

HB 2832

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OFFICE OF WEST VIRGINIA  
SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1995

— ● —

# ENROLLED

HOUSE BILL No. 2832

(By Delegates Kiss, Browning, Harris,  
Pettit, Walters, Miller and Border)

— ● —

Passed March 11, 1995

In Effect 90 Days From Passage



**ENROLLED**

**H. B. 2832**

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

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

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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; FIREMEN'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.**

1       The board of trustees may invest a portion or all of  
2 the fund assets in the state consolidated fund or the con-  
3 solidated pension fund. The board of trustees shall keep  
4 as an available sum for the purpose of making regular  
5 retirement, disability retirement, death benefit, payments  
6 and administrative expenses in an estimated amount not to  
7 exceed payments for a period of ninety days. The board  
8 of trustees, in acquiring, investing, reinvesting, exchanging,  
9 retaining, selling and managing property for the benefit of  
10 the fund shall exercise judgment and care under fiduciary  
11 duty which persons of prudence, discretion, and intelli-  
12 gence exercise in the management of their own affairs, not  
13 in regard to speculation, but in regard to the permanent  
14 disposition of their funds, considering the probable total  
15 return as well as the preservation of principal. Within the  
16 limitations of the foregoing standard, the board of trustees  
17 is authorized in its sole discretion to invest and reinvest  
18 any funds received by it and not invested in the consoli-  
19 dated fund or the consolidated pension fund in the follow-  
20 ing:

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

24       (b) Any evidence of indebtedness issued by any Unit-  
25 ed States government agency guaranteed as to the pay-  
26 ment of both principal and interest, directly or indirectly,  
27 by the United States of America including, but not limited  
28 to, the following: Government national mortgage associa-  
29 tion, federal land banks, federal national mortgage associa-  
30 tion, federal home loan banks, federal intermediate credit  
31 banks, banks for cooperatives, Tennessee valley authority,  
32 United States postal service, farmers home administration,  
33 export-import bank, federal financing bank, federal home  
34 loan mortgage corporation, student loan marketing associ-  
35 ation and federal farm credit banks;

36 (c) Readily marketable (i.e. traded on a national secu-  
37 rities exchange) debt securities having a Standard & Poor  
38 rating of A (or equivalent to Moody's rating) or higher,  
39 excluding municipal securities;

40 (d) Any evidence of indebtedness that is secured by a  
41 first lien deed of trust or mortgage upon real property  
42 situated within this state, if the payment thereof is substan-  
43 tially insured or guaranteed by the United States of Amer-  
44 ica or any agency thereof;

45 (e) Repurchase agreements issued by any bank, trust  
46 company, national banking association or savings institu-  
47 tions which mature in less than one year and are fully  
48 collateralized, no reverse repurchase agreements shall be  
49 allowed;

50 (f) Interest bearing deposits including certificates of  
51 deposit and passbook savings accounts that are FDIC in-  
52 sured;

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

58 (h) The board of trustees of each fund may delegate  
59 investment authority to equity mutual funds managers  
60 and/or professional registered investment advisors who are  
61 registered with the Securities and Exchange Commission,  
62 in addition to being registered with the Investment Advi-  
63 sors Act of 1940 and appropriate state regulatory agen-  
64 cies, if applicable, who also manage assets in excess of  
65 seventy-five million dollars.

**§8-22-22a. Restrictions on investments.**

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

4 (a) Fixed income securities shall at no time exceed ten  
5 percent of the total assets of the pension fund, which are

6 issued by one issuer, other than the United States govern-  
7 ment or agencies thereof, whereas this limit shall not ap-  
8 ply;

9 (b) At no time shall the equity portion of the portfo-  
10 lio exceed fifty percent of the total portfolio. Further-  
11 more, the debit or equity securities of any one company  
12 or association shall not exceed five percent with a maxi-  
13 mum of fifteen percent in any one industry;

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

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

23 (2) The stated investment policy requires one hun-  
24 dred percent of the equities of the portfolio be that of  
25 securities which are listed on the New York Stock Ex-  
26 change, the American Stock Exchange, or the NASDAQ  
27 National Market;

28 (3) Equity mutual funds may be only of the follow-  
29 ing fund description stated purpose: growth funds, growth  
30 and income funds, equity income funds, index funds;  
31 utilities, funds, balanced funds and flexible portfolio  
32 funds;

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

39 (d) The board of trustees of each fund shall obtain an  
40 independent performance evaluation of the funds at least  
41 annually and such evaluation shall consist of comparisons

42 with other funds having similar investment objectives for  
43 performance results with appropriate market indices;

44 (e) Each entity conducting business for each pension  
45 fund, shall fully disclose all fees and costs of transactions  
46 conducted on a quarterly basis. Entities conducting busi-  
47 ness in mutual funds for and on behalf of each pension  
48 fund, shall timely file revised prospectus and normal quar-  
49 terly and annual Securities Exchange Commission report-  
50 ing documents with the board of trustees of each pension  
51 fund.

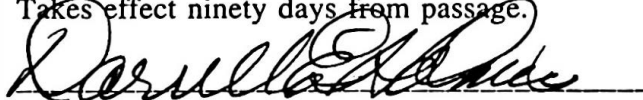
The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
Chairman Senate Committee

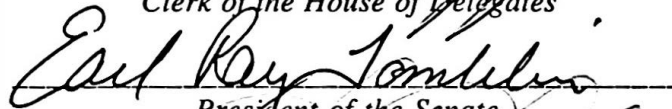
  
Chairman House Committee

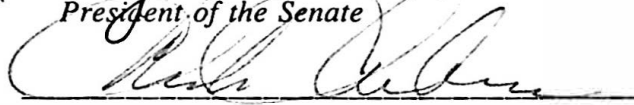
Originating in the House.

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 8/24/95

Time 3:48 pm