

1 AN ACT relating to the Teachers' Retirement System and declaring an emergency.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 →Section 1. KRS 161.430 is amended to read as follows:

4 (1) (a) The board of trustees shall be the trustee of the funds of the retirement system
5 and shall have full power and responsibility for the purchase, sale, exchange,
6 transfer, or other disposition of the investments and moneys of the retirement
7 system.~~[The board shall, by administrative regulation, establish investment
8 policies and procedures to carry out their responsibilities.]~~

9 (b) 1. The board shall contract with~~[employ]~~ experienced competent
10 investment managers~~[counselors]~~ to invest and manage assets of the
11 system.~~[advise it on all matters pertaining to investment, except]~~ The
12 board may also employ qualified investment staff~~[personnel]~~ to advise it
13 on investment matters and to invest and manage assets of the system
14 not to exceed fifty percent (50%) of the book value of the system's
15 assets. The board may contract with one or more general investment
16 consultants, as well as specialized investment consultants, to advise it
17 on investment matters.

18 2. All internal investment staff~~[individuals associated with the investment~~
19 ~~and management of retirement system assets, whether contracted~~
20 ~~investment advisors, board members, or staff employees,]~~ shall adhere to
21 the Code of Ethics and Standards of Professional Conduct, and all
22 board trustees shall adhere to~~[the Asset Manager Code of Professional~~
23 ~~Conduct if the individual is managing retirement system assets, and]~~ the
24 Code of Conduct for Members of a Pension Scheme Governing Body~~[if~~
25 ~~the individual is a board member]~~, promulgated by the CFA Institute.
26 Investment managers shall comply with the federal Investment
27 Advisers Act of 1940, as amended, and the rules and regulations

1 *promulgated thereunder and shall comply with all other applicable*
2 *federal securities statutes and related rules and regulations that apply*
3 *to investment managers.*

4 3. ~~[Effective July 1, 1991,]~~No investment manager~~[counselor]~~ shall
5 manage more than forty percent (40%) of the funds of the retirement
6 system.

7 (c) The board may appoint an investment committee ~~[consisting of the executive~~
8 ~~secretary and two (2) trustees]~~to act for the board in all matters of investment,
9 subject to the approval of the board of trustees. The board of trustees, in
10 keeping with their responsibilities as trustees and wherever consistent with
11 their fiduciary responsibilities, shall give priority to the investment of funds in
12 obligations calculated to improve the industrial development and enhance the
13 economic welfare of the Commonwealth. Toward this end, the board shall
14 develop procedures for informing the business community of the potential for
15 in-state investments by the retirement fund, accepting and evaluating
16 applications for the in-state investment of funds, and working with members
17 of the business community in executing in-state investments which are
18 consistent with the board's fiduciary responsibilities. The board shall include
19 in the criteria it uses to evaluate in-state investments their potential for
20 creating new employment opportunities and adding to the total job pool in
21 Kentucky. The board may cooperate with the board of trustees of Kentucky
22 Retirement Systems in developing its program and procedures, and shall
23 report to the Legislative Research Commission annually on its progress in
24 placing in-state investments. The first report shall be submitted by October 1,
25 1991, and subsequent reports shall be submitted by October 1 of each year
26 thereafter. The report shall include the number of applications for in-state
27 investment received, the nature of the investments proposed, the amount

1 requested, the amount invested, and the percentage of applications which
2 resulted in investments.

3 (2) The board members and investment consultants~~[counselor]~~ shall discharge their
4 duties with respect to the assets of the system solely in the interests of the active
5 contributing members and annuitants and:

6 (a) For the exclusive purpose of providing benefits to members and annuitants
7 and defraying reasonable expenses of administering the system;

8 (b) With the care, skill, prudence, and diligence under the circumstances then
9 prevailing that a prudent person acting in a like capacity and familiar with
10 these matters would use in the conduct of an enterprise of a like character and
11 with like aims;

12 (c) By diversifying the investments of the plan so as to minimize the risk of large
13 losses, unless under the circumstances it is clearly prudent not to do so; and

14 (d) In accordance with the laws, administrative regulations, and other instruments
15 governing the system.

