

SENATE BILL No. 377

June 23, 1987, Introduced by Senators FREDRICKS and WELBORN and referred to the Committee on Judiciary.

A bill to amend 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 impose duties on an investment fiduciary,"

as amended, being sections 38.1132 to 38.1140h of the Michigan Compiled Laws, by adding section 13a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Section 1. Act No. 314 of the Public Acts of 1965, as
2 amended, being sections 38.1132 to 38.1140h of the Michigan
3 Compiled Laws, is amended by adding section 13a to read as
4 follows:

SEC. 13A. (1) AS USED IN THIS SECTION:

(A) "NATIONAL ENTITY" MEANS AN ENTITY, OR A SUBSIDIARY OR AFFILIATE OF AN ENTITY, THAT IS MORE THAN 50% OWNED OR OPERATED BY THE GOVERNMENT OF THE U.S.S.R.

(B) "UNITED STATES BUSINESS, CORPORATION, FIRM, OR OTHER ORGANIZATION OPERATING IN THE U.S.S.R" MEANS A FIRM INCORPORATED UNDER THE LAWS OF THE U.S.S.R. OR WHICH HAS OPERATIONS IN OR TRADES WITH THE U.S.S.R.

(C) "U.S.S.R." INCLUDES ALL OF THE FOLLOWING:

(i) THE UNION OF SOVIET SOCIALIST REPUBLICS.

(ii) TERRITORY UNDER THE ADMINISTRATION OF THE UNION OF SOVIET SOCIALIST REPUBLICS.

(iii) A COUNTRY WHICH HAS ALLOWED MILITARY TROOPS OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO BE QUARTERED IN THE COUNTRY.

(iv) A COUNTRY WHICH HOSTS MILITARY PERSONNEL OF THE UNION OF SOVIET SOCIALIST REPUBLICS TO ASSIST OR ADVISE ITS OWN MILITARY FORCES.

(2) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, AN INVESTMENT FIDUCIARY FOR THE MICHIGAN PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM CREATED IN THE PUBLIC SCHOOL EMPLOYEES RETIREMENT ACT OF 1979, ACT NO. 300 OF THE PUBLIC ACTS OF 1980, BEING SECTIONS 38.1301 TO 38.1407 OF THE MICHIGAN COMPILED LAWS, THE STATE EMPLOYEES' RETIREMENT SYSTEM CREATED IN THE STATE EMPLOYEES' RETIREMENT ACT, ACT NO. 240 OF THE PUBLIC ACTS OF 1943, BEING SECTIONS 38.1 TO 38.47 OF THE MICHIGAN COMPILED LAWS, OR THE MICHIGAN LEGISLATIVE RETIREMENT SYSTEM CREATED IN THE

1 MICHIGAN LEGISLATIVE RETIREMENT SYSTEM ACT, ACT NO. 261 OF THE
2 PUBLIC ACTS OF 1957, BEING SECTIONS 38.1001 TO 38.1060 OF THE
3 MICHIGAN COMPILED LAWS, SHALL NOT DO EITHER OF THE FOLLOWING:

4 (A) MAKE A NEW INVESTMENT OF RETIREMENT SYSTEM ASSETS IN
5 STOCKS, SECURITIES, OR OTHER OBLIGATIONS OF A NATIONAL ENTITY OR
6 OF A UNITED STATES BUSINESS, CORPORATION, FIRM, OR OTHER ORGANI-
7 ZATION, OR A SUBSIDIARY OR AFFILIATE OF A UNITED STATES BUSINESS,
8 CORPORATION, FIRM, OR OTHER ORGANIZATION, OPERATING IN OR ENGAGED
9 IN TRADE WITH THE U.S.S.R.

10 (B) FAIL TO DIVEST ITSELF OF RETIREMENT SYSTEM ASSETS IN
11 STOCKS, SECURITIES, OR OTHER OBLIGATIONS OF A NATIONAL ENTITY OR
12 OF A UNITED STATES BUSINESS, CORPORATION, FIRM, OR OTHER ORGANI-
13 ZATION, OR A SUBSIDIARY OR AFFILIATE OF A UNITED STATES BUSINESS,
14 CORPORATION, FIRM, OR OTHER ORGANIZATION, OPERATING IN OR ENGAGED
15 IN TRADE WITH THE U.S.S.R. AS FOLLOWS:

16 (i) NOT LESS THAN 40% OF THE ASSETS SHALL BE DIVESTED NO
17 LATER THAN 2 YEARS FOLLOWING THE EFFECTIVE DATE OF THIS SECTION.

18 (ii) NOT LESS THAN 60% OF THE ASSETS SHALL BE DIVESTED NO
19 LATER THAN 3 YEARS FOLLOWING THE EFFECTIVE DATE OF THIS SECTION.

20 (iii) NOT LESS THAN 80% OF THE ASSETS SHALL BE DIVESTED NO
21 LATER THAN 4 YEARS FOLLOWING THE EFFECTIVE DATE OF THIS SECTION.

22 (iv) NOT LESS THAN 100% OF THE ASSETS SHALL BE DIVESTED NO
23 LATER THAN 5 YEARS FOLLOWING THE EFFECTIVE DATE OF THIS SECTION.

