

FILED FEB 29 1996

SENATE FILE 2361
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. 2361

1 Section 1. Section 12.8, unnumbered paragraph 3, Code
2 1995, 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 1995, 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 1995, 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, and any full-time members of other boards
2 and commissions as defined under section 7E.4 who receive an
3 annual salary for their service on the board or commission.

4 Sec. 4. Section 97B.1, Code 1995, is amended to read as
5 follows:

6 97B.1 SYSTEM CREATED -- ORGANIZATIONAL DEFINITIONS.

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

10 2. As used in this chapter unless the context requires
11 otherwise:

12 a. "Board" means the investment board of trustees created
13 by section 97B:8 97B.8A.

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

15 c. "Director" means the director of the department of
16 personnel.

17 d. "System" means the Iowa public employees' retirement
18 system.

19 Sec. 5. Section 97B.4, Code 1995, is amended to read as
20 follows:

21 97B.4 ADMINISTRATION OF SYSTEM -- POWERS AND DUTIES --
22 IMMUNITY.

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

1 administration and operation of this chapter during the
2 preceding fiscal year and shall make recommendations for
3 amendments to this chapter. The report shall include a
4 balance sheet of the moneys in the Iowa public employees'
5 retirement fund.

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

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

18 Sec. 6. Section 97B.7, subsection 2, paragraphs b and d,
19 Code 1995, are amended to read as follows:

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

1 may acquire and retain every kind of property and every kind
2 of investment which persons of prudence, discretion, and
3 intelligence acquire or retain for their own account.

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

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

19 (1) The composition of the retirement fund with regard to
20 diversification.

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

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

26 Consistent with this paragraph, investments made under this
27 paragraph shall be made in a manner that will enhance the
28 economy of this state, and in particular, will result in
29 increased employment of the residents of this state.

30 Investments of moneys in the fund are not subject to sections
31 73.15 through 73.21.

32 Except as provided in section 97B.4, if there is loss to
33 the fund, the treasurer, the department, and the board are not
34 personally liable, and the loss shall be charged against the
35 retirement fund. There is appropriated from the retirement

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

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

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

30 1. BOARD ESTABLISHED. A board is established to be known
31 as the "Board of Trustees of the Iowa Public Employees'
32 Retirement System", referred to in this chapter as the
33 "board", whose duties are to establish policy for the
34 department in matters relating to the administration of the
35 system, including the investment of the trust funds and the

1 disbursement of benefits provided to members of the system.

2 2. REVIEW.

3 a. At least annually the board shall review the investment
4 policies and procedures used by the department under section
5 97B.7, subsection 2, paragraph "b", and shall hold a public
6 meeting on the investment policies and investment performance
7 of the fund. Following its review and the public meeting, the
8 board shall establish an investment policy and goal statement
9 which shall direct the investment activities of the
10 department. The development of the investment policy and goal
11 statement and its subsequent execution shall be performed
12 cooperatively between the board and the department.

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

19 3. MEMBERSHIP.

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

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

19 b. The members who are an executive of a domestic life
20 insurance company, an executive of a state or national bank
21 operating within the state of Iowa, or an executive of an
22 industrial corporation located within the state of Iowa, a
23 member of a county board of supervisors or school board, and
24 the member who is a retired member of the system, shall be
25 paid their actual expenses incurred in performance of their
26 duties and shall receive a per diem as specified in section
27 7E.6 for each day of service not exceeding forty days per
28 year. Legislative members shall be paid the per diem
29 specified in section 2.10, subsection 6, for each day of
30 service, and their actual expenses incurred in the performance
31 of their duties. The per diem and expenses of the legislative
32 members shall be paid from funds appropriated under section
33 2.12. The following members shall be paid their actual
34 expenses incurred in the performance of their duties as
35 members of the board and the performance of their duties as

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

16 4. ADMINISTRATIVE AUTHORITY.

17 The authority of the department to carry out its duties as
18 provided by this chapter are, notwithstanding provisions of
19 this chapter to the contrary, subject to the approval of the
20 board.

21 Sec. 8. Section 473.11, subsection 2, unnumbered paragraph
22 1, Code 1995, is amended to read as follows:

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

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

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

35 a. The governor shall select one of the members of the

1 investment board established under section 97B.8, Code 1995,
2 who is an executive of a domestic life insurance company, an
3 executive of a state or national bank operating within the
4 state of Iowa, or an executive of an industrial corporation
5 located within the state of Iowa, to appoint to serve on the
6 initial board of trustees for a term which shall commence on
7 July 1, 1996, and expire on the same date as the member's term
8 would have expired on the investment board in accordance with
9 section 97B.8, Code 1995. The members' terms on the
10 investment board established under section 97B.8, Code 1995,
11 shall cease on July 1, 1996.

12 b. The governor shall appoint to the initial board of
13 trustees one member, not a member of the system, who is a
14 member of a county board of supervisors or local school board
15 and one member who is an active member of the system and is
16 employed in a position described under section 97B.49,
17 subsection 16. The terms of these two members appointed under
18 this paragraph shall commence on July 1, 1996, and the
19 governor, in making the appointments, shall select the date of
20 expiration of the terms in accordance with this paragraph.
21 The terms of the members appointed under this paragraph shall
22 expire on the dates that the terms of the two members not
23 selected pursuant to paragraph "a" would have expired under
24 the investment board in accordance with section 97B.8, Code
25 1995.

26 c. The members of the investment board established under
27 section 97B.8, Code 1995, who serve as an active member who is
28 an employee of a school district, area education agency, or
29 merged area, an active member who is not an employee of a
30 school district, area education agency or merged area, and a
31 retired member of the system, shall cease membership on the
32 investment board and commence membership on the initial board
33 of trustees on July 1, 1996. The terms of these members on
34 the initial board of trustees shall expire on the same date as
35 their terms would have expired on the investment board in

1 accordance with section 97B.8, Code 1995.

2 d. The members of the investment board established under
3 section 97B.8, Code 1995, who are legislative members shall
4 cease membership on the investment board and commence
5 membership on the initial board of trustees on July 1, 1996.
6 The terms of these members shall expire at the pleasure of the
7 appointing authorities as provided in section 97B.8A, as
8 enacted in this Act.

9 e. The director of the department of personnel shall cease
10 membership on the investment board established under section
11 97B.8, Code 1995, and commence membership on the initial board
12 of trustees on July 1, 1996. The director of the department
13 of personnel shall serve on the board of trustees as provided
14 in section 97B.8A, as enacted in this Act.

15 2. Initial appointments by the governor under subsection
16 1, paragraphs "a" and "b", are subject to confirmation by the
17 senate. If a vacancy occurs as to a member listed in
18 subsection 1, paragraphs "a" through "c", prior to the
19 expiration of a term as provided in this section, the governor
20 shall appoint a member to serve the remainder of the term so
21 that the membership requirements of section 97B.8A, as enacted
22 in this Act, are fulfilled, and the appointment shall be
23 subject to confirmation by the senate. Upon the expiration of
24 a term established in this section, a member shall be
25 appointed in the manner and for a term of service as specified
26 in section 97B.8A, as enacted in this Act. Except as
27 otherwise provided in this section, the initial board of
28 trustees shall be subject to the requirements of section
29 97B.8A, as enacted in this Act.

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

33 Sec. 10. REPEAL. Section 97B.8, Code 1995, is repealed.

34 EXPLANATION

35 This bill provides that the department of personnel shall

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

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