

# SENATE BILL No. 171

March 25, 1987, Introduced by Senators DE GROW, VAUGHN, CHERRY,  
ARTHURHULTZ, CONROY, FAUST, J. HART, MILLER, KELLY, EHLERS and  
POLLACK and referred to the Committee on Judiciary.

A bill to amend the title of Act No. 314 of the Public Acts  
of 1965, entitled as amended

"An act to authorize the investment of assets of public employee  
retirement systems or plans created and established by the state  
or any political subdivision; to provide for the payment of cer-  
tain costs and investment expenses; to authorize investment in  
variable rate interest loans; to define and limit the investments  
which may be made by an investment fiduciary with the assets of a  
public employee retirement system; and to impose duties on an  
investment fiduciary,"

as amended, being sections 38.1132 to 38.1140h of the Michigan  
Compiled Laws; and to add section 13b.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. The title of Act No. 314 of the Public Acts of  
2 1965, as amended, being sections 38.1132 to 38.1140h of the  
3 Michigan Compiled Laws, is amended and section 13b is added to  
4 read as follows:

## TITLE

1  
2 An act to authorize the investment of assets of public  
3 employee retirement systems or plans created and established by  
4 the state or any political subdivision; to provide for the pay-  
5 ment of certain costs and investment expenses; to authorize  
6 investment in variable rate interest loans; to define and limit  
7 the investments which may be made by an investment fiduciary with  
8 the assets of a public employee retirement system; and to impose  
9 duties on an investment fiduciary AND CERTAIN STATE OFFICERS AND  
10 AGENCIES.

11 SEC. 13B. (1) AS USED IN THIS SECTION:

12 (A) "NATIONAL CORPORATION OF SOUTH AFRICA" MEANS A CORPORA-  
13 TION, OR A SUBSIDIARY OR AFFILIATE OF A CORPORATION, THAT IS MORE  
14 THAN 50% OWNED OR OPERATED BY THE GOVERNMENT OF SOUTH AFRICA.

15 (B) "SOUTH AFRICA" INCLUDES THE REPUBLIC OF SOUTH AFRICA;  
16 ANY TERRITORY UNDER THE ADMINISTRATION, LEGAL OR ILLEGAL, OF THE  
17 REPUBLIC OF SOUTH AFRICA; AND BANTUSTANS OR HOMELANDS TO WHICH  
18 SOUTH AFRICAN BLACKS ARE ASSIGNED ON THE BASIS OF ETHNIC ORIGIN.

19 (2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, AN  
20 INVESTMENT FIDUCIARY FOR THE MICHIGAN LEGISLATIVE RETIREMENT  
21 SYSTEM CREATED BY THE MICHIGAN LEGISLATIVE RETIREMENT SYSTEM ACT,  
22 ACT NO. 261 OF THE PUBLIC ACTS OF 1957, BEING SECTIONS 38.1001 TO  
23 38.1060 OF THE MICHIGAN COMPILED LAWS, THE FIREMEN AND POLICEMEN  
24 PENSIONS SYSTEM CREATED IN ACT NO. 345 OF THE PUBLIC ACTS OF  
25 1937, BEING SECTIONS 38.551 TO 38.562 OF THE MICHIGAN COMPILED  
26 LAWS, THE JUDGES' RETIREMENT SYSTEM CREATED BY THE JUDGES'  
27 RETIREMENT ACT, ACT NO. 198 OF THE PUBLIC ACTS OF 1951, BEING

1 SECTIONS 38.801 TO 38.831 OF THE MICHIGAN COMPILED LAWS, THE  
2 PROBATE JUDGES RETIREMENT SYSTEM CREATED IN THE PROBATE JUDGES  
3 RETIREMENT ACT, ACT NO. 165 OF THE PUBLIC ACTS OF 1954, BEING  
4 SECTIONS 38.901 TO 38.933 OF THE MICHIGAN COMPILED LAWS, OR THE  
5 STATE POLICE RETIREMENT SYSTEM CREATED BY THE STATE POLICE  
6 RETIREMENT SYSTEM ACT OF 1986, ACT NO. 182 OF THE PUBLIC ACTS OF  
7 1986, BEING SECTIONS 38.1601 TO 38.1648 OF THE MICHIGAN COMPILED  
8 LAWS, SHALL NOT ENCOURAGE OR CONDONE LEGALLY REQUIRED DISCRIMINA-  
9 TION AGAINST AN INDIVIDUAL ON THE BASIS OF RACE OR COLOR BY DOING  
10 EITHER OF THE FOLLOWING:

11 (A) MAKING A NEW INVESTMENT OF RETIREMENT SYSTEM ASSETS IN  
12 STOCKS, SECURITIES, OR OTHER OBLIGATIONS OF A NATIONAL CORPORA-  
13 TION OF SOUTH AFRICA OR OF A UNITED STATES FIRM DOING BUSINESS IN  
14 SOUTH AFRICA.

15 (B) FAILING TO DIVEST RETIREMENT SYSTEM ASSETS IN STOCKS,  
16 SECURITIES, OR OTHER OBLIGATIONS OF A NATIONAL CORPORATION OF  
17 SOUTH AFRICA OR OF A UNITED STATES FIRM DOING BUSINESS IN SOUTH  
18 AFRICA AS FOLLOWS:

19 (i) NOT LESS THAN 40% OF THE ASSETS SHALL BE DIVESTED NOT  
20 LATER THAN 24 MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS  
21 SECTION.

