

Investment powers of board; members to be trustees of fund.

Sec. 145.11. The members of the public employees retirement board shall be the trustees of the several funds created by Chapter 145. of the Revised Code, and said board shall have full power to invest such funds:

(A) In bonds of the United States, this state, or in notes or debentures the principal and interest of which are guaranteed in full by the United States government or this state;

(B) In bonds, notes, and certificates of indebtedness, and other obligations of the state, or any county, township, municipal corporation, school district, any conservancy district, or sanitary district of the state, or any other legally constituted taxing or bond issuing authority, subdivision, or municipal corporation within the state;

(C) In notes or bonds issued pursuant to sections 151.01 to 151.13, inclusive, of the Revised Code;

(D) In revenue bonds issued by a taxing subdivision of the state;

(E) In farm loan bonds issued under the "Federal Farm Loan Act of 1916," 39 Stat. 360, 12 U.S.C.A. 641, and amendments thereto;

(F) In notes secured by mortgages and insured by the federal housing commissioner, or his successor or assigns, or in debentures

issued by such commissioner, which are guaranteed as to principal and interest by the federal housing administration, an agency of the United States government;

(G) In bonds or other interest-bearing obligations of any other state of the United States which, within twenty years prior to the making of such investment, has not defaulted for more than ninety days in the payment of principal or interest on any of its bonds or other interest-bearing obligations;

(H) In obligations issued by a federal home loan bank created under an act of congress entitled the "Federal Home Loan Bank Act of 1932," 47 Stat. 725, 12 U.S.C.A. 1421, and amendments thereto;

(I) In shares issued by a federal savings and loan association organized and incorporated under an act of congress entitled the "Home Owners' Loan Act of 1933," 48 Stat. 128, 12 U.S.C.A. 1461 and amendments thereto, to the extent and only to the extent that said shares are insured under subchapter IV of the "National Housing Act," 48 Stat. 1246, (1934) 12 U.S.C.A. 1701, and the amendments thereto;

(J) In bonds issued by the home owners' loan corporation created under an act of congress entitled the "Home Owners' Loan Act of 1933," 48 Stat. 128, 12 U.S.C.A. 1461, and amendments thereto;

(K) In obligations issued by national mortgage associations created under the "National Housing Act," 48 Stat. 1246, (1934) 12 U.S.C.A. 1701, and amendments thereto;

(L) In shares and certificates or other evidences of deposits issued by a state chartered building and loan association organized under the laws of the state, which association has obtained insurance of accounts as provided in subchapter IV of the "National Housing Act," 48 Stat. 1246, (1934) 12 U.S.C.A. 1701, and amendments thereto, only to the extent that said evidences of deposits are insured under said act and the amendments thereto;

(M) In shares and certificates or other evidences of deposits issued by a state chartered building and loan association organized under the laws of the state, provided such funds may not be invested in such deposits except in an amount not to exceed the amount permitted under division (L) of this section, or in the shares and certificates or other evidences of deposits of a member of a deposit guaranty association organized under sections 1151.80 to 1151.92, inclusive, of the Revised Code;

(N) In savings accounts in a national bank located in the state or a state bank located in and organized under the laws of the

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state by depositing such funds therein; provided that no deposit shall be made unless the deposits of the depository bank are insured by the federal deposit insurance corporation, created under an act of congress, entitled the "Federal Deposit Insurance Corporation Act of 1933," 48 Stat. 162, U.S.C.A. 264, and amendments thereto, and provided that the deposit of the funds in any such savings accounts in any one bank shall not exceed the sum insured under said act and the amendments thereto;

(O) In the following corporate obligations:

(1) In obligations consisting of notes, bonds, debentures, conditional sales contracts, or equipment trust certificates issued under an indenture, which are the direct obligations, or in the case of equipment trust certificates are secured by direct obligations, of a railroad or industrial corporation, or a corporation engaged directly and primarily in the production, transportation, distribution, or sale of electricity or gas, or the operation of telephone or telegraph systems or waterworks, or in some combination of them; provided the obligor corporation is one which is incorporated under the laws of the United States, or any state thereof, or of the District of Columbia, and said obligations are rated at the time of purchase within the three highest classifications established by at least two standard rating services selected from a list of the standard rating services which shall be prescribed by the superintendent of banks;

(2) Various forms of commercial *** *paper issued by any corporation which is incorporated under the laws of the United States, or any state thereof, or the District of Columbia; banker's acceptances which are eligible for discount at any federal reserve bank, and negotiable time certificates of deposit issued by commercial banks, if such obligations mature within six months from the date of purchase;*

(P) In productive real property located within the state, provided that such property shall not exceed twelve per cent of the total value of all funds described in section 145.23 of the Revised Code and shall be subject to all real property taxes levied under the laws of the state;

(Q) In the following preferred and common stocks:

(1) Stocks, preferred or common, issued or guaranteed by a corporation created or existing under the laws of the United States or any state, district, or territory thereof, provided:

