

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

A Bill

Act 50 of 1999
HOUSE BILL 1327

5 By: Representative Faris
6

For An Act To Be Entitled

8 "AN ACT TO PRESCRIBE THE AUTHORITY OF BOARDS OF
9 TRUSTEES OF CITIES HAVING NON-UNI FORM EMPLOYEE
10 PENSION PLANS WITH ASSETS IN EXCESS OF \$100,000 TO
11 EMPLOY AN INVESTMENT ADVISOR TO INVEST PLAN ASSETS
12 PURSUANT TO BOARD POLICY; TO REQUIRE THE BOARDS OF
13 TRUSTEES TO FOLLOW THE SAME STANDARD OF CARE FOLLOWED
14 BY STATE RETIREMENT SYSTEMS IN THEIR INVESTMENTS IN
15 ARK. CODE ANN. §24-3-417 THROUGH §24-3-426; TO DECLARE
16 AN EMERGENCY; AND FOR OTHER PURPOSES. "

Subtitle

17
18
19 "TO PRESCRIBE THE AUTHORITY OF BOARDS OF
20 TRUSTEES OF CITIES HAVING NON-UNI FORM
21 EMPLOYEE PENSION PLANS WITH ASSETS IN
22 EXCESS OF \$100,000 TO EMPLOY AN
23 INVESTMENT ADVISOR TO INVEST PLAN ASSETS
24 PURSUANT TO BOARD POLICY. "

25
26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
27

28 SECTION 1. (a) For purposes of this act, "city" is defined to mean
29 first and second class cities, as well as incorporated towns.

30 (b) A board of trustees of a city non-uni formed employees' pension plan
31 with assets in excess of one hundred thousand dollars (\$100,000) shall,
32 subject to subsection (c), have full power to invest and reinvest the moneys
33 of the plan and to hold, purchase, sell, assign, transfer, or dispose of any
34 of the investments so made as well as the proceeds of the investments and
35 moneys.

36 (c) The investments and reinvestments shall only be made in accordance

1 with the prudent investor rule set forth in Ark. Code Ann. § 24-3-426.

2
 3 SECTION 2. (a) A board of trustees of a city non-uniformed employees'
 4 pension plan with assets in excess of one hundred thousand dollars (\$100,000)
 5 may employ an investment advisor, provided that the governing body of the city
 6 declares such services professional services under Ark. Code Ann. § 19-11-806,
 7 as its agent to make investment recommendations and to invest the assets
 8 pursuant to a written board investment policy, subject to the terms,
 9 conditions, limitations, and restrictions imposed by law upon investments of
 10 state retirement systems, as set forth in Ark. Code Ann. § 24-3-417 - § 24-3-
 11 426.

12 (b) The investment policy shall not limit the investments to interest-
 13 bearing bonds.

14
 15 SECTION 3. (a) Trustees who comply with the requirements of Ark. Code
 16 Ann. § 24-3-425(a) are not liable to the beneficiaries or to the trust for the
 17 decisions or actions of the agent to whom the function was delegated.

18 (b) By accepting the delegation of a trust function from the trustees of
 19 a trust that is subject to the law of this state, an agent submits to the
 20 jurisdiction of the courts of this state.

21
 22 SECTION 4. This act is cumulative to Ark. Code Ann. §§ 24-12-101 -- 24-
 23 12-118 and does not repeal it.

24
 25 SECTION 5. All provisions of this act of general and permanent nature
 26 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
 27 Revision Commission shall incorporate the same in the Code.

28
 29 SECTION 6. If any provisions of this act or the application thereof to
 30 any person or circumstance is held invalid, the invalidity shall not affect
 31 other provisions or applications of the act which can be given effect without
 32 the invalid provisions or application, and to this end the provisions of this
 33 act are declared to be severable.

34
 35 SECTION 7. All laws and parts of laws in conflict with this Act are
 36 hereby repealed.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36

SECTION 8. EMERGENCY. It is hereby found and determined by the General Assembly that the present law pertaining to non-uniform employees pension and relief plans passed in 1949 is limited to cities which did not have pension and relief plans in place in 1949, and who subsequently passed millages to fund such plans. Cities since that time have instituted defined benefit plans and, more recently, defined contribution plans, in which employer and employee contributions, not millages, fund the plans. This Act authorizes cities with non-uniform employee pension plan funds in excess of \$100,000, regardless of the method of funding the plans, to update their investment policies and rules consistent with the investment policies and rules enacted in Act 1194 of 1997 for state retirement systems. Such clarification should go into effect immediately in order for cities to take advantage, should they so choose, of the current favorable investment climate and strong economy to increase plan assets, to compete with private industry retirement benefits for qualified employees, and to increase the likelihood of employees retiring with adequate funds for their retirement years. Therefore, an emergency is hereby declared to exist and this Act being immediately necessary for the preservation of the public peace, health and safety shall become effective on the date of its approval by the Governor. If the bill is neither approved nor vetoed by the Governor, it shall become effective on the expiration of the period of time during which the Governor may veto the bill. If the bill is vetoed by the Governor and the veto is overridden, it shall become effective on the date the last house overrides the veto.

APPROVED: 2/11/1999