WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

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ENROLLED

HOUSE BILL No. 2832

(By Delegates Kiss, Baxting, Thompson, Pettit, Walters, Miller and Bixler)

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Passed ...................................... March 11, 1995

In Effect .................................. 90 Days From Passage
ENROLLED

H. B. 2832

(BY DELEGATES KISS, BROWNING, FARRIS, PETITT, WALTERS, MILLER AND BORDER)

[Passed March 11, 1995; in effect ninety days from passage.]

AN ACT to amend and reenact section twenty-two, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to further amend said article by adding thereto a new section, designated section twenty-two-a, all relating to the investment of funds of municipal firemen and policemen pension funds, restrictions on investments, performance evaluations and reporting requirements.

Be it enacted by the Legislature of West Virginia:

That section twenty-two, article twenty-two, chapter eight of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that said article be further amended by adding thereto a new section, designated section twenty-two-a, all to read as follows:

ARTICLE 22. RETIREMENT BENEFITS GENERALLY; POLICEMEN'S PENSION AND RELIEF FUND; FIREFIREFMEN'S PENSION AND RELIEF FUND; PENSION PLANS FOR EMPLOYEES OF WATERWORKS SYSTEM, SEWERAGE SYSTEM OR COMBINED WATERWORKS AND SEWERAGE SYSTEM.
§8-22-22. Investment of funds; exercise of judgment in making investments; actuarial studies required; annual report.

The board of trustees may invest a portion or all of the fund assets in the state consolidated fund or the consolidated pension fund. The board of trustees shall keep as an available sum for the purpose of making regular retirement, disability retirement, death benefit, payments and administrative expenses in an estimated amount not to exceed payments for a period of ninety days. The board of trustees, in acquiring, investing, reinvesting, exchanging, retaining, selling and managing property for the benefit of the fund shall exercise judgment and care under fiduciary duty which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not in regard to speculation, but in regard to the permanent disposition of their funds, considering the probable total return as well as the preservation of principal. Within the limitations of the foregoing standard, the board of trustees is authorized in its sole discretion to invest and reinvest any funds received by it and not invested in the consolidated fund or the consolidated pension fund in the following:

(a) Any direct obligation of, or obligation guaranteed as to the payment of both principal and interest by, the United States of America;

(b) Any evidence of indebtedness issued by any United States government agency guaranteed as to the payment of both principal and interest, directly or indirectly, by the United States of America including, but not limited to, the following: Government national mortgage association, federal land banks, federal national mortgage association, federal home loan banks, federal intermediate credit banks, banks for cooperatives, Tennessee valley authority, United States postal service, farmers home administration, export-import bank, federal financing bank, federal home loan mortgage corporation, student loan marketing association and federal farm credit banks;
(c) Readily marketable (i.e. traded on a national securities exchange) debt securities having a Standard & Poor rating of A (or equivalent to Moody's rating) or higher, excluding municipal securities;

(d) Any evidence of indebtedness that is secured by a first lien deed of trust or mortgage upon real property situated within this state, if the payment thereof is substantially insured or guaranteed by the United States of America or any agency thereof;

(e) Repurchase agreements issued by any bank, trust company, national banking association or savings institutions which mature in less than one year and are fully collateralized, no reverse repurchase agreements shall be allowed;

(f) Interest bearing deposits including certificates of deposit and passbook savings accounts that are FDIC insured;

(g) Equity. — Common stocks, securities convertible into common stocks, or warrants and rights to purchase such securities: Provided, That each shall be listed on the NYSE, ASE or are traded on the National OTC Market and listed on the NASDAQ National Market;

(h) The board of trustees of each fund may delegate investment authority to equity mutual funds managers and/or professional registered investment advisors who are registered with the Securities and Exchange Commission, in addition to being registered with the Investment Advisors Act of 1940 and appropriate state regulatory agencies, if applicable, who also manage assets in excess of seventy-five million dollars.


Moneys invested as permitted by section twenty-two of this article are subject to the following restrictions and condition contained in this section:

(a) Fixed income securities shall at no time exceed ten percent of the total assets of the pension fund, which are
issued by one issuer, other than the United States government or agencies thereof, whereas this limit shall not apply;

(b) At no time shall the equity portion of the portfolio exceed fifty percent of the total portfolio. Furthermore, the debit or equity securities of any one company or association shall not exceed five percent with a maximum of fifteen percent in any one industry;

(c) Notwithstanding any other provisions of this article, any investments in equities under subsections (g) and (h), section twenty-two of this article shall be subject to the following additional guidelines:

(1) Equity mutual funds shall be no sales load (front or back) and no contingent deferred sales charges shall be allowed. The total annual operating expense ratio shall not exceed one and three-quarter percent for any mutual fund;

(2) The stated investment policy requires one hundred percent of the equities of the portfolio be that of securities which are listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ National Market;

(3) Equity mutual funds may be only of the following fund description stated purpose: growth funds, growth and income funds, equity income funds, index funds, utilities, funds, balanced funds and flexible portfolio funds;

(4) The equity value of investments shall not exceed twenty-five percent of the total portfolio for the first twelve months from enactment of these articles; thereafter no more than five percent of the total portfolio be invested in equity securities per calendar quarter up to the maximum of fifty percent.

(d) The board of trustees of each fund shall obtain an independent performance evaluation of the funds at least annually and such evaluation shall consist of comparisons
with other funds having similar investment objectives for performance results with appropriate market indices;

(e) Each entity conducting business for each pension fund, shall fully disclose all fees and costs of transactions conducted on a quarterly basis. Entities conducting business in mutual funds for and on behalf of each pension fund, shall timely file revised prospectus and normal quarterly and annual Securities Exchange Commission reporting documents with the board of trustees of each pension fund.
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

Takes effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within ___________________ this the ____________ day of __________________________, 1995.

Governor
PRESENTED TO THE
GOVERNOR
Date 3/24/95
Time 3:48 PM