary notwithstanding, the board may
13 establish a nominee registration procedure for the purpose of
14 registering securities in order to facilitate the purchase,
15 sale, or other disposition of securities pursuant to the
16 provisions of this part.

17 (g) Deposits in banks and trust companies.--For the purpose
18 of meeting disbursements for annuities and other payments in
19 excess of the receipts, there shall be kept available by the
20 State Treasurer an amount, not exceeding 10% of the total amount
21 in the fund, on deposit in any bank, savings bank or savings and
22 loan association in this Commonwealth organized under the laws
23 thereof or under the laws of the United States or with any trust
24 company or companies incorporated by any law of this
25 Commonwealth, provided any of such banks, trust companies,
26 savings banks or savings and loan associations shall furnish
27 adequate security for said deposit. The sum deposited in any one
28 bank or trust company shall not exceed 25% of the paid-up
29 capital and surplus of said bank or trust company or, in the
30 case of savings banks or savings and loan associations, shall

1 not exceed 25% of the unappropriated surplus.

2 [(h) Investment in corporate stocks.--Preferred and common
3 stock of any corporation organized under the laws of the United
4 States or of any commonwealth or state thereof or of the
5 District of Columbia and preferred and common stock as defined
6 in subsection (i) of any corporation as defined in subsection
7 (j) whose shares are traded in United States dollars on the New
8 York Stock Exchange and American Stock Exchange shall be an
9 authorized investment of the fund, provided that they fulfill
10 certain guidelines in paragraph (1), regardless of any other
11 provision of law provided that:

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

29 (2) no investment in common stock be made which at that
30 time would cause the book value of the investments in common

1 stock to exceed 50% of the total assets of the fund;

2 (3) the amount invested in the common stock of any one
3 company shall not exceed at cost 2% of the book value of the
4 assets of the fund at the time of purchase and shall not
5 exceed 5% of the issued and outstanding common stock of that
6 company; and

7 (4) the percentage limitations of paragraph (3) shall
8 not apply to the reinvestment of funds realized from the sale
9 or transfer of common stocks and no sale or other liquidation
10 of any investment shall be required solely because of any
11 change in market values whereby the percentages of stocks set
12 forth in this subsection are exceeded.

13 (i) Common stock defined.--"Common stock" as used in
14 subsection (h) shall include the stock certificates,
15 certificates of beneficial interests, or trust participation
16 certificates issued by any corporation or unincorporated
17 association included under the definition of "corporation" in
18 subsection (j).

19 (j) Corporation defined.--"Corporation" as used in
20 subsection (h) shall include a voluntary association, a joint-
21 stock association or company, a business trust, a Massachusetts
22 trust, a common-law trust, and any other organization organized
23 and existing for any lawful purpose and which like a
24 corporation, continues to exist, notwithstanding changes in the
25 personnel of its members or participants and conducts its
26 affairs through a committee, a board, or some other group acting
27 in a representative capacity.

28 (k) Investment in real estate and mortgages.--Real estate,
29 whether direct or through pooled funds, including but not
30 limited to real estate which shall not require managerial

1 responsibility by the board; and bonds, notes and deeds of
2 trust, of individuals or corporations secured by mortgages on
3 real estate located in any state, district or territory of the
4 United States, shall be an authorized investment of the board
5 regardless of any other provision of law. All instruments,
6 transfers of interest, and all records pertaining to real
7 estate, mortgages or bonds invested in by the board, shall be
8 open to public inspection.

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

22 (m) Obligations of United States to be authorized
23 investments.--Regardless of any other provision of law,
24 obligations of the United States Government and its agencies
25 shall be authorized investments of the fund.

