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Chapter No. 428
13/HR12/R1192
JAB / CST

HOUSE BILL NO. 990

Originated in House _____ *Andrew Mitchell* _____ Clerk

HOUSE BILL NO. 990

AN ACT TO AMEND SECTION 25-11-121, MISSISSIPPI CODE OF 1972, TO CLARIFY THE INVESTMENT OPTIONS FOR EXCESS FUNDS OF THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO REFLECT THE CURRENT INVESTMENT ENVIRONMENT AND TO UPDATE ALLOWABLE INVESTMENT OPPORTUNITIES TO ALLOW THE PUBLIC EMPLOYEES' RETIREMENT SYSTEM TO TAKE ADVANTAGE OF ADDITIONAL INVESTMENT OPTIONS; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Section 25-11-121, Mississippi Code of 1972, is amended as follows:

25-11-121. (1) The board shall, from time to time, determine the current requirements for benefit payments and administrative expense which shall be maintained as a cash working balance, except that such cash working balance shall not exceed at any time an amount necessary to meet the current obligations of the system for a period of ninety (90) days. Any amounts in excess of such cash working balance shall be invested, as follows * * *:

* * *

(* * *a) Funds may be deposited in any institution insured by the Federal Deposit Insurance Corporation that maintains a facility that takes deposits in the State of Mississippi or a custodial bank;

(* * *b) Corporate bonds and taxable municipal bonds * * *; or corporate short-term obligations of corporations or of wholly owned subsidiaries of corporations, whose short-term obligations are rated A-2 or better by Standard and Poor's, rated P-2 or better by Moody's Investment Service, F-2 or better by Fitch Ratings, Ltd., or the equivalent of these ratings if assigned by another United States Securities and Exchange Commission designated Nationally Recognized Statistical Rating Organization;

(c) Agency and nonagency residential and commercial mortgage-backed securities and collateralized mortgage obligations;

(d) Asset-backed securities;

(e) Bank loans;

(f) Convertible bonds;

(* * *g) Bonds of the Tennessee Valley Authority;

(* * *h) Bonds, notes, certificates and other valid obligations of the United States, and other valid obligations of any federal instrumentality that issues securities under authority of an act of Congress and are exempt from registration with the Securities and Exchange Commission;

(* * *i) Bonds, notes, debentures and other securities issued by any federal instrumentality and fully guaranteed by the United States;

(* * *j) Interest-bearing revenue bonds or notes or bonds or notes which are general obligations of any * * * state in the United States or of any city or county therein * * *;

(* * *k) Bonds of established non-United States companies and foreign government securities * * *. The board may take requisite action to effectuate or hedge transactions or invest in currency through foreign or domestic banks, including the purchase and sale, transfer, exchange, or otherwise disposal of, and generally deal in foreign exchange through the use of foreign currency, interbank forward contracts, futures contracts, options contracts, swaps and other related derivative instruments, notwithstanding any other provisions of this article to the contrary;

(* * *l) Shares of stocks, common and/or preferred, of corporations created by or existing under the laws of the United States or any state, district or territory thereof and shares of stocks, common and/or preferred, and convertible securities of non-United States companies; provided:

(i) The maximum investments in stocks shall not exceed eighty percent (80%) of the total book value of the total investment fund of the system;

(ii) The stock of such corporation shall:

1. Be listed on a national stock exchange; or
2. Be traded in the over-the-counter

market * * *;

(iii) The outstanding shares of such corporation shall have a total market value of not less than Fifty Million Dollars (\$50,000,000.00);

(iv) The amount of investment in any one (1) corporation shall not exceed three percent (3%) of the book value of the assets of the system;

(v) The shares of any one (1) corporation owned by the system shall not exceed five percent (5%) of that corporation's outstanding stock.

The board may take requisite action utilizing foreign currency as an investment vehicle, or to effectuate or hedge transactions for shares of stocks and convertible securities of non-United States companies through foreign or domestic banks, including the purchase and sale, transfer, exchange, or otherwise disposal of, and generally deal in foreign exchange through the use of foreign currency, interbank forward contracts, futures contracts, options contracts, swaps and other related derivative instruments, notwithstanding any other provisions of this article to the contrary;

(* * *m) Covered call and put options on securities or indices traded on one or more of the regulated exchanges;

(* * *n) Pooled or commingled funds managed by a corporate trustee or by a Securities and Exchange Commission registered investment advisory firm retained as an investment manager by the board of trustees, and shares of investment companies and unit investment trusts registered under the Investment Company Act of 1940, where such pooled or commingled funds or shares are comprised of common or preferred stocks, bonds, money market instruments or other investments authorized under this section. Such investment in commingled funds or shares shall be held in trust; provided that the total book value of investments under this paragraph shall at no time exceed five percent (5%) of the total book value of all investments of the system. Any investment manager approved by the board of trustees shall invest such commingled funds or shares as a fiduciary;

