

SENATE BILL No. 289

April 25, 1991, Introduced by Senators CARL, DINELLO, WELBORN, DILLINGHAM, GEAKE, FAXON, HONIGMAN and EHLERS and referred to the Committee on Mental Health, Human Resources, and Senior Citizens.

A bill to amend the title and sections 16 and 17 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 certain 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 prescribe the powers and duties of investment fiduciaries and certain state departments and officers,"

sections 16 and 17 as added by Act No. 55 of the Public Acts of 1982, being sections 38.1136 and 38.1137 of the Michigan Compiled Laws; to add section 12a; and to repeal certain parts of the act.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. The title and sections 16 and 17 of Act No. 314
2 of the Public Acts of 1965, sections 16 and 17 as added by Act
3 No. 55 of the Public Acts of 1982, being sections 38.1136 and

1 38.1137 of the Michigan Compiled Laws, are amended and section
2 12a is added to read as follows:

3 TITLE

4 An act to ~~authorize~~ REGULATE the investment of assets of
5 public employee retirement systems or plans created and estab-
6 lished by ~~the~~ THIS state or ~~any~~ A political subdivision OF
7 THIS STATE; to provide for the payment of certain costs and
8 investment expenses; ~~to authorize investment in variable rate~~
9 ~~interest loans; to define and limit the investments which may be~~
10 ~~made by an investment fiduciary with the assets of a public~~
11 ~~employee retirement system;~~ and to prescribe the powers and
12 duties of investment fiduciaries and certain state departments
13 and officers.

14 SEC. 12A. THIS ACT SHALL BE KNOWN AND MAY BE CITED AS THE
15 "PUBLIC EMPLOYEE RETIREMENT SYSTEM INVESTMENT ACT".

16 Sec. 16. (1) An investment fiduciary may invest in annuity
17 investment contracts or participations in separate ~~real estate,~~
18 ~~mortgage,~~ bond, stock, or other special investment accounts of a
19 life insurance company authorized to do business in this state.
20 An investment in such a separate account ~~shall be~~ IS considered
21 an investment in stock under section 14 only to the extent that
22 the separate account's assets include stock, and then only for
23 the purpose of determining the 60% maximum investment limit under
24 section 14. ~~An investment in such a separate account shall also~~
25 ~~be considered an investment in real or personal property under~~
26 ~~section 19(1), but only to the extent that the separate account's~~
27 ~~assets include real or personal property, and then only for the~~

~~1 purpose of determining the 5% maximum investment limit under~~
~~2 section 19.~~ The life insurance company offering participation in
3 the separate account shall have been in operation for at least 5
4 years and have assets under management of more than
5 \$100,000,000.00.

6 (2) An investment fiduciary may invest in the general
7 account of a life insurer authorized to do business in this state
8 under THE INSURANCE CODE OF 1956, Act No. 218 of the Public Acts
9 of 1956, as amended, being sections 500.100 to 500.8302 of the
10 Michigan Compiled Laws, but the total amount of assets of any 1
11 system invested in any 1 insurer shall not exceed 50% of the cap-
12 ital and surplus of the insurer.

13 Sec. 17. An investment fiduciary may invest in ANY OF THE
14 FOLLOWING:

15 (a) Obligations issued, assumed, or guaranteed by a solvent
16 entity created or existing under the laws of the United States or
17 of any state, district, or territory of the United States, which
18 are not in default as to principal or interest, including but not
19 limited to the following:

20 (i) Obligations secured by ~~the mortgage of real property~~
21 ~~or~~ the pledge of adequate collateral if, during any 3, including
22 1 of the last 2, of the 5 fiscal years immediately preceding the
23 time of investment, the net earnings of the issuing, assuming, or
24 guaranteeing entity available for fixed charges, as determined
25 ~~in accordance with~~ PURSUANT TO standard accounting practice,
26 shall have been not less than the total of its fixed charges for
27 the year on an overall basis, nor less than ~~1-1/2~~ 1.5 times its

1 fixed charges for the year on a priority basis after excluding
2 interest requirements on obligations subordinate to the issue as
3 to security.