16 (3) (a) In choosing and contracting for professional investment management and
17 consulting services, the board shall~~[must]~~ do so prudently and in the interest
18 of the members and annuitants. Any contract that the board makes with an
19 investment manager~~[counselor]~~ shall set forth policies and guidelines of the
20 board with reference to standard rating services and specific criteria for
21 determining the quality of investments. Expenses directly related to
22 investment management and consulting services shall be financed from the
23 guarantee fund in amounts approved by the board.

24 (b) An investment manager or consultant~~[counselor]~~ appointed under this
25 section shall acknowledge in writing his fiduciary responsibilities to the fund.
26 To be eligible for appointment, an investment manager, consultant, or an
27 affiliate, shall~~[counselor must]~~ be:

- 1 1. Registered under the Federal Investment ~~Advisers~~Advisors Act of
2 1940; or
- 3 2. A bank as defined by that Act; or
- 4 3. An insurance company qualified to perform investment services under
5 the laws of more than one (1) state.
- 6 (4) No investment or disbursement of funds shall be made unless authorized by the
7 board of trustees, except that the board, in order to ensure timely market
8 transactions, shall establish investment guidelines~~[, by administrative regulation,]~~
9 and may permit its staff and investment managers who are~~counselors~~ employed
10 or under contract with the board pursuant to this section to execute purchases and
11 sales of investment instruments within those guidelines without prior board
12 approval.
- 13 (5) In discharging his or her administrative duties under this section, a trustee shall
14 strive to administer the retirement system in an efficient and cost-effective manner
15 for the taxpayers of the Commonwealth of Kentucky.
- 16 (6) Notwithstanding any other provision of KRS 161.220 to 161.716, no funds of the ~~Kentucky~~
17 Teachers' Retirement System, including fees and commissions paid to an
18 investment manager, private fund, or company issuing securities, who manages
19 systems assets, shall be used to pay fees and commissions to placement agents. For
20 purposes of this subsection, "placement agent" means a third-party individual, who
21 is not an employee, or firm, wholly or partially owned by the entity being hired,
22 who solicits investments on behalf of an investment manager, private fund, or
23 company issuing securities.
- 24 (7) All contracts for the investment or management of assets of the system shall not be
25 subject to KRS Chapters 45, 45A, 56, and 57. Instead, the board shall conduct the
26 following process to develop and adopt an investment procurement policy with
27 which all prospective contracts for the investment or management of assets of the

1 system shall comply:

- 2 (a) On or before July 1, 2017, the board shall consult with the secretary of the
3 Finance and Administration Cabinet or his or her designee to develop an
4 investment procurement policy, which shall be written to meet best practices
5 in investment management procurement;
- 6 (b) Thirty (30) days prior to adoption, the board shall tender the preliminary
7 investment procurement policy to the secretary of the Finance and
8 Administration Cabinet or his or her designee for review and comment;
- 9 (c) Upon receipt of comments from the secretary of the Finance and
10 Administration Cabinet or his or her designee, the board shall choose to adopt
11 or not adopt any recommended changes;
- 12 (d) Upon adoption, the board shall tender the final investment procurement policy
13 to the secretary of the Finance and Administration Cabinet or his or her
14 designee;
- 15 (e) No later than thirty (30) days after receipt of the investment procurement
16 policy, the secretary or his or her designee shall certify whether the board's
17 investment procurement policy meets or does not meet best practices for
18 investment management procurement; and
- 19 (f) Any amendments to the investment procurement policy shall adhere to the
20 requirements set forth by paragraphs (b) to (e) of this subsection.

21 ➔Section 2. Whereas the ability of the Teachers' Retirement System to invest the
22 funds of the system on behalf of its members is one of its most important fiduciary
23 obligations, an emergency is declared to exist, and this Act takes effect upon its passage
24 and approval of the Governor or upon its otherwise becoming law.