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SENATE FILE 345
BY DELUHERY

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act establishing a board of trustees to administer the Iowa
2 public employees' retirement system and providing an effective
3 date.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 345

1 Section 1. Section 12.8, unnumbered paragraph 3, Code
2 1997, is amended to read as follows:

3 The treasurer of state, with the approval of the investment
4 board of trustees of the Iowa public employees' retirement
5 system, may conduct a program of lending securities in the
6 Iowa public employees' retirement system portfolio. When
7 securities are loaned as provided by this paragraph, the
8 treasurer shall act in the manner provided for investment of
9 moneys in the Iowa public employees' retirement fund under
10 section 97B.7. The treasurer of state shall report at least
11 annually to the investment board of trustees of the Iowa
12 public employees' retirement system on the program and shall
13 provide additional information on the program upon the request
14 of the investment board of trustees or the employees of the
15 Iowa public employees' retirement system division of the
16 department of personnel.

17 Sec. 2. Section 19A.1, subsection 3, paragraph c, Code
18 1997, is amended to read as follows:

19 c. The investment board of trustees of the Iowa public
20 employees' retirement system created by section 97B-8 97B.8A.

21 Sec. 3. Section 68B.35, subsection 2, paragraph e, Code
22 1997, is amended to read as follows:

23 e. Members of the banking board, the ethics and campaign
24 disclosure board, the credit union review board, the economic
25 development board, the employment appeal board, the
26 environmental protection commission, the health facilities
27 council, the Iowa business investment corporation board of
28 directors, the Iowa finance authority, the Iowa seed capital
29 corporation, the Iowa public employees' retirement system
30 investment board of trustees, the lottery board, the natural
31 resource commission, the board of parole, the petroleum
32 underground storage tank fund board, the public employment
33 relations board, the state racing and gaming commission, the
34 state board of regents, the tax review board, the
35 transportation commission, the office of consumer advocate,

1 the utilities board, the Iowa telecommunications and
2 technology commission, and any full-time members of other
3 boards and commissions as defined under section 7E.4 who
4 receive an annual salary for their service on the board or
5 commission.

6 Sec. 4. Section 97B.1, Code 1997, is amended to read as
7 follows:

8 97B.1 SYSTEM CREATED -- ORGANIZATIONAL DEFINITIONS.

9 1. The "Iowa Public Employees' Retirement System" is
10 created. The system is within the department of personnel,
11 subject to the administration of the board.

12 2. As used in this chapter unless the context requires
13 otherwise:

14 a. "Board" means the investment board of trustees created
15 by section 97B.8 97B.8A.

16 b. "Department" means the department of personnel.

17 c. "Director" means the director of the department of
18 personnel.

19 d. "System" means the Iowa public employees' retirement
20 system.

21 Sec. 5. Section 97B.4, Code 1997, is amended to read as
22 follows:

23 97B.4 ADMINISTRATION OF SYSTEM -- POWERS AND DUTIES --
24 IMMUNITY.

25 The department board, through the department and the chief
26 investment officer and chief benefits officer, shall
27 administer this chapter. The department, upon the approval of
28 the board, may adopt, amend, or rescind rules, employ persons,
29 execute contracts with outside parties, make expenditures,
30 require reports, make investigations, and take other action it
31 deems necessary for the administration of the system in
32 conformity with the requirements of this chapter, the
33 applicable provisions of the Internal Revenue Code, and all
34 other applicable federal and state laws. The rules shall be
35 effective upon compliance with chapter 17A. Not later than

1 the fifteenth day of December of each year, the department
2 shall submit to the governor a report covering the
3 administration and operation of this chapter during the
4 preceding fiscal year and shall make recommendations for
5 amendments to this chapter. The report shall include a
6 balance sheet of the moneys in the Iowa public employees'
7 retirement fund.

8 In the administration of the investment of moneys in the
9 fund and in making benefit recommendations, employees of the
10 department and members of the board may travel outside the
11 state for the purpose of meeting with investment and benefit
12 firms and consultants and attending conferences and meetings
13 to fulfill their fiduciary responsibilities. This travel is
14 not subject to section 421.38, subsection 2.

15 The department, members of the investment board, and the
16 treasurer of state are not personally liable for actions or
17 omissions under this chapter that do not involve malicious or
18 wanton misconduct even if those actions or omissions violate
19 the standards established in section 97B.7.

