

## No. 1982-183

## AN ACT

## SB 1384

Amending Title 24 (Education) of the Pennsylvania Consolidated Statutes, further providing for membership on the Public School Employees' Retirement Board, further providing for professional personnel, expenses, independent audits and the management of the fund and accounts.

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

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

§ 8501. Public School Employees' Retirement Board.

(a) Status and membership.—The board shall be an independent administrative board and shall consist of **[11] 15** members: the Secretary of Education, ex officio; the State Treasurer, ex officio; *two Senators; two members of the House of Representatives*; the executive secretary of the Pennsylvania School Boards Association, ex officio; two to be appointed by the Governor, at least one of whom shall not be a school employee or an officer or employee of the State; three to be elected by the active professional members of the system from among their number; one to be elected by annuitants from among their number; one to be elected by the active nonprofessional members of the system from among their number; and one to be elected by members of Pennsylvania public school boards from among their number. The appointments made by the Governor shall be confirmed by the Senate and each election shall be conducted in a manner approved by the board. The terms of the appointed and *nonlegislative* elected members shall be three years. *The members from the Senate shall be appointed by the President pro tempore of the Senate and shall consist of one member from the majority and one member from the minority. The members from the House of Representatives shall be appointed by the Speaker of the House of Representatives and shall consist of one member from the majority and one member from the minority. The legislative members shall serve on the board for the duration of the terms for which they were elected and shall not vote on any measure.* The chairman of the board shall be elected by the board members. Each ex officio member of the board may appoint a duly authorized designee to act in his stead.

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Section 2. Subsections (b) and (c) of section 8502 of Title 24 are amended and a subsection is added to read:

§ 8502. Administrative duties of board.

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(b) Professional personnel.—The board shall contract for the services of a chief medical examiner, an actuary, **[an investment counselor] investment advisors, counselors, an investment coordinator**, and such other professional personnel as 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]**.

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

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

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(g) Deposits in banks and trust companies.—For the purpose of meeting disbursements for annuities and other payments in excess of the receipts, there shall be kept available by the State Treasurer an amount, not exceeding 10% of the total amount in the fund, on deposit in any bank **[or banks]**, *savings bank or savings and loan association* in this Commonwealth organized under the laws thereof or under the laws of

the United States or with any trust company or companies incorporated by any law of this Commonwealth, provided any of such banks [or], trust companies, *savings banks or savings and loan associations* shall furnish adequate security for said deposit. The sum deposited in any one bank or trust company shall not exceed 25% of the paid-up capital and surplus of said bank or trust company *or, in the case of savings banks or savings and loan associations, shall not exceed 25% of the unappropriated surplus.*

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

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

**(2)] (1) in the case of any stock other than stock of a bank or insurance company, the stock is listed or traded (or if unlisted or not entitled to trading privileges shall be 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 of funds realized from the sale or transfer of common stocks and no sale or other liquidation of any investment shall be required solely because of any change in market values whereby the percentages of stocks set forth in this subsection are exceeded.

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(k) Investment in real estate and mortgages.—Real estate [subject to a lease to one or more financially responsible tenants which lease], *whether direct or through pooled funds, including but not limited to real estate which* shall not require managerial responsibility by the board; and bonds, notes and deeds of trust, of individuals or corporations secured by mortgages on real estate located in any state, district or territory of the United States, shall be an authorized investment of the board regardless of any other provision of law. [The board shall promulgate regulations to implement the foregoing to insure the safety of investments made pursuant to this subsection which regulations shall be in accordance with generally accepted standards and investment principles for pension funds of comparable size.] All instruments, transfers of interest, and all records pertaining to real estate, mortgages or bonds invested in by the board, shall be open to public inspection. [Reports as requested by the board, shall be submitted on all real estate and mortgage investments by mortgage advisors and correspondents.]

(l) *Additional board power on investments.—Regardless of any limitations, conditions or restrictions imposed on the making of investments by this part or other law, the board may, at its discretion, invest a maximum of 10% of the book value of the assets of the fund in any investments not otherwise specifically authorized, provided that such investments are made with the exercise of that degree of judgment and care under the 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.*

(m) *Obligations of United States to be authorized investments.—Regardless of any other provision of law, obligations of the United States Government and its agencies shall be authorized investments of the fund.*

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

APPROVED—The 25th day of June, A. D. 1982.

DICK THORNBURGH