

LEGISLATURE OF NEBRASKA
ONE HUNDRED THIRD LEGISLATURE
SECOND SESSION
LEGISLATIVE BILL 977

Introduced by Conrad, 46.

Read first time January 17, 2014

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to governmental retirement and pension funds; to
2 amend section 30-3209, Revised Statutes Cumulative
3 Supplement, 2012; to change provisions relating to
4 fiduciary duties in cities of the primary class and
5 public power districts; and to repeal the original
6 section.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 30-3209, Revised Statutes Cumulative
2 Supplement, 2012, is amended to read:

3 30-3209 (1) Corporate trustees authorized by Nebraska law
4 to exercise fiduciary powers and holding retirement or pension funds
5 for the benefit of employees or former employees of cities, villages,
6 school districts, ~~public power districts,~~ or other governmental or
7 political subdivisions may invest and reinvest such funds in such
8 securities and investments as are authorized for trustees, guardians,
9 conservators, personal representatives, or administrators under the
10 laws of Nebraska. Retirement or pension funds of such cities,
11 villages, districts, or subdivisions may be invested in annuities
12 issued by life insurance companies authorized to do business in
13 Nebraska. Except as provided in subsection (2) of this section, any
14 other retirement or pension funds of cities, including cities
15 operating under home rule charters, villages, school districts except
16 as provided in section 79-9,107, ~~public power districts,~~ and all
17 other governmental or political subdivisions may be invested and
18 reinvested, as the governing body of such city, village, school
19 district, ~~public power district,~~ or other governmental or political
20 subdivision may determine, in the following classes of securities and
21 investments: (a) Bonds, notes, or other obligations of the United
22 States or those guaranteed by or for which the credit of the United
23 States is pledged for the payment of the principal and interest or
24 dividends thereof; (b) bonds or other evidences of indebtedness of
25 the State of Nebraska and full faith and credit obligations of or

1 obligations unconditionally guaranteed as to principal and interest
2 by any other state of the United States; (c) bonds, notes, or
3 obligations of any municipal or political subdivision of the State of
4 Nebraska which are general obligations of the issuer thereof and
5 revenue bonds or debentures of any city, county, or utility district
6 of this state when the earnings available for debt service have, for
7 a five-year period immediately preceding the date of purchase,
8 averaged not less than one and one-half times such debt service
9 requirements; (d) bonds and debentures issued either singly or
10 collectively by any of the twelve federal land banks, the twelve
11 intermediate credit banks, or the thirteen banks for cooperatives
12 under the supervision of the Farm Credit Administration; (e)
13 certificates of deposit of banks which are members of the Federal
14 Deposit Insurance Corporation or capital stock financial
15 institutions, and if the amount deposited exceeds the amount of
16 insurance available thereon, then the excess shall be secured in the
17 same manner as for the deposit of public funds; (f) accounts with
18 building and loan associations, qualifying mutual financial
19 institutions, or federal savings and loan associations in the State
20 of Nebraska to the extent that such accounts are insured or
21 guaranteed by the Federal Deposit Insurance Corporation; (g) bonds or
22 other interest-bearing obligations of any corporation organized under
23 the laws of the United States or any state thereof if (i) at the time
24 the purchase is made, they are given, by at least one statistical
25 organization whose publication is in general use, one of the three

1 highest ratings given by such organization and (ii) not more than
2 five percent of the fund shall be invested in the obligations of any
3 one issuer; (h) direct short-term obligations, generally classified
4 as commercial paper, of any corporation organized or existing under
5 the laws of the United States or any state thereof with a net worth
6 of ten million dollars or more; and (i) preferred or common stock of
7 any corporation organized under the laws of the United States or of
8 any state thereof with a net worth of ten million dollars or more if
9 (i) not more than fifty percent of the total investments at the time
10 such investment is made is in this class and not more than five
11 percent is invested in each of the first five years and (ii) not more
12 than five percent thereof is invested in the securities of any one
13 corporation. Notwithstanding the percentage limits stated in this
14 subsection, the cash proceeds of the sale of such preferred or common
15 stock may be reinvested in any securities authorized under this
16 subdivision. No city, village, school district, ~~public power~~
17 ~~district,~~ or other governmental subdivision or the governing body
18 thereof shall be authorized to sell any securities short, buy on
19 margin, or buy, sell, or engage in puts and calls. Section 77-2366
20 shall apply to deposits in capital stock financial institutions.
21 Section 77-2365.01 shall apply to deposits in qualifying mutual
22 financial institutions.

23 (2) Notwithstanding the limitations prescribed in
24 subsection (1) of this section, trustees or custodians holding
25 retirement or pension funds for the benefit of employees or former

1 employees of any city of the primary class, city of the metropolitan
2 class, metropolitan utilities district, ~~or~~ county in which a city of
3 the metropolitan class is located, or public power district shall
4 invest such funds in investments of the nature which individuals of
5 prudence, discretion, and intelligence acquire or retain in dealing
6 with the property of another. Such investments shall not be made for
7 speculation but for investment, considering the probable safety of
8 their capital as well as the probable income to be derived. The
9 trustees or custodians shall not buy on margin, buy call options, or
10 buy put options. The trustees or custodians may lend any security if
11 cash, United States Government obligations, or United States
12 Government agency obligations with a market value equal to or
13 exceeding the market value of the security lent are received as
14 collateral. If shares of stock are purchased under this subsection,
15 all proxies may be voted by the trustees or custodians. The asset
16 allocation restrictions set forth in subsection (1) of this section
17 shall not be applicable to the funds of pension or retirement systems
18 administered by or on behalf of a city of the primary class, city of
19 the metropolitan class, metropolitan utilities district, ~~or~~ county in
20 which a city of the metropolitan class is located, or public power
21 district.

22 (3) For purposes of subsection (2) of this section, a
23 custodian means a custodian meeting the requirements of section
24 401(f)(2) of the Internal Revenue Code.

25 Sec. 2. Original section 30-3209, Revised Statutes

1 Cumulative Supplement, 2012, is repealed.