20 Sec. 6. Section 97B.7, subsection 2, paragraphs b and d,
21 Code 1997, are amended to read as follows:

22 b. To invest the portion of the retirement fund which in
23 the judgment of the department is not needed for current
24 payment of benefits under this chapter. The department shall
25 execute the disposition and investment of moneys in the
26 retirement fund in accordance with the investment policy and
27 goal statement established by the investment board. In
28 establishing the investment policy of the fund and the
29 investment of the fund, the department and investment board
30 shall exercise the judgment and care, under the circumstances
31 then prevailing, which persons of prudence, discretion, and
32 intelligence exercise in the management of their own affairs,
33 not for the purpose of speculation, but with regard to the
34 permanent disposition of the funds, considering the probable
35 income, as well as the probable safety, of their capital.

1 Within the limitations of the standard prescribed in this
2 section, the treasurer of state, the department, and the board
3 may acquire and retain every kind of property and every kind
4 of investment which persons of prudence, discretion, and
5 intelligence acquire or retain for their own account.

6 The department and investment board shall give appropriate
7 consideration to those facts and circumstances that the
8 department and investment board know or should know are
9 relevant to the particular investment or investment policy
10 involved, including the role the investment plays in the total
11 value of the retirement fund.

12 For the purposes of this paragraph, appropriate con-
13 sideration includes, but is not limited to, a determination by
14 the department and investment board that the particular
15 investment or investment policy is reasonably designed to
16 further the purposes of the retirement system, taking into
17 consideration the risk of loss and the opportunity for gain or
18 other return associated with the investment or investment
19 policy and consideration of the following factors as they
20 relate to the retirement fund:

21 (1) The composition of the retirement fund with regard to
22 diversification.

23 (2) The liquidity and current return of the investments in
24 the fund relative to the anticipated cash flow requirements of
25 the retirement system.

26 (3) The projected return of the investments relative to
27 the funding objectives of the retirement system.

28 Consistent with this paragraph, investments made under this
29 paragraph shall be made in a manner that will enhance the
30 economy of this state, and in particular, will result in
31 increased employment of the residents of this state.
32 Investments of moneys in the fund are not subject to sections
33 73.15 through 73.21.

34 Except as provided in section 97B.4, if there is loss to
35 the fund, the treasurer, the department, and the board are not

1 personally liable, and the loss shall be charged against the
2 retirement fund. There is appropriated from the retirement
3 fund the amount required to cover a loss. Expenses incurred
4 in the sale and purchase of securities belonging to the
5 retirement fund shall be charged to the retirement fund, and
6 there is appropriated from the retirement fund the amount
7 required for the expenses incurred. Investment management
8 expenses shall be charged to the investment income of the
9 retirement fund, and there is appropriated from the retirement
10 fund the amount required for the investment management
11 expenses, subject to the limitations stated in this unnumbered
12 paragraph. The amount appropriated for a fiscal year under
13 this unnumbered paragraph shall not exceed four-tenths of one
14 percent of the market value of the retirement fund. The
15 department shall report the investment management expenses for
16 a fiscal year as a percent of the market value of the
17 retirement fund in the annual report to the governor required
18 in section 97B.4. A person who has signed a contract with the
19 department for investment management purposes shall meet the
20 requirements for doing business in Iowa sufficient to be
21 subject to tax under rules of the department of revenue and
22 finance.

23 d. To sell any securities or other property in the trust
24 fund and reinvest the proceeds in accordance with the
25 direction of the department when such action may be deemed
26 advisable by the department for the protection of the trust
27 fund or the preservation of the value of the investment. Such
28 sale of securities or other property of the trust fund shall
29 only be made after advice from the investment board in the
30 manner and to the extent provided in this chapter in regard to
31 the purchase of investments.

32 Sec. 7. NEW SECTION. 97B.8A BOARD OF TRUSTEES.

33 1. BOARD ESTABLISHED. A board is established to be known
34 as the "Board of Trustees of the Iowa Public Employees'
35 Retirement System", referred to in this chapter as the

1 "board", whose duties are to establish policy for the
2 department in matters relating to the administration of the
3 system, including the investment of the trust funds and the
4 disbursement of benefits provided to members of the system.

5 2. REVIEW.

6 a. At least annually the board shall review the investment
7 policies and procedures used by the department under section
8 97B.7, subsection 2, paragraph "b", and shall hold a public
9 meeting on the investment policies and investment performance
10 of the fund. Following its review and the public meeting, the
11 board shall establish an investment policy and goal statement
12 which shall direct the investment activities of the
13 department. The development of the investment policy and goal
14 statement and its subsequent execution shall be performed
15 cooperatively between the board and the department.

