

HOUSE BILL No. 4355

March 7, 1989, Introduced by Reps. Bennane, Saunders, DeMars, Bartnik and Pitoniak and referred to the Committee on Senior Citizens and Retirement.

A bill to amend section 12 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,"

as amended by Act No. 127 of the Public Acts of 1988, being section 38.1132 of the Michigan Compiled Laws; and to add section 20j.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Section 12 of Act No. 314 of the Public Acts of
2 1965, as amended by Act No. 127 of the Public Acts of 1988, being
3 section 38.1132 of the Michigan Compiled Laws, is amended and
4 section 20j is added to read as follows:

1 Sec. 12. For the purposes of this act the following words
2 and phrases shall have the following meanings:

3 (a) "Accounts receivable" means those receivables of a
4 system which presumably will be converted into cash during the
5 next 12 months, including but not limited to, employee contribu-
6 tions, employer contributions due from other funds, and employer
7 contributions due from other units of government.

8 (b) "Assets", for the purpose of meeting asset limitations
9 contained in this act, means the total of the cash, accounts
10 receivable, and investments of a system valued at cost.

11 (c) "Equity interests" means limited partnership interests
12 and other interests in which the liability of the investor is
13 limited to the amount of the investment, but does not mean gen-
14 eral partnership interests or other interests involving general
15 liability of the investor.

16 (d) "Investment fiduciary" means a person who does any of
17 the following:

18 (i) Exercises any discretionary authority or control in the
19 investment of a system's assets.

20 (ii) Renders for a fee investment advice for a system.

21 (e) "Invest" or "investment" means the utilization of money
22 in the expectation of future returns in the form of income or
23 capital gain. Investments initially purchased in accordance with
24 this act which subsequently do not qualify for purchase for any
25 reason, shall be considered to continue to meet the requirements
26 of this act. Investment includes a guarantee by an investment
27 fiduciary under ~~section~~ SECTIONS 20i AND 20J.

1 (f) "Net earnings available for fixed charges" means net
2 income after deducting operating and maintenance expenses, taxes
3 other than federal and state income taxes, depreciation, and
4 depletion, but excluding extraordinary expenses appearing in the
5 regular financial statements of the system.

6 (g) "Obligations" means bonds, notes, collateral trust cer-
7 tificates, convertible bonds, debentures, equipment trust certif-
8 icates, conditional sales agreements, guaranteed mortgage certif-
9 icates, pass-through certificates, participation certificates,
10 mortgages, trust deeds, general obligation bonds, revenue bonds,
11 or other similar interest bearing instruments of debt.
12 Obligations may be secured or unsecured and may be publicly
13 offered or privately placed.

14 (h) "Small business" means a corporation, partnership, sole
15 proprietorship, or other entity ~~which~~ THAT does not meet the
16 specific requirements of investments permitted under this act.

17 (i) "Small business investment company" means an incorpo-
18 rated body or a limited partnership under section 301 of title
19 III of the small business investment act of 1958, 15 U.S.C.
20 681.

21 (j) "Stock" means capital stock, common stock, preferred
22 stock, American depository receipts, or any other evidence of
23 residual ownership of a corporation.

24 (k) "System" means a public employee retirement system cre-
25 ated and established by ~~the~~ THIS state or any political subdi-
26 vision of ~~the~~ THIS state.

1 (1) "Venture capital firm" means a corporation, partnership,
2 proprietorship, or other entity, the principal business of which
3 is or will be the making of investments in small business, either
4 directly or indirectly by investing in entities the principal
5 business of which is or will be the making of investments in
6 small businesses.

7 SEC. 20J. AN INVESTMENT FIDUCIARY OF A SYSTEM HAVING ASSETS
8 OF \$50,000,000.00 OR MORE MAY GUARANTEE THE REPAYMENT OF LOANS
9 MADE BY A THIRD PARTY TO A BORROWER. THE BORROWER SHALL PAY A
10 FEE TO THE INVESTMENT FIDUCIARY AS DETERMINED BY THE INVESTMENT
11 FIDUCIARY AND THE BORROWER. THE INVESTMENT FIDUCIARY MAY PLEDGE
12 AND REPLEDGE BONDS, STOCKS, OR OTHER SECURITIES HELD BY THE
13 SYSTEM AS COLLATERAL FOR THE GUARANTEE. HOWEVER, AN INVESTMENT
14 FIDUCIARY OF A SYSTEM ELIGIBLE TO MAKE GUARANTEES UNDER THIS SUB-
15 SECTION SHALL NOT PLEDGE AND REPLEDGE MORE THAN 20% OF THE
16 SYSTEM'S BONDS, STOCKS, OR OTHER SECURITIES AS COLLATERAL FOR THE
17 GUARANTEES.

18 Section 2. This amendatory act shall take effect upon the
19 expiration of 180 days after the date of its enactment.