26 (n) Vehicles for authorized investments.--The board may make
27 any investments authorized in this part or other law by becoming
28 a limited partner in partnerships that will hold such
29 investments, or by acquiring shares or units of participation or
30 otherwise participating beneficially in bank collective trusts

1 or in separate accounts of any insurance company authorized to
2 do business in this Commonwealth, or by acquiring stocks or
3 shares or units of participation or otherwise participating
4 beneficially in the fund of any corporation or trust organized
5 or existing under the laws of the United States or of any state,
6 district or territory thereof which fund is maintained for and
7 consists of assets of employees' benefit trusts (including
8 governmental plans as defined in section 414(d) of the Internal
9 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 414(d)), as
10 from time to time amended) which meet the requirements for
11 qualification under section 401 of the Internal Revenue Code of
12 1986; provided that, in any such case, the liability of the
13 Public School Employees' Retirement Fund shall be limited to the
14 amount of its investment. In the case of authorized investments
15 in real estate or interests therein, the board's acquisition of
16 the stock or shares of or its other participation beneficially
17 in the fund or any such vehicle (including any entity organized
18 and maintained as a vehicle for an investment or investments of
19 the board exclusively) shall not be deemed an investment in the
20 common stock as defined in subsection (i) of any corporation as
21 defined in subsection (j) for the purposes of any limitation on
22 investment in corporate stocks set forth in subsection (h).

23 (o)] (h) Venture capital.--[The provisions of subsection (l)
24 notwithstanding, venture] Venture capital investments [made
25 through limited partnerships and through separate accounts]
26 shall be limited to not more than 2% of the book value of the
27 total assets of the fund as determined for financial statement
28 purposes as of June 30 next preceding the date of investment. [A
29 venture capital investment shall be made only if such investment
30 will enhance the general welfare of this Commonwealth and its

1 citizens through economic development and meets the standard of
2 prudence set forth in subsection (1)]. An investment shall be
3 deemed a venture capital investment if it results in the
4 acquisition of equity interests or a combination of debt and
5 equity interests in a business which is expected to grow
6 substantially in the future and in which the expected return on
7 investment is to come predominantly from an increase in value of
8 the equity [interest and that are not held through or secured by
9 stock that is an authorized investment under the authority of
10 subsection (h)] interests and are not interests in or secured by
11 real estate. A venture capital investment may be made only if,
12 in the judgment of the board, the investment is reasonably
13 likely to enhance the general welfare of this Commonwealth and
14 its citizens and meets the standard of prudence set forth in
15 subsection (a). In determining whether the investment meets the
16 standard of prudence, the board may consider, together with the
17 expected return on and the risk characteristics of the
18 particular investment, the actual and expected further returns
19 and the risk characteristics of the total venture capital
20 investments held by the board at the time and the degree to
21 which proposed new investment would promote further
22 diversification within the venture capital asset class.

23 (i) Vehicles for authorized investments.--The board in its
24 prudent discretion may make any investments which meet the
25 standard of prudence set forth in subsection (a) by becoming a
26 limited partner in partnerships that will hold such investments,
27 or by acquiring shares or units of participation or otherwise
28 participating beneficially in bank collective trusts or in the
29 separate accounts of any insurance company authorized to do
30 business in this Commonwealth, or by acquiring stocks or shares

1 or units of participation or otherwise participating
2 beneficially in the fund of any corporation or trust organized
3 or existing under the laws of the United States or of any state,
4 district or territory thereof which fund is maintained for and
5 consists of assets of employees' benefit trusts, including
6 governmental plans as defined in section 414(d) of the Internal
7 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 414(d)), as
8 from time to time amended, which meet the requirements for
9 qualification under section 401 of the Internal Revenue Code of
10 1986 (Public Law 99-514, 26 U.S.C. § 401), provided that, in any
11 such case, the liability of the fund shall be limited to the
12 amount of its investment.

13 (j) Legislative declaration concerning certain authorized
14 investments.--The General Assembly finds and declares that
15 authorized investments of the fund, made by or in behalf of the
16 board pursuant to this section whereby the board becomes a joint
17 owner or stockholder in any company, corporation or association,
18 are outside the scope of the original intent of, and therefor do
19 not violate the prohibition set forth in section 8 of Article
20 VIII of the Constitution of Pennsylvania.

