
HOUSE BILL No. 1982

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10.2-2; IC 5-10.3-5-3; IC 20-12-0.7; IC 21-6.1-3-9.

Synopsis: Pension fund and university investment goals. Establishes for a ten year period goals for investment in Indiana for public pension funds and foundations or endowments of state educational institutions that decide to allocate part of their assets to venture capital investments. Allows the funds, foundations, or endowments five years to achieve the goals. Does not require the funds, foundations, or endowments to meet the goals if, in the exercise of financial and fiduciary prudence, the funds, foundations, or endowments determine that appropriate venture capital investments are not available in Indiana. Requires that the amount that the funds, foundations, or endowments were not able to invest in venture capital investments in Indiana not be invested in venture capital investments outside Indiana.

Effective: July 1, 2003.

**Orentlicher, Kruse, Kromkowski,
Turner**

January 23, 2003, read first time and referred to Committee on Labor and Employment.

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First Regular Session 113th General Assembly (2003)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2002 Regular or Special Session of the General Assembly.

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HOUSE BILL No. 1982



A BILL FOR AN ACT to amend the Indiana Code concerning finance.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-10.2-2-2.5, AS AMENDED BY P.L.61-2002,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2003]: Sec. 2.5. (a) Each board may establish investment
4 guidelines and limits on all types of investments (including, but not
5 limited to, stocks and bonds) and take other actions necessary to fulfill
6 its duty as a fiduciary for all assets under its control, subject to the
7 limitations and restrictions set forth in **section 18 of this chapter**,
8 IC 5-10.3-5-3, and IC 21-6.1-3-9.

9 (b) Each board may commingle or pool assets with the assets of any
10 other persons or entities. This authority includes, but is not limited to,
11 the power to invest in commingled or pooled funds, partnerships, or
12 mortgage pools. In the event of any such investment, the board shall
13 keep separate detailed records of the assets invested. Any decision to
14 commingle or pool assets is subject to the limitations and restrictions
15 set forth in IC 5-10.3-5-3 and IC 21-6.1-3-9.

16 SECTION 2. IC 5-10.2-2-18 IS ADDED TO THE INDIANA CODE
17 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY



1, 2003]: **Sec. 18. (a) As used in this section, "high growth company" means a sole proprietorship, firm, corporation, partnership, limited liability company, limited liability partnership, joint venture, trust, syndicate, or other business unit or association that:**

(1) is not engaged in a business involving:

(A) real estate;

(B) real estate development;

(C) insurance;

(D) professional services provided by an accountant, a lawyer, or a physician;

(E) retail sales, except when the primary purpose of the business is the development or support of electronic commerce using the Internet; or

(F) gas and oil exploration; and

(2) either:

(A) is entering a new product or process area;

(B) has a substantial number of employees in jobs:

(i) requiring postsecondary education or its equivalent; or

(ii) that are in occupational codes classified as high skill by the Bureau of Labor Statistics, United States Department of Labor;

(C) is primarily focused on the commercialization of research and development, technology transfers, or the application of new technology; or

(D) has had average annual revenues of less than ten million dollars (\$10,000,000) in each of the last two (2) calendar years.

(b) As used in this section, "venture capital" means capital invested in privately held equity or debt assets of a high growth company.

(c) If the board decides to allocate part of the fund assets to venture capital, the board shall adopt the following goals for its venture capital investments:

(1) The board's goal for investment in Indiana based high growth companies is at least twenty-five percent (25%) of the amount allocated to venture capital.

(2) The board's goal for investment in Indiana based or Indiana focused venture capital funds is at least twenty-five percent (25%) of the amount allocated to venture capital.

(3) The board's goal is to give preference to venture capital

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1 investments that could benefit high growth companies that
2 are started in or with assistance from Indiana universities and
3 colleges.

4 (d) The board has five (5) years after the date the goals in
5 subsection (c) are adopted to achieve the goal percentages.

6 (e) A venture capital investment counts toward achieving the
7 target percentage for all goals in which the investment qualifies.

8 (f) The board is not required to achieve the goal percentages
9 under subsection (c) if the board exercising financial and fiduciary
10 prudence determines that sufficient appropriate venture capital
11 investments are not available in Indiana.

