

1 **State of Arkansas**
2 **80th General Assembly**
3 **Regular Session, 1995**
4 **By: Representative Dawson**

A Bill

ACT 615 OF 1995
HOUSE BILL 1535

For An Act To Be Entitled

8 "AN ACT TO AMEND VARIOUS SECTIONS OF TITLE 24, CHAPTERS
9 10, 11, AND 12, OF THE ARKANSAS CODE OF 1987 ANNOTATED TO
10 EXPAND THE INVESTMENT OPPORTUNITIES FOR LOCAL FIRE AND
11 POLICE AND PENSION AND RELIEF FUNDS WITH UNDER FIVE
12 HUNDRED THOUSAND DOLLARS (\$500,000) IN ASSETS; TO AMEND
13 ARKANSAS CODE § 19-8-303 TO EXPAND THE DEFINITION OF
14 LOCAL GOVERNMENT TO INCLUDE FIRE AND POLICE PENSION
15 FUNDS; AND FOR OTHER PURPOSES."

Subtitle

17
18 "TO EXPAND THE INVESTMENT OPPORTUNITIES
19 FOR LOCAL FIRE AND POLICE AND PENSION
20 AND RELIEF FUNDS WITH UNDER FIVE HUNDRED
21 THOUSAND DOLLARS (\$500,000) IN ASSETS."

22
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24
25 SECTION 1. Arkansas Code § 24-10-402 is amended to read as follows:
26 "24-10-402. Investments.

27 (a) The board shall be the trustees of the funds of the system subject
28 to the other provisions of this subchapter. The funds of the system shall be
29 invested and reinvested, and the funds of local fire and police pension and
30 relief funds, as created by Acts 1921, No. 491 and Acts 1937, No. 250,
31 respectively, with assets in excess of five hundred thousand dollars
32 (\$500,000), may also be invested, in accordance with the following procedure:

33 (1) (A) From time to time, the investment advisor under contract
34 to the board shall formulate the policy to be followed in future investment
35 activity, and he shall promptly furnish the policy to the board in writing
36 each time he changes the policy.

1 (B) Investment advisor means any person who, for
2 compensation, engages in the business of advising others, either directly or
3 through publications or writings, as to the value of securities or as to the
4 advisability of investing in, purchasing, or selling securities or who, for
5 compensation, issues or promulgates analyses or reports concerning securities,
6 and who is required to be registered as such with the Arkansas Securities
7 Department. Furthermore, the term investment advisor includes officers of
8 the bank trust departments even though the officers are not required to be
9 registered with the Arkansas Securities Department;

10 (2) The investment advisor shall have full power to purchase,
11 sell, assign, transfer, or dispose of any of the moneys or investments of the
12 system pursuant to the provisions of this subchapter and in accordance with
13 the current investment policy filed with the board;

14 (3) At least semiannually, the investment advisor shall file with
15 the board a written report setting forth, for the period since its last
16 report, all investments purchased and sold, all receipts and disbursements,
17 and any other transactions concerning system moneys;

18 (4) At each regular meeting, the board shall examine each written
19 report received from the investment advisor since the last regular meeting;

20 (5) Anything in this section to the contrary notwithstanding,
21 from time to time the board may direct a specific investment activity and
22 shall be fully responsible for the direction;

23 (6) Anything in this section to the contrary notwithstanding,
24 investment activity shall be subject to the terms, conditions, limitations,
25 and restrictions imposed by law upon state public employee retirement plans in
26 the making and disposing of their investments;

27 (7) Anything in this section to the contrary notwithstanding,
28 until the assets of the system amount to at least five million dollars
29 (\$5,000,000), the funds of the system not in the checking account may be
30 invested in shares of no-load mutual funds, each of which shall have the
31 following characteristics:

32 (A) The mutual fund shall be an open-end diversified
33 investment company registered under the Federal Investment Company Act of
34 1940, as amended;

35 (B) The management company of the investment company shall

1 have been in operation for at least ten (10) years and shall have assets under
2 management of more than one hundred million dollars (\$100,000,000); and

3 (C) There shall be no sales charge for purchasing shares of
4 the fund and no redemption charge for selling the shares;

5 (8) The funds of local fire and police pension and relief funds,
6 with assets not in excess of five hundred thousand dollars (\$500,000) may be
7 invested pursuant to the supervision and management of the board of trustees
8 of the system in the manner provided in this section. To the extent that such
9 local funds are managed by the board of trustees, they may be commingled with
10 other such funds which adopt the same investment objectives.

11 (b) Except as to the rights of a member, retirant, or beneficiary, no
12 trustee and no officer or employee of the board shall have any direct or
13 indirect interest in the gains or profits of any investment made by the board;
14 nor shall any of them, directly or indirectly, for himself or as an agent, in
15 any manner use the assets of the system except to make such current and
16 necessary payments as are authorized by the board; nor shall any of them
17 become an endorser or surety or become in any manner an obligor for moneys
18 loaned by or borrowed from the board.

19 (c) All assets of the system shall be held for the sole purpose of
20 paying benefits and making disbursements in accordance with the provisions of
21 this chapter and shall be used for no other purpose whatsoever."

22

23 SECTION 2. Arkansas Code § 24-11-410 is amended to read as follows:

24 "24-11-410. Investment.

