

1 State of Arkansas

2 82nd General Assembly

3 Regular Session, 1999

# A Bill

HOUSE BILL 1327

4  
5 By: Representative Faris

## For An Act To Be Entitled

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