12 (g) If the board does not meet the goals under subsection (c)
13 because the board makes a determination under subsection (f), the
14 board may not invest the amount that the board was not able to
15 invest in venture capital investments in Indiana in venture capital
16 investments outside Indiana. The board may invest the amount
17 that the board was not able to invest in venture capital investments
18 in Indiana in other investments that the board determines are
19 financially and fiscally prudent.

20 (h) This section expires July 1, 2013.

21 SECTION 3. IC 5-10.3-5-3 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) The board shall
23 invest its assets with the care, skill, prudence, and diligence that a
24 prudent person acting in a like capacity and familiar with such matters
25 would use in the conduct of an enterprise of a like character with like
26 aims. The board shall also diversify such investments in accordance
27 with prudent investment standards, **subject to the limitations and**
28 **restrictions set forth in IC 5-10.2-2-18.**

29 (b) The board may invest up to five percent (5%) of the excess of its
30 cash working balance in debentures of the corporation for innovation
31 development subject to IC 30-4-3-3.

32 (c) The board is not subject to IC 4-13, IC 4-13.6, and IC 5-16 when
33 managing real property as an investment. Any management agreements
34 entered into by the board must ensure that the management agent acts
35 in a prudent manner with regard to the purchase of goods and services.
36 Contracts for the management of investment property shall be
37 submitted to the governor, the attorney general, and the budget agency
38 for approval. A contract for management of real property as an
39 investment:

40 (1) may not exceed a four (4) year term and must be based upon
41 guidelines established by the board;

42 (2) may provide that the property manager may collect rent and

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1 make disbursements for routine operating expenses such as
 2 utilities, cleaning, maintenance, and minor tenant finish needs;

3 (3) must establish, consistent with the board's duty under
 4 IC 30-4-3-3(c), guidelines for the prudent management of
 5 expenditures related to routine operation and capital
 6 improvements; and

7 (4) may provide specific guidelines for the board to purchase new
 8 properties, contract for the construction or repair of properties,
 9 and lease or sell properties without individual transactions
 10 requiring the approval of the governor, the attorney general, the
 11 Indiana department of administration, and the budget agency.
 12 However, each individual contract involving the purchase or sale
 13 of real property is subject to review and approval by the attorney
 14 general at the specific request of the attorney general.

15 (d) Whenever the board takes bids in managing or selling real
 16 property, the board shall require a bid submitted by a trust (as defined
 17 in IC 30-4-1-1(a)) to identify all of the following:

18 (1) Each beneficiary of the trust.

19 (2) Each settlor empowered to revoke or modify the trust.

20 SECTION 4. IC 20-12-0.7 IS ADDED TO THE INDIANA CODE
 21 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 2003]:

23 **Chapter 0.7. Investment Goals for State Educational Institution**
 24 **Foundations or Endowments**

25 **Sec. 1. This chapter applies to the governing board of a**
 26 **foundation or an endowment fund established to support a state**
 27 **educational institution.**

28 **Sec. 2. As used in this chapter, "high growth company" means**
 29 **a sole proprietorship, firm, corporation, partnership, limited**
 30 **liability company, limited liability partnership, joint venture, trust,**
 31 **syndicate, or other business unit or association that:**

32 **(1) is not engaged in a business involving:**

33 **(A) real estate;**

34 **(B) real estate development;**

35 **(C) insurance;**

36 **(D) professional services provided by an accountant, a**
 37 **lawyer, or a physician;**

38 **(E) retail sales, except when the primary purpose of the**
 39 **business is the development or support of electronic**
 40 **commerce using the Internet; or**

41 **(F) gas and oil exploration; and**

42 **(2) either:**

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- (A) is entering a new product or process area;**
- (B) has a substantial number of employees in jobs:**
 - (i) requiring postsecondary education or its equivalent;**
 - or**
 - (ii) that are in occupational codes classified as high skill by the Bureau of Labor Statistics, United States Department of Labor;**
- (C) is primarily focused on the commercialization of research and development, technology transfers, or the application of new technology; or**
- (D) has had average annual revenues of less than ten million dollars (\$10,000,000) in each of the last two (2) calendar years.**

Sec. 3. As used in this chapter, "state educational institution" has the meaning set forth in IC 20-12-0.5-1.