4 (ii) Equipment trust certificates of railroad companies
5 organized under the laws of any state of the United States or of
6 Canada or any of its provinces, payable within 20 years from
7 their date of issue, in annual or semiannual installments, begin-
8 ning not later than the fifth year after the date of issue, which
9 certificates are a first lien on the specific equipment pledged
10 as security for the payment of the certificates, and which cer-
11 tificates are either the direct obligations of the railroad com-
12 panies or are guaranteed by the railroad companies, or are exe-
13 cuted by trustees holding title to the equipment.

14 (iii) Obligations other than those described in subpara-
15 graphs (i) and (ii), if the net earnings of the issuing, assum-
16 ing, or guaranteeing entity available for fixed charges during
17 each of any 3, including 1 of the last 2, of the 5 fiscal years
18 immediately preceding the time of investment, shall have been not
19 less than ~~1-1/2~~ 1.5 times the total of the entity's fixed
20 charges for such year, or if the obligations are graded in the
21 top 4 major grades as determined by 2 national rating services as
22 determined by the state treasurer.

23 ~~-(b) Obligations secured by a security interest in real or~~
24 ~~personal property and a lease obligation given by a solvent~~
25 ~~entity whose obligations would be qualified investments under the~~
26 ~~provisions of this act, if the investment does not exceed 100% of~~

1 ~~the appraised value of the property subject to the lease, and if~~
2 ~~all of the following requirements are met:~~

3 ~~(i) The lease has an unexpired term equal to or exceeding~~
4 ~~the remaining term of the investment.~~

5 ~~(ii) The lease is noncancelable unless the lessee first pays~~
6 ~~the sum of all unpaid rents due or to become due during the~~
7 ~~remaining lease term.~~

8 ~~(iii) The lease provides for net rental payments equal to or~~
9 ~~exceeding the periodic payments on the investment.~~

10 ~~(iv) The lease provides that the net rental payments are to~~
11 ~~be made without abatement or offset during the full term of the~~
12 ~~lease.~~

13 ~~(v) The lease and the lease payments are assigned to the~~
14 ~~system, an agent of the system, or an independent trustee.~~

15 (B) ~~(e)~~ Obligations of the United States, its agencies, or
16 United States government-sponsored enterprises.

17 (C) ~~(d)~~ Obligations of a possession, territory, or public
18 instrumentality of the United States, or of any state, city,
19 county, township, village, school district, authority, or any
20 other governmental unit having the power to levy taxes, or ~~in~~
21 obligations of other similar political units of the United
22 States. These investments shall be graded in the top 4 major
23 grades as determined by 2 national rating services as determined
24 by the state treasurer. These investments ~~shall~~ ARE not ~~be~~
25 permitted if in the 3 preceding years the governmental unit has
26 failed to pay its debt or any part of its debt or the interest on

1 the debt. The aggregate cost of investments made under this
2 subdivision shall not exceed 5% of the system's total assets.

3 (D) ~~-(e)-~~ Banker's acceptances, commercial accounts, certif-
4 icates of deposit, or depository receipts issued by a bank, trust
5 company, savings and loan association, or a credit union.

6 (E) ~~-(f)-~~ Commercial paper rated at the time of purchase
7 within the 2 highest classifications established by not less than
8 2 national rating services as determined by the state treasurer,
9 and which matures within 270 days after the date of issue.

10 (F) ~~-(g)-~~ Repurchase agreements for the purchase of securi-
11 ties issued by the United States government or its agencies and
12 executed by a bank or trust company or by members of the associa-
13 tion of primary dealers or other recognized dealers in United
14 States government securities.

15 (G) ~~-(h)-~~ Reverse repurchase agreements for the sale of
16 securities issued by the United States government or its agencies
17 and executed with a bank or trust company or with members of the
18 association of primary dealers or other recognized dealers in
19 United States government securities.

20 (H) ~~-(i)-~~ Any investment otherwise permitted by this section
21 in which the interest rate varies from time to time.

22 Notwithstanding a provision of any other act to the contrary, a
23 loan ~~shall not be considered to be in violation of~~ DOES NOT
24 VIOLATE the usury statutes of this state by virtue of the fact
25 that the loan is made on a variable interest rate basis.

26 (I) ~~-(j)-~~ Obligations secured by any of the obligations
27 described in subdivision (a) or ~~-(e)-~~ (B).

1 Section 2. Sections 18, 19, and 20 of Act No. 314 of the
2 Public Acts of 1965, being sections 38.1138, 38.1139, and 38.1140
3 of the Michigan Compiled Laws, are repealed.