24 (3) THE MICHIGAN PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM,
25 THE STATE EMPLOYEES' RETIREMENT SYSTEM, AND THE MICHIGAN LEGISLA-
26 TIVE RETIREMENT SYSTEM SHALL BE CONSIDERED IN COMPLIANCE WITH
27 THIS SECTION IF THE SYSTEMS HAVE NOT MADE OR MAINTAINED AN

1 INVESTMENT IN AN ORGANIZATION THAT IS LISTED IN THE REGISTER OF
2 ORGANIZATIONS OPERATING IN THE U.S.S.R. AS PREPARED BY THE
3 DEPARTMENT OF CIVIL RIGHTS PURSUANT TO SECTION 402 OF THE
4 ELLIOTT-LARSEN CIVIL RIGHTS ACT, ACT NO. 453 OF THE PUBLIC ACTS
5 OF 1976, BEING SECTION 37.2402 OF THE MICHIGAN COMPILED LAWS.

6 (4) THE PROVISIONS OF THIS SECTION SHALL NOT APPLY DURING
7 ANY PERIOD IN WHICH THE LEGISLATURE HAS DETERMINED BY CONCURRENT
8 RESOLUTION WITH RECORD ROLL CALL VOTE AND NOTIFIED THE FIDUCIA-
9 RIES OF THE MICHIGAN PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM,
10 THE STATE EMPLOYEES' RETIREMENT SYSTEM, AND THE MICHIGAN LEGISLA-
11 TIVE RETIREMENT SYSTEM THAT THE U.S.S.R. PLACES NO RESTRICTIONS
12 ON THE DEPARTURE OF JEWS FROM THE U.S.S.R.

13 (5) THIS SECTION DOES NOT ALTER OR DIMINISH THE EXISTING
14 FIDUCIARY OR STATUTORY OBLIGATIONS AND OTHER TERMS, CONDITIONS,
15 AND LIMITATIONS ON THE INVESTMENT OF PENSION FUND ASSETS FOR THE
16 EXCLUSIVE INTEREST AND BENEFIT OF PARTICIPANTS AND BENEFICIARIES
17 OF THE MICHIGAN PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM, THE
18 STATE EMPLOYEES' RETIREMENT SYSTEM, AND THE MICHIGAN LEGISLATIVE
19 RETIREMENT SYSTEM. IT IS THE INTENT OF THIS SECTION TO SEEK A
20 RATE OF RETURN ON INVESTMENTS MADE ON BEHALF OF THE MICHIGAN
21 PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM AND THE STATE
22 EMPLOYEES' RETIREMENT SYSTEM SUFFICIENT TO FUND THE PAYMENT OF
23 SUPPLEMENTAL PAYMENTS PRESCRIBED IN SECTION 104A OF ACT NO. 300
24 OF THE PUBLIC ACTS OF 1980, BEING SECTION 38.1404A OF THE
25 MICHIGAN COMPILED LAWS, AND SECTION 20G OF ACT NO. 240 OF THE
26 PUBLIC ACTS OF 1943, BEING SECTION 38.20G OF THE MICHIGAN
27 COMPILED LAWS.

1 (6) THE STATE TREASURER SHALL REPORT ANNUALLY TO THE
2 GOVERNOR AND THE LEGISLATURE ANY GAINS OR LOSSES IN THE VALUE OF
3 THE PENSION FUND PORTFOLIO AND IN ITS INVESTMENT PERFORMANCE
4 ATTRIBUTABLE TO THE IMPLEMENTATION OF SUBSECTION (2).

5 (7) IF THERE IS ANY GAIN IN THE VALUE OF THE PENSION FUND
6 PORTFOLIO OR ITS INVESTMENT PERFORMANCE THAT IS ATTRIBUTABLE TO
7 THE IMPLEMENTATION OF SUBSECTION (2), THEN THOSE GAINS SHALL BE
8 RECORDED ANNUALLY AND SHALL BE USED TO COMPENSATE FOR ANY LOSSES
9 OR DIMINUTION IN VALUE ATTRIBUTABLE TO THE IMPLEMENTATION OF SUB-
10 SECTION (2) IN SUBSEQUENT YEARS.

11 (8) IF THERE IS ANY DIMINUTION IN THE VALUE OF THE PENSION
12 FUND PORTFOLIO OR ITS INVESTMENT PERFORMANCE THAT IS ATTRIBUTABLE
13 TO THE IMPLEMENTATION OF SUBSECTION (2), THEN THE LEGISLATURE
14 SHALL PROVIDE ADDITIONAL APPROPRIATIONS FROM THE GENERAL FUND FOR
15 THE PENSION SYSTEM AND THE PAYMENT OF BENEFITS UNDER THE PENSION
16 SYSTEM AS NECESSARY IN ORDER TO PLACE THE PENSION FUND SYSTEM AND
17 ITS BENEFICIARIES IN AS GOOD A POSITION AS THEY WOULD HAVE BEEN
18 HAD SUBSECTION (2) NOT BEEN IN EFFECT, AFTER THE DIMINUTION IN
19 VALUE OR INVESTMENT PERFORMANCE IS FIRST REDUCED BY PREVIOUS YEAR
20 GAINS AS PROVIDED IN SUBSECTION (7).

21 (9) BROKERAGE FEES THAT ARE ATTRIBUTABLE TO THE IMPLEMENTA-
22 TION OF SUBSECTION (2) SHALL BE PAID OUT OF THE GENERAL FUND OF
23 THIS STATE AND SHALL NOT BE PAID OUT OF THE ASSETS OF THE SYSTEM.