21 Section 2. Section 5931 of Title 71 is amended to read:
22 § 5931. Management of fund and accounts.

23 (a) Control and management of fund.--The members of the
24 board shall be the trustees of the fund [and]. Regardless of any
25 other provision of law governing the investments of funds under
26 the control of an administrative board of the Commonwealth, the
27 trustees shall have exclusive control and management of the said
28 fund and full power to invest the same in accordance with the
29 provisions of this section, subject, however, to the exercise of
30 that degree of judgment, skill and care under the circumstances

1 then prevailing which persons of prudence, discretion and
2 intelligence, who are familiar with such matters, exercise in
3 the management of their own affairs not in regard to
4 speculation, but in regard to the permanent disposition of the
5 funds, considering the probable income to be derived therefrom
6 as well as the probable safety of their capital[, and further
7 subject to all the terms, conditions, limitations and
8 restrictions imposed by this part or other law upon the making
9 of investments. The board shall, when possible and consistent
10 with the terms, conditions, limitations, responsibilities and
11 restrictions imposed by this subsection or other law, invest in
12 any project or business which promotes employment of
13 Pennsylvania residents. Subject to like terms, conditions,
14 limitations and restrictions, said]. The trustees shall have the
15 power to hold, purchase, sell, lend, assign, transfer or dispose
16 of any of the securities and investments in which any of the
17 moneys in the fund shall have been invested as well as of the
18 proceeds of said investments and of any moneys belonging to said
19 fund, subject in every case to meeting the standard of prudence
20 set forth in this subsection.

21 (b) Crediting of interest.--The board, annually, shall allow
22 the required interest on the mean amount for the preceding year
23 to the credit of each of the accounts. The amount so allowed
24 shall be credited thereto by the board and transferred from the
25 interest reserve account.

26 (c) Custodian of fund.--The State Treasurer shall be the
27 custodian of the fund.

28 (d) Payments from fund.--All payments from the fund shall be
29 made by the State Treasurer in accordance with requisitions
30 signed by the secretary of the board, or his designee, and

1 ratified by resolution of the board.

2 (e) Fiduciary status of board.--The members of the board,
3 employees of the board and agents thereof shall stand in a
4 fiduciary relationship to the members of the system regarding
5 the investments and disbursements of any of the moneys of the
6 fund and shall not profit either directly or indirectly with
7 respect thereto. ~~In exercising its fiduciary duties hereunder,~~ <—
8 ~~including its obligation to invest and manage the fund for the~~
9 ~~exclusive benefit of the members of the system, the board may~~
10 ~~consider whether an investment in any project or business~~
11 ~~enhances and promotes the general welfare of the Commonwealth~~
12 ~~and its citizens, including, but not limited to, investments~~
13 ~~that increase and enhance the employment of Pennsylvania~~
14 ~~residents, encourage the construction and retention of adequate~~
15 ~~housing and stimulate further investment and economic activity~~
16 ~~in this Commonwealth.~~ THE BOARD MAY, WHEN POSSIBLE AND <—
17 CONSISTENT WITH ITS FIDUCIARY DUTIES IMPOSED BY THIS SUBSECTION
18 OR OTHER LAW, INCLUDING ITS OBLIGATION TO INVEST AND MANAGE THE
19 FUND FOR THE EXCLUSIVE BENEFIT OF THE MEMBERS OF THE SYSTEM,
20 CONSIDER WHETHER AN INVESTMENT IN ANY PROJECT OR BUSINESS
21 ENHANCES AND PROMOTES THE GENERAL WELFARE OF THE COMMONWEALTH
22 AND ITS CITIZENS, INCLUDING, BUT NOT LIMITED TO, INVESTMENTS
23 THAT INCREASE AND ENHANCE THE EMPLOYMENT OF PENNSYLVANIA
24 RESIDENTS, ENCOURAGE THE CONSTRUCTION AND RETENTION OF ADEQUATE
25 HOUSING AND STIMULATE FURTHER INVESTMENT AND ECONOMIC ACTIVITY
26 IN THIS COMMONWEALTH.

27 (f) Name for transacting business.--By the name of "The
28 State Employees' Retirement System" or "The State Employees'
29 Retirement System" all of the business of the system shall be
30 transacted, its fund invested, all requisitions for money drawn

1 and payments made, and all of its cash and securities and other
2 property shall be held, except that, any other law to the
3 contrary notwithstanding, the board may establish a nominee
4 registration procedure for the purpose of registering securities
5 in order to facilitate the purchase, sale or other disposition
6 of securities pursuant to the provisions of this law.

