

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

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

As Engrossed: H2/12/99

A Bill

SENATE BILL 198

5 By: Senators B. Walker, Argue, Riggs
6 By: Representatives Ferrell, Sheppard, Booker, J. Lewellen, Harris, T. Thomas, Wilkins, White,
7 Napper, W. Walker, Jones, Rodgers, Magnus, Eason, Lendall, L. Thomas
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For An Act To Be Entitled

11 "AN ACT TO PRESCRIBE THE AUTHORITY OF BOARDS OF
12 TRUSTEES OF CITIES HAVING NON-UNI FORM EMPLOYEE PENSION
13 PLANS WITH ASSETS IN EXCESS OF ONE HUNDRED THOUSAND
14 DOLLARS TO EMPLOY AN INVESTMENT ADVISOR TO INVEST PLAN
15 ASSETS PURSUANT TO BOARD POLICY; TO REQUIRE THE BOARDS
16 OF TRUSTEES TO FOLLOW THE SAME STANDARD OF CARE
17 FOLLOWED BY STATE RETIREMENT SYSTEMS IN THEIR
18 INVESTMENTS IN ARKANSAS CODE 24-3-417 THROUGH 24-3-
19 426; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES. "
20

Subtitle

21 "TO PRESCRIBE THE AUTHORITY OF BOARDS OF
22 TRUSTEES OF CITIES HAVING NON-UNI FORM
23 EMPLOYEE PENSION PLANS WITH ASSETS IN
24 EXCESS OF \$100,000 TO EMPLOY AN
25 INVESTMENT ADVISOR TO INVEST PLAN ASSETS
26 PURSUANT TO BOARD POLICY. "
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30 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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32 SECTION 1. (a) For purposes of this act, "city" is defined to mean
33 first and second class cities, as well as incorporated towns.

34 (b) A board of trustees of a city non-uni formed employees' pension plan
35 with assets in excess of one hundred thousand dollars (\$100,000) shall,
36 subject to subsection (c), have full power to invest and reinvest the moneys

1 of the plan and to hold, purchase, sell, assign, transfer, or dispose of any
2 of the investments so made as well as the proceeds of the investments and
3 moneys.

4 (c) The investments and reinvestments shall only be made in accordance
5 with the prudent investor rule set forth in Arkansas Code 24-3-426.

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

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

17
18 SECTION 3. (a) Trustees who comply with the requirements of Arkansas
19 Code 24-3-425(a) are not liable to the beneficiaries or to the trust for the
20 decisions or actions of the agent to whom the function was delegated.

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

24
25 SECTION 4. This act is cumulative to Arkansas Code 24-12-101 through
26 24-12-118 and shall not repeal it.

27
28 SECTION 5. All provisions of this act of a general and permanent nature
29 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code
30 Revision Commission shall incorporate the same in the Code.

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

1
2 SECTION 7. All laws and parts of laws in conflict with this act are
3 hereby repealed.

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

29 /s/ B. Walker, et al