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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**SENATE BILL**

**No. 1297** Session of  
2008

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INTRODUCED BY BROWNE, WOZNIAK, RAFFERTY, M. WHITE, FONTANA,  
WAUGH, TOMLINSON, C. WILLIAMS, FUMO, EARLL, BAKER,  
WONDERLING, MUSTO, COSTA, PIPPY, RHOADES, ARMSTRONG AND  
WASHINGTON, FEBRUARY 26, 2008

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AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,  
AS AMENDED, JUNE 24, 2008

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AN ACT

1 Amending the act of April 9, 1929 (P.L.343, No.176), entitled,  
2 as amended, "An act relating to the finances of the State  
3 government; providing for the settlement, assessment,  
4 collection, and lien of taxes, bonus, and all other accounts  
5 due the Commonwealth, the collection and recovery of fees and  
6 other money or property due or belonging to the Commonwealth,  
7 or any agency thereof, including escheated property and the  
8 proceeds of its sale, the custody and disbursement or other  
9 disposition of funds and securities belonging to or in the  
10 possession of the Commonwealth, and the settlement of claims  
11 against the Commonwealth, the resettlement of accounts and  
12 appeals to the courts, refunds of moneys erroneously paid to  
13 the Commonwealth, auditing the accounts of the Commonwealth  
14 and all agencies thereof, of all public officers collecting  
15 moneys payable to the Commonwealth, or any agency thereof,  
16 and all receipts of appropriations from the Commonwealth,  
17 authorizing the Commonwealth to issue tax anticipation notes  
18 to defray current expenses, implementing the provisions of  
19 section 7(a) of Article VIII of the Constitution of  
20 Pennsylvania authorizing and restricting the incurring of  
21 certain debt and imposing penalties; affecting every  
22 department, board, commission, and officer of the State  
23 government, every political subdivision of the State, and  
24 certain officers of such subdivisions, every person,  
25 association, and corporation required to pay, assess, or  
26 collect taxes, or to make returns or reports under the laws  
27 imposing taxes for State purposes, or to pay license fees or  
28 other moneys to the Commonwealth, or any agency thereof,  
29 every State depository and every debtor or creditor of the  
30 Commonwealth," further providing for the expiration of

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1 provisions relating to prudent investments; providing for  
2 INVESTMENT POLICY, FOR ANNUAL INVESTMENT REPORT, FOR  
3 SEGREGATION OF DUTIES AND FOR audit of securities deposited  
4 with State Treasurer; in disposition of abandoned and  
5 unclaimed property, further providing for judicial action  
6 upon determination; and making a related repeal.

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

9 Section 1. Section 301.1(i) of the act of April 9, 1929  
10 (P.L.343, No.176), known as The Fiscal Code, amended November 9,  
11 2006 (P.L.1335, No.138), is amended to read:

12 Section 301.1. Investment of Moneys.--\* \* \*

13 (i) (1) Notwithstanding subsections (a) through (h), the  
14 Treasury Department shall have the exclusive management and full  
15 power to invest and reinvest the moneys of any fund as shall be  
16 accumulated beyond the ordinary needs of the various funds and  
17 which are not authorized by law to be invested by any board,  
18 commission or State officer, subject, however, to the exercise  
19 of that degree of judgment and care under the circumstances then  
20 prevailing which persons of prudence, discretion and  
21 intelligence who are familiar with such matters exercise in the  
22 management of their own affairs not in regard to speculation but  
23 in regard to the permanent disposition of the funds, considering  
24 the probable income to be derived therefrom as well as the  
25 probable safety of their capital. The Treasury Department shall  
26 have the power to hold, purchase, sell, assign, transfer and  
27 dispose of any securities, including equity securities and  
28 mutual funds consisting in whole or in part of equity  
29 securities, and investments in any such fund as well as the  
30 proceeds of such investments and of the money belonging to any  
31 such fund. The Treasury Department shall, through the Governor,  
32 submit to the General Assembly annually, at the same time the

1 Treasury Department submits its budget covering administrative  
2 expenses, a report identifying the nature and amount of all  
3 existing investments made pursuant to this section.