7 (g) Deposits in banks and trust companies.--For the purpose
8 of meeting disbursements for annuities and other payments in
9 excess of the receipts, there shall be kept available by the
10 State Treasurer an amount, not exceeding 10% of the total amount
11 in the fund, on deposit in any bank or banks in this
12 Commonwealth organized under the laws thereof or under the laws
13 of the United States or with any trust company or companies
14 incorporated by any law of this Commonwealth, provided any of
15 such banks or trust companies shall furnish adequate security
16 for said deposit, and provided that the sum so deposited in any
17 one bank or trust company shall not exceed 25% of the paid-up
18 capital and surplus of said bank or trust company.

19 [(h) Investment in corporate stocks.--Preferred and common
20 stock as defined in subsection (i) of any corporation as defined
21 in subsection (j) organized under the laws of the United States
22 or of any commonwealth or state thereof or of the District of
23 Columbia and preferred and common stock as defined in subsection
24 (i) of any corporation as defined in subsection (j) whose shares
25 are traded in United States dollars on the New York Stock
26 Exchange shall be authorized investments of the fund, regardless
27 of any other provision of law provided that:

28 (1) no investment in common stock be made which at that
29 time would cause the book value of the investments in common
30 stock to exceed 50% of the total assets of the fund;

1 (2) the amount invested in the common stock of any one
2 company not exceed at cost 2% of the book value of the assets
3 of the fund at the time of purchase and shall not exceed 5%
4 of the issued and outstanding common stock of that company;

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

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

15 (i) Common stock defined.--"Common stock" as used in
16 subsection (h) shall include the stock certificates,
17 certificates of beneficial interests or trust participation
18 certificates issued by any corporation or unincorporated
19 association included under the definition of "corporation" in
20 the following paragraph.

21 (j) Corporation defined.--"Corporation" as used in
22 subsection (h) shall include a voluntary association, a joint-
23 stock association or company, a business trust, a Massachusetts
24 trust, a common-law trust and any other organization organized
25 and existing for any lawful purpose and which like a
26 corporation, continues to exist, notwithstanding changes in the
27 personnel of its members or participants and conducts its
28 affairs through a committee, a board or some other group acting
29 in a representative capacity.

30 (k) Investment in real estate and mortgages.--Real estate

1 subject to a lease to one or more financially responsible
2 tenants which lease shall not require managerial responsibility
3 by the board; and bonds, notes and deeds of trust, of
4 individuals or corporations secured by mortgages on real estate
5 located in any state, district or territory of the United
6 States, shall be an authorized investment of the board
7 regardless of any other provision of law. The board shall
8 promulgate regulations to implement the foregoing to insure the
9 safety of investments made pursuant to this subsection which
10 regulations shall be in accordance with generally accepted
11 standards and investment principles for pension funds of
12 comparable size. All instruments, transfers of interest, and all
13 records pertaining to real estate, mortgages or bonds invested
14 in by the board, shall be open to public inspection. Reports as
15 requested by the board, shall be submitted on all real estate
16 and mortgage investments by mortgage advisors and
17 correspondents.

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

23 (m) Additional board power on investments.--Regardless of
24 any limitations, conditions or restrictions imposed on the
25 making of investments by this part or other law, the board may,
26 at its discretion, invest a maximum of 10% of the book value of
27 the assets of the fund in any investments not otherwise
28 specifically authorized, provided that such investments are made
29 with the exercise of that degree of judgment, skill and care
30 under the circumstances then prevailing which persons of

1 prudence, discretion and intelligence, who are familiar with
2 such matters, exercise in the management of their own affairs
3 not in regard to speculation, but in regard to the permanent
4 disposition of the funds, considering the probable income to be
5 derived therefrom as well as the probable safety of their
6 capital.

7 (n) Obligations of United States to be authorized
8 investments.--Regardless of any other provision of law,
9 obligations of the United States Government and its agencies
10 shall be authorized investments of the fund.

11 (o) Holding entities for authorized investments.--The board
12 may make any investments authorized by this part or other law by
13 becoming a limited partner in partnerships that will hold such
14 investments, or by acquiring shares or units of participation or
15 otherwise participating beneficially in bank collective trusts
16 or in separate accounts of any insurance company authorized to
17 do business in this Commonwealth, or by acquiring stocks or
18 shares or units of participation or otherwise participating
19 beneficially in the fund of any corporation or trust organized
20 or existing under the laws of the United States or of any state,
21 district or territory thereof which fund is maintained for and
22 consists of assets of employees' benefit trusts, including
23 governmental plans as defined in section 414(d) of the Internal
24 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 414(d)), or
25 which meet the requirements for qualification under section 401
26 of the Internal Revenue Code of 1986, provided that, in any such
27 case, the liability of the State Employees' Retirement Fund
28 shall be limited to the amount of its investment. In the case of
29 authorized investments in real estate or interests therein, the
30 board's acquisition of the stock or shares of or its other