16 b. At least every two years, the board shall review the
17 benefits provided to members under chapter 97B and shall hold
18 a public meeting on the benefits provided to members under
19 this chapter. Following its review and public meeting, the
20 board shall make recommendations to the general assembly
21 concerning the benefits provided under this chapter.

22 3. MEMBERSHIP.

23 a. The board consists of nine members. Six of the members
24 shall be appointed by the governor. One member shall be an
25 executive of a domestic life insurance company, an executive
26 of a state or national bank operating within the state of
27 Iowa, or an executive of an industrial corporation located
28 within the state of Iowa; one, not a member of the system, who
29 is a member of a county board of supervisors or local school
30 board; and four shall be members of the system, one of whom is
31 an active member who is an employee of a school district, area
32 education agency, or merged area, one of whom is an active
33 member who is not employed in a position described under
34 section 97B.49, subsection 16, and is not an employee of a
35 school district, area education agency, or merged area, one of

1 whom is employed in a position described under section 97B.49,
2 subsection 16, and one of whom is a retired member of the
3 system. The president of the senate, after consultation with
4 the majority leader and the minority leader of the senate,
5 shall appoint one member from the membership of the senate and
6 the speaker of the house of representatives, after
7 consultation with the majority leader and the minority leader
8 of the house of representatives, shall appoint one member from
9 the membership of the house. The following members are ex
10 officio, voting members of the board: the member who is a
11 member of a county board of supervisors or local school board;
12 the active member who is an employee of a school district,
13 area education agency, or merged area; the active member who
14 is not employed in a position described under section 97B.49,
15 subsection 16, and is not an employee of a school district,
16 area education agency, or merged area; and the active member
17 who is employed in a position described under section 97B.49,
18 subsection 16. The director of the department of personnel
19 and the two legislative members are ex officio, nonvoting
20 members of the board. Four voting members of the board shall
21 constitute a quorum.

22 b. The members who are an executive of a domestic life
23 insurance company, an executive of a state or national bank
24 operating within the state of Iowa, or an executive of an
25 industrial corporation located within the state of Iowa, a
26 member of a county board of supervisors or school board, and
27 the member who is a retired member of the system, shall be
28 paid their actual expenses incurred in performance of their
29 duties and shall receive a per diem as specified in section
30 7E.6 for each day of service not exceeding forty days per
31 year. Legislative members shall be paid the per diem
32 specified in section 2.10, subsection 6, for each day of
33 service, and their actual expenses incurred in the performance
34 of their duties. The per diem and expenses of the legislative
35 members shall be paid from funds appropriated under section

1 2.12. The following members shall be paid their actual
2 expenses incurred in the performance of their duties as
3 members of the board and the performance of their duties as
4 members of the board shall not affect their salaries,
5 vacations, or leaves of absence for sickness or injury: the
6 director of the department of personnel; the active member who
7 is an employee of a school district, area education agency, or
8 merged area; the active member who is not employed in a
9 position described under section 97B.49, subsection 16, and is
10 not an employee of a school district, area education agency,
11 or merged area; and the active member who is employed in a
12 position described under section 97B.49, subsection 16. The
13 appointive terms of the members appointed by the governor are
14 for a period of six years beginning and ending as provided in
15 section 69.19. A vacancy in the membership of the board shall
16 be filled in the same manner as the original appointment.
17 Gubernatorial appointees to the board are subject to
18 confirmation by the senate.

19 4. ADMINISTRATIVE AUTHORITY. The authority of the
20 department to carry out its duties as provided by this chapter
21 are, notwithstanding provisions of this chapter to the
22 contrary, subject to the approval of the board.