4 (2) The authority to invest or reinvest the moneys of any  
5 fund pursuant to this subsection shall expire [December 31,  
6 2008] December 31, 2010. The Treasury Department may maintain  
7 investments pursuant to this subsection which are in existence  
8 on the expiration date in this paragraph for not more than two  
9 years following such expiration date.

10 Section 2. The act is amended by adding ~~a section~~ SECTIONS ←  
11 to read:

12 SECTION 301.2. INVESTMENT POLICY.--THE STATE TREASURER SHALL ←  
13 MAINTAIN AN INVESTMENT POLICY. THE INVESTMENT POLICY SHALL  
14 INCLUDE PROVISIONS ON GENERAL INVESTMENT PRINCIPLES INCLUDING  
15 ASSET ALLOCATION, LIQUIDITY AND OPERATIONAL CASH MANAGEMENT  
16 REQUIREMENTS, PROHIBITED INVESTMENT ACTIVITY, INVESTMENT  
17 PERFORMANCE REVIEW AND ANY OTHER ITEM THAT THE STATE TREASURER  
18 MAY INCLUDE. THE STATE TREASURER SHALL REVIEW AND IF NECESSARY  
19 UPDATE THE INVESTMENT POLICY AT LEAST ANNUALLY. THE TREASURY  
20 DEPARTMENT SHALL POST, MAINTAIN AND UPDATE THE INVESTMENT POLICY  
21 AS NECESSARY ON ITS PUBLICLY ACCESSIBLE INTERNET WEBSITE.

22 SECTION 301.3. ANNUAL INVESTMENT REPORT.--BY NOVEMBER 30,  
23 2008, AND ANNUALLY THEREAFTER, THE STATE TREASURER SHALL SUBMIT  
24 A REPORT TO THE GOVERNOR AND TO THE CHAIR AND MINORITY CHAIR OF  
25 THE APPROPRIATIONS COMMITTEE OF THE SENATE, THE CHAIR AND  
26 MINORITY CHAIR OF THE FINANCE COMMITTEE OF THE SENATE, THE CHAIR  
27 AND MINORITY CHAIR OF THE APPROPRIATIONS COMMITTEE OF THE HOUSE  
28 OF REPRESENTATIVES AND THE CHAIR AND MINORITY CHAIR OF THE HOUSE  
29 OF REPRESENTATIVES. THE REPORT SHALL COVER THE PERIOD CONSISTING  
30 OF THE MOST RECENTLY ENDED FISCAL YEAR. THE REPORT SHALL PROVIDE

1 OF THE FOLLOWING:

2 (1) AN ANALYSIS OF THE STATUS AND PERFORMANCE OF THE CURRENT  
3 INVESTMENTS AND TRANSACTIONS MADE OVER THE LAST FISCAL YEAR.

4 (2) TARGETED ASSET ALLOCATION AND ACTUAL ASSET ALLOCATION ON  
5 SEPTEMBER 30, DECEMBER 31, MARCH 31 AND JUNE 30 OF THE PREVIOUS  
6 FISCAL YEAR.

7 (3) THE STANDARDS AND MEASURES OF INVESTMENT PERFORMANCE,  
8 INCLUDING BENCHMARKS FOR EACH ASSET CLASS.

9 (4) RETURN FOR EACH ASSET CLASS INCLUDING A BREAKDOWN OF THE  
10 RETURN VERSUS THE TARGETED BENCHMARK CALCULATED NET OF FEES.

11 (5) A LIST OF EXTERNAL MANAGERS INCLUDING WHETHER THE  
12 MANAGER WAS SELECTED THROUGH COMPETITIVE BID OR AS A SOLE SOURCE  
13 SELECTION, THE PRINCIPALS AND KEY STAFF OF THE MANAGER, THE DATE  
14 OF THE MANAGER'S HIRE, THE AMOUNT OF FEES RECEIVED BY THE  
15 MANAGER IN THE PREVIOUS FISCAL YEAR AND THE RETURN ON THE  
16 MANAGER'S PORTFOLIO VERSES THEIR TARGETED BENCHMARK.