1 participation beneficially in the fund of any such vehicle,
2 including any entity organized and maintained as a vehicle for
3 an investment or investments of the board exclusively, shall not
4 be deemed an investment in the common stock as defined in
5 subsection (i) of any corporation as defined in subsection (j)
6 for the purposes of any limitation on investment in corporate
7 stocks set forth in subsection (h). Nothing in this subsection
8 shall be deemed to supersede the limitation on investment in
9 institutional real estate funds as set forth in subsection (l).

10 (p)] (h) Venture capital.--[The provisions of subsection (m)
11 notwithstanding, venture] Venture capital investments [made
12 through limited partnerships and through separate accounts]
13 shall be limited to not more than 2% of the book value of the
14 total assets of the fund as determined for financial statement
15 purposes as of December 31 next preceding the date of
16 investment. [A venture capital investment shall be made only if
17 such investment will enhance the general welfare of this
18 Commonwealth and its citizens through economic development and
19 meets the standard of prudence set forth in subsection (m).] An
20 investment shall be deemed a venture capital investment if it
21 results in the acquisition of equity interests or a combination
22 of debt and equity interests in a business which is expected to
23 grow substantially in the future and in which the expected
24 return on investment is to come predominantly from an increase
25 in value of the equity [interest and that are not held through
26 or secured by stock that is an authorized investment under the
27 authority of subsection (h)] interests and are not interests in
28 or secured by real estate. A venture capital investment may be
29 made only if, in the judgment of the board, the investment is
30 reasonably likely to enhance the general welfare of this

Commonwealth and its citizens and meets the standard of prudence set forth in subsection (a). In determining whether the investment meets the standard of prudence, the board may consider, together with the expected return on and the risk characteristics of the particular investment, the actual and expected further returns and the risk characteristics of the total venture capital investments held by the board at the time and the degree to which the proposed new investment would promote further diversification within the venture capital asset class.

(i) Vehicles for authorized investments.--The board in its prudent discretion may make any investments which meet the standard of prudence set forth in subsection (a) by becoming a limited partner in partnerships that will hold such investments, or by acquiring shares or units of participation or otherwise participating beneficially in bank collective trusts or in the separate accounts of any insurance company authorized to do business in this Commonwealth, or by acquiring stocks or shares or units of participation or otherwise participating beneficially in the fund of any corporation or trust organized or existing under the laws of the United States or of any state, district or territory thereof which fund is maintained for and consists of assets of employees' benefit trusts, including governmental plans as defined in section 414(d) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 414(d)), as from time to time amended, which meet the requirements for qualification under section 401 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 401), provided that, in any such case, the liability of the Public School Employees' Retirement Fund shall be limited to the amount of its

1 investment.

2 (j) Legislative declaration concerning certain authorized
3 investments.--The General Assembly finds and declares that
4 authorized investments of the fund make by or in behalf of the
5 board pursuant to this section whereby the board becomes a joint
6 owner or stockholder in any company, corporation or association
7 are outside the scope of the original intent of, and therefor do
8 not violate the prohibition set forth in section 8 of Article
9 VIII of the Constitution of Pennsylvania.

10 Section 3. The provisions of section 7 of the act of July 9,
11 1981 (P.L.208, No.66), known as the Public Employee Retirement
12 Commission Act, shall not apply to this act.

13 Section 4. This act shall take effect as follows:

14 (1) Except as provided in paragraph (2), this act shall
15 take effect immediately.

16 (2) Notwithstanding paragraph (1), any and all
17 investments of the Public School Employees' Retirement Board
18 and of the State Employees' Retirement Board, respectively,
19 which on the effective date of this act are owned or held
20 through a vehicle as described in 24 Pa.C.S. § 8521(i)
21 (relating to management of fund and accounts) or 71 Pa.C.S §
22 5931(i) (relating to management of fund and accounts), as
23 applicable, shall be deemed to have been lawfully made
24 through such vehicle at inception.