(* * *o) Pooled or commingled real estate funds or real estate securities managed by a corporate trustee or by a Securities and Exchange Commission registered investment advisory firm retained as an investment manager by the board of trustees. Such investment in commingled funds or shares shall be held in trust; provided that the total book value of investments under this paragraph shall at no time exceed ten percent (10%) of the total book value of all investments of the system. Any investment manager approved by the board of trustees shall invest such commingled funds or shares as a fiduciary. The ten percent (10%)

limitation in this paragraph shall not be subject to the five percent (5%) limitation in paragraph * * * (n) of this subsection;

(* * * p) Types of investments not specifically authorized by this subsection if the investments are in the form of a separate account managed by a Securities and Exchange Commission registered investment advisory firm retained as an investment manager by the board; or a limited partnership or commingled fund approved by the board; provided that the total book value of investments under this paragraph shall at no time exceed ten percent (10%) of the total book value of all investments of the system. Any person or entity who exercises any discretionary authority or discretionary control respecting management of the separate account, limited partnership or commingled fund, or who exercises any authority or control respecting management or disposition of the assets of the separate account, limited partnership or commingled fund, shall exercise such authority or control as a fiduciary.

(2) All investments shall be acquired * * * at prices not exceeding the prevailing market values for such * * * investments.

(3) Any limitations herein set forth shall be applicable only at the time of purchase and shall not require the liquidation of any investment at any time. All investments shall be clearly marked to indicate ownership by the system and to the extent possible shall be registered in the name of the system.

(4) Subject to the above terms, conditions, limitations and restrictions, the board shall have power to sell, assign, transfer and dispose of any of the securities and investments of the system, provided that said sale, assignment or transfer has the majority approval of the entire board. The board may employ or contract with investment managers, evaluation services or other such services as determined by the board to be necessary for the effective and efficient operation of the system.

(5) Except as otherwise provided herein, no trustee and no employee of the board shall have any direct or indirect interest in the income, gains or profits of any investment made by the board, nor shall any such person receive any pay or emolument for his services in connection with any investment made by the board. No trustee or employee of the board shall become an endorser or surety, or in any manner an obligor for money loaned by or borrowed from the system.

(6) All interest derived from investments and any gains from the sale or exchange of investments shall be credited by the board to the account of the system.

(7) The board of trustees * * * shall credit regular interest * * * to the annuity savings account monthly. Regular interest shall mean such per centum rate to be compounded annually as * * * set by the board of trustees through regulation.

(8) The board of trustees shall be the custodian of the funds of the system. All * * * retirement allowance payrolls

shall be certified by the executive * * * director who shall furnish the board a surety bond in a company authorized to do business in Mississippi in such an amount as shall be required by the board, the premium to be paid by the board from the expense account.

(9) For the purpose of meeting disbursements for retirement allowances, annuities and other payments, cash may be kept available, not exceeding the requirements of the system for a period of ninety (90) days, on deposit in one or more banks or trust companies organized under the laws of the State of Mississippi or the laws of the United States, provided that the sum on deposit in any one (1) bank or trust company shall not exceed thirty-five percent (35%) of the paid-up capital and regular surplus of such bank or trust company.

* * *

(* * *10) The board, the executive * * * director and employees shall discharge their duties with respect to the investments of the system solely for the interest of the system with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent investor acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims, including diversifying the investments of the system so as to minimize the risk of large losses, unless under the circumstances it is clearly prudent not to do so.

(* * *11) Documentary material or data made or received by the system which consists of trade secrets or commercial or financial information that relates to the investments of the system shall be exempt from the Mississippi Public Records Act of 1983 if the disclosure of the material or data is likely to impair the system's ability to obtain such information in the future, or is likely to cause substantial harm to the competitive position of the person or entity from whom the information was obtained.

SECTION 2. This act shall take effect and be in force from and after July 1, 2013.

PASSED BY THE HOUSE OF REPRESENTATIVES
February 6, 2013



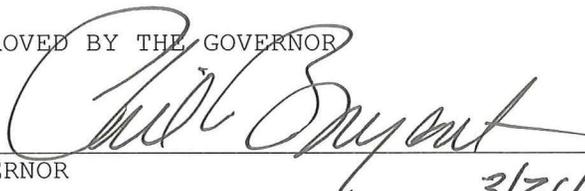
SPEAKER OF THE HOUSE OF REPRESENTATIVES

PASSED BY THE SENATE
March 12, 2013



PRESIDENT OF THE SENATE

APPROVED BY THE GOVERNOR



GOVERNOR

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