22 (ii) NOT LESS THAN 60% OF THE ASSETS SHALL BE DIVESTED NOT  
23 LATER THAN 36 MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS  
24 SECTION.

25 (iii) NOT LESS THAN 80% OF THE ASSETS SHALL BE DIVESTED NOT  
26 LATER THAN 48 MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS  
27 SECTION.

1        (iv) NOT LESS THAN 100% OF THE ASSETS SHALL BE DIVESTED NOT  
2 LATER THAN 60 MONTHS FOLLOWING THE EFFECTIVE DATE OF THIS  
3 SECTION.

4        (3) THE RETIREMENT SYSTEMS DESCRIBED IN SUBSECTION (2) SHALL  
5 BE CONSIDERED IN COMPLIANCE WITH THIS SECTION IF THOSE RETIREMENT  
6 SYSTEMS HAVE NOT MADE OR MAINTAINED AN INVESTMENT IN STOCKS,  
7 SECURITIES, OR OTHER OBLIGATIONS OF A NATIONAL CORPORATION OF  
8 SOUTH AFRICA OR A UNITED STATES FIRM DOING BUSINESS IN SOUTH  
9 AFRICA THAT IS LISTED IN THE REGISTER OF ALL NATIONAL CORPORA-  
10 TIONS OF SOUTH AFRICA AND UNITED STATES FIRMS DOING BUSINESS IN  
11 SOUTH AFRICA WHICH SHALL BE DEVELOPED AND MAINTAINED BY THE  
12 DEPARTMENT OF CIVIL RIGHTS.

13        (4) THIS SECTION SHALL NOT APPLY DURING ANY PERIOD IN WHICH  
14 THE MICHIGAN CIVIL RIGHTS COMMISSION HAS DETERMINED BY RESOLUTION  
15 AND NOTIFIED THE INVESTMENT FIDUCIARIES OF THE RETIREMENT SYSTEMS  
16 DESCRIBED IN SUBSECTION (2) THAT BOTH OF THE FOLLOWING CONDITIONS  
17 OF FACT EXIST:

18        (A) FULL CITIZENSHIP AND EQUAL POLITICAL RIGHTS CONCERNING  
19 ALL MATTERS OF NATIONAL POLICY HAVE BEEN GRANTED AND ARE IN  
20 EFFECT FOR ALL SOUTH AFRICAN PEOPLE, REGARDLESS OF RACE.

21        (B) LEGAL RESTRICTIONS ON THE FREEDOM OF ALL SOUTH AFRICAN  
22 PEOPLE TO LIVE, TRAVEL, AND WORK ANYWHERE IN THEIR COUNTRY HAVE  
23 BEEN REMOVED AND NO LONGER EXIST.

24        (5) THIS SECTION DOES NOT ALTER OR DIMINISH THE EXISTING  
25 FIDUCIARY OR STATUTORY OBLIGATIONS AND OTHER TERMS, CONDITIONS,  
26 AND LIMITATIONS ON THE INVESTMENT OF PENSION FUND ASSETS FOR THE

1 EXCLUSIVE INTEREST AND BENEFIT OF PARTICIPANTS AND BENEFICIARIES  
2 OF THE RETIREMENT SYSTEMS DESCRIBED IN SUBSECTION (2).

3 (6) THE INVESTMENT FIDUCIARY OF EACH OF THE RETIREMENT SYS-  
4 TEMS DESCRIBED IN SUBSECTION (2) SHALL REPORT ANNUALLY TO THE  
5 GOVERNOR AND THE LEGISLATURE ANY GAINS OR LOSSES IN THE VALUE OF  
6 THE PENSION FUND PORTFOLIO AND IN ITS INVESTMENT PERFORMANCE  
7 ATTRIBUTABLE TO THE IMPLEMENTATION OF SUBSECTION (2).

8 (7) IF THERE IS ANY GAIN IN THE VALUE OF THE PENSION FUND  
9 PORTFOLIO OR ITS INVESTMENT PERFORMANCE THAT IS ATTRIBUTABLE TO  
10 THE IMPLEMENTATION OF SUBSECTION (2), THEN THOSE GAINS SHALL BE  
11 RECORDED ANNUALLY AND SHALL BE USED TO COMPENSATE FOR ANY LOSSES  
12 OR DIMINUTION IN VALUE ATTRIBUTABLE TO THE IMPLEMENTATION OF  
13 SUBSECTION (2) IN SUBSEQUENT YEARS.

14 (8) IF THERE IS ANY DIMINUTION IN THE VALUE OF THE PENSION  
15 FUND PORTFOLIO OR ITS INVESTMENT PERFORMANCE THAT IS ATTRIBUTABLE  
16 TO THE IMPLEMENTATION OF SUBSECTION (2), THEN THE LEGISLATURE  
17 SHALL PROVIDE ADDITIONAL APPROPRIATIONS FROM STATE FUNDS FOR THE  
18 PENSION SYSTEM AND THE PAYMENT OF BENEFITS UNDER THE PENSION  
19 SYSTEM AS NECESSARY IN ORDER TO PLACE THE PENSION FUND SYSTEM AND  
20 ITS BENEFICIARIES IN AS GOOD A POSITION AS THEY WOULD HAVE BEEN  
21 HAD SUBSECTION (2) NOT BEEN IN EFFECT, AFTER THE DIMINUTION IN  
22 VALUE OR INVESTMENT PERFORMANCE IS FIRST REDUCED BY PREVIOUS YEAR  
23 GAINS AS PROVIDED IN SUBSECTION (7).