(a) That for a period of five fiscal years for which the necessary statistical data are available next preceding the date of investment, such corporation as disclosed by its published fiscal annual statements has had an average annual net income plus its

average annual fixed charges (as used in this section, fixed charges means interest on funded or unfunded debt, contingent interest charges, amortization of debt discount, and expense and rentals for leased property and, in the case of consolidated earnings statements of parent and subsidiary corporations includes all fixed charges and preferred dividend requirement, if any, of the subsidiaries) at least equal to one and one-half times the sum of its average annual dividend requirement for preferred stock and its average annual fixed charges for the same period; however, during neither of the last two years of such period shall the sum of its annual net income and its annual fixed charges be less than one and one-half times the sum of its dividend requirements for preferred stock and its fixed charges for the same period;

(b) That such corporation has no arrears of dividends on its preferred stock;

(c) That such common stock is registered on a national securities exchange as provided in the "Securities Exchange Act of 1934," 48 Stat. 881, 15 U. S. C. A. 77b, but such registration is not required of the following stocks:

(i) The common stock of a bank which is a member of federal deposit insurance corporation and has capital funds, represented by capital, surplus, and undivided profits, of at least twenty million dollars;

(ii) The common stock of a life insurance company which has capital funds, represented by capital, special surplus funds, and unassigned surplus, of at least fifty million dollars;

(iii) The common stock of a fire or casualty insurance company, or a combination thereof, which has capital funds represented by capital, net surplus, and voluntary reserves, of at least fifty million dollars;

(d) That the preferred stock of such corporation, if any is outstanding, qualifies for investment under this division;

(e) That such corporation, having no preferred stock outstanding, has had earnings for the five fiscal years next preceding the date of investment of at least twice the interest on all mortgages, bonds, debentures, and funded debts, if any, after deduction of the proper charges for replacements, depreciation, and obsolescence;

(f) That such corporation has paid a cash dividend on its common stock in each year of the ten-year period next preceding the date of investment and the aggregate net earnings available for dividends on the common stock of such corporation for the whole of such period has been at least equal to the amount of such dividends paid;

(g) That in applying the earnings test under this division

to any issuing, assuming, or guaranteeing corporation, where such corporation has acquired its property or any substantial part thereof within a five-year period immediately preceding the date of investment by consolidations, merger, or by the purchase of all or a substantial portion of the property of any other corporation or corporations, or has acquired the assets of any unincorporated business enterprise by purchase or otherwise, net income, fixed charges, and preferred dividends of the several predecessor or constituent corporations or enterprises shall be consolidated and adjusted so as to ascertain whether or not the applicable requirements of this section have been complied with;

(h) That the total value of common and preferred stocks does not exceed twenty-five per cent of the total value of all funds described in section 145.23 of the Revised Code, provided:

(i) Not more than one and one-half per cent of the total value of such funds is invested in the common stock of a single corporation.

(ii) The total number of common shares in a single corporation does not exceed ten per cent of the issued and outstanding common stock of such corporation.

(iii) As used in division (Q) (1) (h) of this section value consists of cash, the par value of unpaid balance of all unmatured or unpaid investments requiring the payment of a fixed amount at payment date, and the cost of all other investments.

(R) In obligations issued, assumed, or guaranteed by the international bank for reconstruction and development or the inter-American development bank;

(S) Real estate subject to a lease or leases, with or without purchase option provisions, and under which the lease payments may or may not include all or a part of the purchase price, with a corporation or corporations. Such lease or leases shall be certified in writing by a standard rating service to be of investment quality equivalent to or higher than the quality of bonds rated in the third highest investment classification; provided, that any such lease or leases in which the United States or any federal government agency, presently or in the future established by acts of congress, is the lessee, or the performance of which is guaranteed by the United States or any such federal government agency, need not be so certified.

All investments shall be purchased at current market prices and the instruments of title of such investments shall be placed in the hands of the treasurer of state, who is hereby designated as custodian thereof. He shall collect such principal, dividends, and interest thereon as the same become due and payable and place the same when so collected into the retirement funds.

The treasurer of state shall honor and pay all vouchers drawn on the retirement funds for payment of such investments upon delivery to him of the instruments of title of such investments when there is attached to such vouchers a certified copy of such resolution of the retirement board authorizing the purchase of such investments. The retirement board may sell any of its investments upon like resolution, and the proceeds thereof shall be paid by the purchaser to the treasurer of state upon delivery to him of the instruments of title of such investments by the treasurer of state. *For the purpose of facilitating the purchase of common stock, commercial paper, or such other investments as may require payment prior to delivery of final evidence of ownership, the treasurer of state shall be authorized, for the purpose of making payment, to accept a confirmation of purchase or trust receipt, pending delivery of certificates, notes, or other evidence of ownership, pursuant to receipt of a resolution authorizing such purchase adopted or approved by the retirement board. (Amended in Amended Substitute House Bill No. 225)*