25 (a) The board of trustees shall have the power to draw sums from its
26 treasury, only upon warrants signed by the chairman and countersigned by the
27 policemen's pension and relief fund, to invest in the name of the board of
28 trustees of the policemen's pension and relief fund in interest-bearing bonds
29 of the United States, the State of Arkansas, or of the city in which the board
30 is located, in a Local Government Joint Investment Trust pursuant to Arkansas
31 Code §§ 19-8-301 et seq., the Arkansas Local Police and Fire Retirement
32 System, or in savings and loan associations duly established and authorized to
33 do business in this state.

34 (b) All securities shall be deposited with the treasurer of the board
35 of trustees of the pension and relief fund and shall be subject to the order

1 of the board.

2 (c) In those pension and relief funds in which assets exceed five
3 hundred thousand dollars (\$500,000), the board of trustees may employ an
4 investment advisor as defined in § 24-10-402 to invest the assets, subject to
5 the terms, conditions, limitations, and restrictions imposed by law upon the
6 Arkansas Local Police and Fire Retirement System, as provided by §§ 24-10-401
7 - 24-10-409. Investments shall not be limited to interest-bearing bonds."

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9 SECTION 3. Arkansas Code § 24-11-805 is amended to read as follows:

10 "24-11-805. Investment.

11 (a) All moneys provided for the fund by this act shall be paid over to
12 and received by the treasurer of the city or town for the sole use and benefit
13 of the firemen's relief and pension fund, and the fund shall be used for no
14 other purpose; the additional duties imposed upon the treasurer shall be and
15 comprise additional duties for which he shall be liable under his oath and
16 bond as the city or town treasurer.

17 (b) The board of trustees shall have the power, with the consent of a
18 majority of the fire fighters at the time employed, expressed in writing and
19 filed with the city clerk, to authorize the treasurer to draw sums from its
20 treasury to invest in the name of the board of trustees of the firemen's
21 relief and pension fund in interest-bearing bonds of the United States, of the
22 State of Arkansas, or of the city where the board is located, in a Local
23 Government Joint Investment Trust pursuant to Arkansas Code §§ 19-8-301 et
24 seq., the Arkansas Local Police and Fire Retirement System, or in certificates
25 of deposit or time deposits in banks duly established and authorized to do
26 business in this state, or in savings and loan associations duly established
27 and authorized to do business in this state.

28 (c) All securities shall be deposited with the treasurer of the board
29 of trustees of the relief and pension fund and shall be subject to the orders
30 of the board.

31 (d) However, in those pension and relief funds in which assets exceed
32 five hundred thousand dollars (\$500,000), the board of trustees may employ an
33 investment advisor as defined in § 24-10-402 to invest the assets, subject to
34 the terms, conditions, limitations, and restrictions imposed by law upon the
35 Arkansas Local Police and Fire Retirement System, as provided by §§ 24-10-401

1 - 24-10-409. Investments shall not be limited to interest-bearing bonds,
2 certificates of deposit, and time deposits."

3

4 SECTION 4. Arkansas Code § 24-12-109 is amended to read as follows:

5 "24-12-109. Investment.

6 (a) The board of trustees shall have the power to draw sums from its
7 treasury to invest in the name of the board of trustees of the paid
8 nonuniformed employees' pension and relief fund in interest-bearing bonds of
9 the United States, the State of Arkansas, and the city in which the board is
10 located, in a Local Government Joint Investment Trust pursuant to Arkansas
11 Code §§ 19-8-301 et seq.

12 (b) All securities shall be deposited with the treasurer of the board
13 of trustees of the pension and relief fund and shall be subject to the orders
14 of the board.

15 (c) In those nonuniformed employees' pension and relief funds in which
16 assets exceed one hundred thousand dollars (\$100,000), the board of trustees
17 may employ an investment advisor as defined in § 24-10-402 to invest the
18 assets, subject to the terms, conditions, limitations, and restrictions
19 imposed by law upon the Arkansas Local Police and Fire Retirement System, as
20 provided by §§ 24-10-401 - 24-10-411. The investments shall not be limited to
21 interest-bearing bonds."

22

23 SECTION 5. Arkansas Code § 19-8-303 is amended to read as follows:

24 "19-8-303. Definitions.

25 For purposes of this subchapter:

26 (1) Local government shall mean any city, county, school district, or
27 community college district of this state, and department, instrumentality or
28 agency of these entities, including local fire and police pension and relief
29 funds, and department, instrumentality or agency of these entities, including
30 a local government association;

31 (2) Local government association shall mean the Arkansas Municipal
32 League, the Association of Arkansas Counties, the Arkansas School Boards
33 Association, or any similar organization whose membership is composed of local
34 governments or their elected officials;

35 (3) Participant shall mean a local government which is a party to a

1 trust agreement;

2 (4) Private agency shall mean any individual or any form of business
3 organization authorized under the laws of this or any other state; and

4 (5) Trust agreement shall mean the agreement, indenture, or other
5 instrument creating a trust pursuant to this subchapter, together with any
6 supplements thereto."

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8 SECTION 6. All provisions of this act of general and permanent nature
9 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
10 Revision Commission shall incorporate the same in the Code.

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12 SECTION 7. If any provisions of this act or the application thereof to
13 any person or circumstance is held invalid, the invalidity shall not affect
14 other provisions or applications of the act which can be given effect without
15 the invalid provisions or application, and to this end the provisions of this
16 act are declared to be severable.

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18 SECTION 8. All laws and parts of laws in conflict with this act are
19 hereby repealed.

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21 APPROVED: 3-14-95

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