17 (6) BROKERAGE FEES.

18 (7) SECURITIES LENDING INFORMATION.

19 (8) PROXY VOTING INFORMATION.

20 (9) INFORMATION ON SECURITIES LITIGATION.

21 SECTION 301.4. SEGREGATION OF DUTIES.--A PERSON THAT  
22 PROVIDES FINANCIAL SERVICES TO THE TREASURY DEPARTMENT AS AN  
23 INVESTMENT ADVISOR MAY NOT HAVE AN INTEREST IN AN ENTITY THAT  
24 PROVIDES INVESTMENT MANAGEMENT SERVICES OR BENEFIT IN ANY MANNER  
25 FROM INVESTMENT ACTIONS BY THE TREASURY DEPARTMENT. A VIOLATION  
26 OF THIS SECTION SHALL CONSTITUTE A MISDEMEANOR OF THE THIRD  
27 DEGREE.

28 Section 409. Audit of Securities Deposited with State  
29 Treasurer.--(a) The Auditor General, through such agents as he  
30 may select, shall perform an annual audit of the bonds, stocks,

1 mortgages, or other securities, which are deposited with the  
2 State Treasurer in whatever capacity, and shall audit the books  
3 in which a record is kept of such bonds, stocks, mortgages, or  
4 other securities; and, for this purpose, the Auditor General may  
5 employ such consultants, experts, accountants, or investigators  
6 as he may deem advisable. The audit may be conducted  
7 independently or as part of any other annual audit or audits  
8 conducted by the Auditor General.

9 (b) The State Treasurer shall, whenever demand is made upon  
10 him by the Auditor General, submit for the audit of the Auditor  
11 General, or his agents, all records in his possession relating  
12 to such bonds, stocks, mortgages, or other securities, including  
13 such records in the possession of any custodian or subcustodian  
14 engaged by him regarding such securities, and his failure so to  
15 do shall disqualify him from holding the office of State  
16 Treasurer.

17 Section 3. Section 1301.21 of the act, amended June 29, 2002  
18 (P.L.614, No.91), is amended to read:

19 Section 1301.21. Judicial Action upon Determinations.--[Any  
20 person aggrieved by a decision of the State Treasurer, or as to  
21 whose claim the State Treasurer has failed to act within ninety  
22 (90) days after the filing of the claim, may commence an action  
23 in the Commonwealth Court to establish his claim. The proceeding  
24 shall be brought within thirty (30) days after the decision of  
25 the State Treasurer or within one hundred twenty (120) days from  
26 the filing of the claim if the State Treasurer fails to act. The  
27 action shall be tried de novo without a jury.] (a) Any person  
28 aggrieved by a decision of the State Treasurer may appeal to the  
29 Commonwealth Court. The appeal shall be filed within thirty (30)  
30 days after the decision of the State Treasurer. The case shall

1 be heard in Commonwealth Court's appellate jurisdiction.

2 (b) Any person as to whose claim the State Treasurer has  
3 failed to take action within ninety (90) days after the filing  
4 of the claim, may commence an action in the Commonwealth Court  
5 to establish his claim within one hundred twenty (120) days from  
6 the filing of the claim. The action shall be tried de novo  
7 without a jury.

8 Section 4. Repeals are as follows:

9 (1) The General Assembly declares that the repeal under  
10 paragraph (2) is necessary to effectuate the addition of  
11 section 409 of the act.

12 (2) The act of May 21, 1923 (P.L.288, No.184), entitled  
13 "An act to better secure all bonds, stocks, mortgages, or  
14 other securities deposited with the State Treasurer, by  
15 providing for their inspection, examination, and  
16 verification, and the verification of the books, containing a  
17 record of such bonds, stocks, mortgages, or other securities,  
18 by the Auditor General or his agents," is repealed.

19 Section 5. This act shall take effect immediately.