



HOUSE BILL No. 5092

October 12, 1993, Introduced by Rep. Bandstra and referred to the Committee on Public Retirement.

A bill to repeal sections 13b and 13c 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,"

being sections 38.1133b and 38.1133c of the Michigan Compiled Laws.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Sections 13b and 13c of Act No. 314 of the
2 Public Acts of 1965, being sections 38.1133b and 38.1133c of the
3 Michigan Compiled Laws, are repealed.

1 Sec. 5. (1) The state treasurer shall not deposit any
2 surplus funds belonging to ~~the~~ THIS state in a financial
3 institution with total assets of more than \$10,000,000.00 at the
4 end of the institution's last full fiscal year unless the finan-
5 cial institution ~~complies with subsection (3), and~~ files with
6 the commissioner on or before March 31 of each year an affidavit
7 stating whether the financial institution is subject to the fed-
8 eral home mortgage disclosure act of 1975, title III of Public
9 Law 94-200, 12 U.S.C. 2801 to 2810, and if subject to the act,
10 that the financial institution has complied with the requirements
11 of the act and the regulations promulgated under the act.

12 (2) Before May 1 of each year, the commissioner shall pub-
13 lish a list of financial institutions with total assets of more
14 than \$10,000,000.00 at the end of the institutions' last full
15 fiscal year that have failed to comply with ~~subsections (1) and~~
16 ~~(3)~~ SUBSECTION (1). A financial institution that does not
17 appear on that list is conclusively presumed to have complied
18 with ~~subsections (1) and (3)~~ SUBSECTION (1) for purposes of
19 determining its eligibility to be a depository of state funds.
20 Additional funds shall not be deposited in a financial institu-
21 tion that appears on the list until the commissioner certifies
22 that the financial institution has complied with ~~subsections (1)~~
23 ~~and (3)~~ SUBSECTION (1) or until 91 days after the end of a sub-
24 sequent year for which an affidavit is filed with the commis-
25 sioner as provided in ~~subsections (1) and (3),~~ SUBSECTION (1),
26 whichever occurs sooner.

~~(3) To be a depository of surplus funds belonging to the state, a financial institution shall not encourage or condone legally required discrimination against an individual on the basis of race or color by knowingly making or maintaining a loan to the Republic of South Africa, a national corporation of the Republic of South Africa, or a subsidiary or affiliate of a United States firm operating in the Republic of South Africa. A financial institution is considered to have complied with this subsection if the financial institution has filed with the commissioner an affidavit attesting to the fact that it has after July 4, 1982 no existing loans to the Republic of South Africa, a national corporation of the Republic of South Africa, or a subsidiary or affiliate of a United States firm operating in the Republic of South Africa, as determined from information obtained from the United States department of commerce. As used in this subsection:~~

~~(a) "Financial institution" means a bank chartered under the laws of this state or of the United States.~~

~~(b) "National corporation" means a corporation, or a subsidiary or affiliate of a corporation, that is more than 50% owned or operated by the government of the Republic of South Africa.~~

~~(c) "Subsidiary or affiliate of a United States firm operating in the Republic of South Africa" means, as determined by the United States department of commerce, a firm incorporated under the laws of the Republic of South Africa, domiciled in the Republic of South Africa, and controlled by a United States~~

1 ~~firm. A subsidiary or affiliate shall not be construed to mean a~~
2 ~~subsidiary or affiliate that is located in the United States.~~

3 ~~(d) "Surplus funds" means, at any given date, the excess of~~
4 ~~cash and other recognized assets, that are expected to be~~
5 ~~resolved into cash or its equivalent in the natural course of~~
6 ~~events and with a reasonable certainty, over the liabilities and~~
7 ~~necessary reserves at the same date. Surplus funds does not~~
8 ~~include the proceeds of bond and note issues that are deposited~~
9 ~~for a period of not more than 10 days in a financial institution~~
10 ~~for settlement purposes.~~