Sec. 4. As used in this chapter, "venture capital" means capital invested in privately held equity or debt assets of a high growth company.

Sec. 5. If the board decides to allocate part of the foundation or endowment assets to venture capital, the board shall adopt the following goals for its venture capital investments:

- (1) The board's goal for investment in Indiana based high growth companies is at least twenty-five percent (25%) of the amount allocated to venture capital.**
- (2) The board's goal for investment in Indiana based or Indiana focused venture capital funds is at least twenty-five percent (25%) of the amount allocated to venture capital.**
- (3) The board's goal is to give preference to venture capital investments that could benefit high growth companies that are started in or with assistance from Indiana universities and colleges.**

Sec. 6. The board has five (5) years after the date the goals in section 5 of this chapter are adopted to achieve the goal percentages.

Sec. 7. A venture capital investment counts toward achieving the target percentage for all goals in which the investment qualifies.

Sec. 8. The board is not required to achieve the goal percentages under section 5 of this chapter, if the board exercising financial and fiduciary prudence determines that sufficient appropriate venture capital investments are not available in Indiana.

Sec. 9. If the board does not meet the goals under section 5 of this chapter because the board makes a determination under

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1 **section 8 of this chapter, the board may not invest the amount that**
 2 **the board was not able to invest in venture capital investments in**
 3 **Indiana in venture capital investments outside Indiana. The board**
 4 **may invest the amount that the board was not able to invest in**
 5 **venture capital investments in Indiana in other investments that**
 6 **the board determines are financially and fiscally prudent.**

7 **Sec. 10. This chapter expires July 1, 2013.**

8 SECTION 5. IC 21-6.1-3-9, AS AMENDED BY P.L.1-2002,
 9 SECTION 88, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 2003]: Sec. 9. (a) The board shall invest its assets with the
 11 care, skill, prudence, and diligence that a prudent person acting in a
 12 like capacity and familiar with such matters would use in the conduct
 13 of an enterprise of a like character with like aims. The board shall also
 14 diversify such investments in accordance with prudent investment
 15 standards, **subject to the limitations and restrictions set forth in**
 16 **IC 5-10.2-2-18.**

17 (b) The board may:

- 18 (1) make or have made investigations concerning investments;
 19 and
 20 (2) contract for and employ investment counsel to advise and
 21 assist in the purchase and sale of securities.

22 (c) The board is not subject to IC 4-13, IC 4-13.6, or IC 5-16 when
 23 managing real property as an investment. Any management agreements
 24 entered into by the board must ensure that the management agent acts
 25 in a prudent manner with regard to the purchase of goods and services.
 26 Contracts for the management of investment property shall be
 27 submitted to the governor, the attorney general, and the budget agency
 28 for approval. A contract for the management of real property as an
 29 investment:

- 30 (1) may not exceed a four (4) year term and must be based upon
 31 guidelines established by the board;
 32 (2) may provide that the property manager may collect rent and
 33 make disbursements for routine operating expenses such as
 34 utilities, cleaning, maintenance, and minor tenant finish needs;
 35 (3) shall establish, consistent with the board's duty under
 36 IC 30-4-3-3(c), guidelines for the prudent management of
 37 expenditures related to routine operation and capital
 38 improvements; and
 39 (4) may provide specific guidelines for the board to purchase new
 40 properties, contract for the construction or repair of properties,
 41 and lease or sell properties without individual transactions
 42 requiring the approval of the governor, the attorney general, the

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1 Indiana department of administration, and the budget agency.
2 However, each individual contract involving the purchase or sale
3 of real property is subject to review and approval by the attorney
4 general at the specific request of the attorney general.

5 (d) Whenever the board takes bids in managing or selling real
6 property, the board shall require a bid submitted by a trust (as defined
7 in IC 30-4-1-1(a)) to identify all of the following:

- 8 (1) Each beneficiary of the trust.
- 9 (2) Each settlor empowered to revoke or modify the trust.

10 SECTION 6. [EFFECTIVE JULY 1, 2003] **IC 5-10.2-2-18 and**
11 **IC 20-12-0.7, both as added by this act, apply only to investments**
12 **made after June 30, 2003.**

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