23 Sec. 8. Section 473.11, subsection 2, unnumbered paragraph
24 1, Code 1997, is amended to read as follows:

25 The treasurer of state shall be the custodian of the energy
26 conservation trust and shall invest the moneys in the trust,
27 in consultation with the energy fund disbursement council
28 established in subsection 3 and the investment board of
29 trustees of the Iowa public employees' retirement system, in
30 accordance with the following guidelines:

31 Sec. 9. BOARD TRANSITION -- EFFECTIVE DATE.

32 1. Notwithstanding provisions of section 97B.8A, as
33 enacted in this Act, to the contrary, the initial board of
34 trustees of the Iowa public employees' retirement system shall
35 consist of the following members, who shall serve the

1 following terms:

2 a. The governor shall select one of the members of the
3 investment board established under section 97B.8, Code 1997,
4 who is an executive of a domestic life insurance company, an
5 executive of a state or national bank operating within the
6 state of Iowa, or an executive of an industrial corporation
7 located within the state of Iowa, to appoint to serve on the
8 initial board of trustees for a term which shall commence on
9 July 1, 1997, and expire on the same date as the member's term
10 would have expired on the investment board in accordance with
11 section 97B.8, Code 1997. The members' terms on the
12 investment board established under section 97B.8, Code 1997,
13 shall cease on July 1, 1997.

14 b. The governor shall appoint to the initial board of
15 trustees one member, not a member of the system, who is a
16 member of a county board of supervisors or local school board
17 and one member who is an active member of the system and is
18 employed in a position described under section 97B.49,
19 subsection 16. The terms of these two members appointed under
20 this paragraph shall commence on July 1, 1997, and the
21 governor, in making the appointments, shall select the date of
22 expiration of the terms in accordance with this paragraph.
23 The terms of the members appointed under this paragraph shall
24 expire on the dates that the terms of the two members not
25 selected pursuant to paragraph "a" would have expired under
26 the investment board in accordance with section 97B.8, Code
27 1997.

28 c. The members of the investment board established under
29 section 97B.8, Code 1997, who serve as an active member who is
30 an employee of a school district, area education agency, or
31 merged area, an active member who is not an employee of a
32 school district, area education agency or merged area, and a
33 retired member of the system, shall cease membership on the
34 investment board and commence membership on the initial board
35 of trustees on July 1, 1997. The terms of these members on

1 the initial board of trustees shall expire on the same date as
2 their terms would have expired on the investment board in
3 accordance with section 97B.8, Code 1997.

4 d. The members of the investment board established under
5 section 97B.8, Code 1997, who are legislative members shall
6 cease membership on the investment board and commence
7 membership on the initial board of trustees on July 1, 1997.
8 The terms of these members shall expire at the pleasure of the
9 appointing authorities as provided in section 97B.8A, as
10 enacted in this Act.

11 e. The director of the department of personnel shall cease
12 membership on the investment board established under section
13 97B.8, Code 1997, and commence membership on the initial board
14 of trustees on July 1, 1997. The director of the department
15 of personnel shall serve on the board of trustees as provided
16 in section 97B.8A, as enacted in this Act.

17 2. Initial appointments by the governor under subsection
18 1, paragraphs "a" and "b", are subject to confirmation by the
19 senate. If a vacancy occurs as to a member listed in
20 subsection 1, paragraphs "a" through "c", prior to the
21 expiration of a term as provided in this section, the governor
22 shall appoint a member to serve the remainder of the term so
23 that the membership requirements of section 97B.8A, as enacted
24 in this Act, are fulfilled, and the appointment shall be
25 subject to confirmation by the senate. Upon the expiration of
26 a term established in this section, a member shall be
27 appointed in the manner and for a term of service as specified
28 in section 97B.8A, as enacted in this Act. Except as
29 otherwise provided in this section, the initial board of
30 trustees shall be subject to the requirements of section
31 97B.8A, as enacted in this Act.

32 3. In order to provide for the appointments to the initial
33 board of trustees, this section of this Act, being deemed of
34 immediate importance, takes effect upon enactment.

35 Sec. 10. Section 97B.8, Code 1997, is repealed.

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EXPLANATION

This bill provides that the department of personnel shall administer the Iowa public employees' retirement system (IPERS), subject to the approval of a board of trustees. Currently, the department of personnel administers IPERS without specific approval of a board of trustees except for some investment matters which are determined by the current investment board. The current investment board is repealed and a new board of trustees is created that has the authority of the current investment board as well as the authority to make recommendations concerning benefits provided under chapter 97B. Of the current members of the investment board, two of the members are replaced with a member who, not an IPERS member, is on a county board of supervisors or a school board, and a member who is covered under section 97B.49, subsection 16, which includes members of a protection occupation, sheriffs, deputy sheriffs, or airport fire fighters. The governor shall select the two members to be replaced from among the members who are executives of a domestic life insurance company, a state or national bank operating in-state, and an industrial corporation located within the state. The bill establishes an initial board of trustees to complete the current terms of the investment board, and the section establishing the initial board is effective upon enactment.