

COMMITTEE ON COMMERCE

HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2171

(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 38-718, Arizona Revised Statutes, is amended to
3 read:

4 38-718. Investment management; qualifications; term; removal;
5 general powers and duties; confidentiality of
6 proprietary information

7 A. The board shall appoint investment management. Investment
8 management shall have:

9 1. The highest professional and fiduciary recommendations.

10 2. Not less than three years' experience at handling institutional
11 investments of at least two hundred fifty million dollars. This paragraph is
12 satisfied if investment management, the individual retained by investment
13 management or individual employees within a firm meet this requirement.

14 3. Had responsibility for investment decision making as an insurance
15 company investment fund, an investment division of a bank, a mutual fund, an
16 investment organization, a pension fund or an investment adviser who is
17 designated as a chartered financial analyst by the association for investment
18 management and research.

19 B. A bank serving as investment management does not have a conflict of
20 interest because it is also a depository in which ASRS monies are deposited.

21 C. The board shall appoint the investment management for a term of one
22 year and may appoint the investment management to succeeding terms. The
23 board may remove investment management for not complying with this article or
24 for failure to comply with or adhere to the board's investment goals,
25 objectives or policies.

26 D. Investment management:

27 1. Has the sole authority to invest and reinvest in the name of ASRS
28 all ASRS monies assigned to investment management and shall purchase and sell

1 in the name of ASRS any of the securities and investments held by ASRS under
2 this article.

3 2. Is responsible for making and executing all investment decisions.

4 3. Shall be multiple.

5 E. Investment management shall not directly or indirectly:

6 1. Have an interest in making an investment or purchasing annuities
7 from a private insurer or in the gains or profits accruing from an investment
8 or annuities.

9 2. As investment management or as agent or partner of others borrow
10 monies, funds or deposits of ASRS or use monies, funds or deposits in any
11 manner except as directed under this article.

12 3. Be an endorser, surety or obligor on investments made under this
13 article.

14 F. Subject to the limitations in section 38-719, the board may
15 authorize the director to make investments that are designated by the board
16 and that do not exceed fifty per cent of the assets of the investment account
17 measured at cost. THE BOARD SHALL AUTHORIZE THE DIRECTOR TO MAKE INVESTMENTS
18 WITH THE NONPROFIT CORPORATION THAT ENTERED INTO A MEMORANDUM OF
19 UNDERSTANDING WITH THE COMMERCE AND ECONOMIC DEVELOPMENT COMMISSION PURSUANT
20 TO SECTION 41-1505.09 IN AN AMOUNT OF NOT MORE THAN ONE-TENTH OF ONE PER CENT
21 OF ASRS ASSETS.

22 G. For the purpose of exercising the investment responsibilities
23 prescribed in this section, the board may enter into contracts to receive
24 market data and other market information from securities, commodities,
25 options and monetary exchanges. These contracts may be interpreted and
26 enforced under the laws of a jurisdiction other than this state and are not
27 subject to section 35-214 or 38-511 or title 41, chapter 23.

28 H. Proprietary commercial information that is provided to the board,
29 director, investment management, employees of the director and attorneys of
30 the board or the director relating to investments in which investment
31 management has invested or has considered for investment is confidential and
32 not a public record if the information is information that customarily would

1 not be released to the public by the person or entity from whom the
2 information was obtained.

3 Sec. 2. Section 41-1505.09, Arizona Revised Statutes, is amended to
4 read:

5 41-1505.09. Arizona twenty-first century competitive initiative
6 fund; purpose; administration

7 A. The Arizona twenty-first century competitive initiative fund is
8 established to be administered by the commerce and economic development
9 commission. The fund consists of monies ~~appropriated by the legislature,~~
10 **INVESTED BY THE ARIZONA STATE RETIREMENT SYSTEM**, earnings from the fund and
11 gifts or grants donated or given to the fund. Monies in the fund ~~are subject~~
12 ~~to legislative appropriation and~~ shall be used as prescribed by this section.
13 The Arizona twenty-first century competitive initiative fund is exempt from
14 section 41-1505.06, subsection A, paragraph 5, section 41-1505.06, subsection
15 G and section 41-1505.07.

16 B. On notice from the commission, the state treasurer may invest and
17 divest monies in the fund as provided by section 35-313. The state treasurer
18 shall credit monies earned from investments to the fund.

19 C. The commission shall enter into a memorandum of understanding with
20 a nonprofit corporation to use monies in the fund in order to:

21 1. Build and strengthen medical, scientific and engineering research
22 programs and infrastructure in areas of greatest strategic value to this
23 state's competitiveness in the global economy with an emphasis in bioscience.

24 2. Actively engage scientific research, academic and medical
25 institutions that represent both the public and private sectors on a
26 worldwide basis.

27 D. In order to enter into a memorandum of understanding with the
28 commission pursuant to subsection C of this section, a nonprofit corporation
29 shall:

30 1. Be a statewide nonprofit corporation that is incorporated in this
31 state and that is qualified under section 501(c)(3) of the United States
32 internal revenue code.

1 2. Agree on a quarterly basis to report on investments made and agree
2 on an annual basis to report on measurable objectives and other funds
3 leveraged with state investments.

4 3. Identify and document private or philanthropic investments that are
5 equivalent to fifty million dollars or more in fiscal year 2005-2006. For
6 fiscal year 2006-2007, the nonprofit corporation shall provide funding to
7 achieve the goals prescribed in subsection C of this section in an amount
8 equal to or greater than the financial assistance provided by this state.

9 E. The commission shall submit the memorandum of understanding with
10 the nonprofit corporation to the joint legislative budget committee for
11 review before expending any appropriated state monies. The initial
12 submission shall include provisions that address how the nonprofit
13 corporation accounts for the application and investment of monies pursuant to
14 subsection C of this section, the documentation of investments made in whole
15 or in part through funding pursuant to this section and the preparation and
16 filing of annual audits of the fund with the auditor general. The initial
17 submission shall also include performance measures to evaluate the
18 effectiveness of the program and recommendations pertaining to prospective
19 repayment to the fund by scientific, research, academic and medical
20 institutions of a portion of the income derived from technology or
21 intellectual property created or developed in whole or in part through
22 funding pursuant to this section. The joint legislative budget committee
23 shall review expenditures from the fund at least quarterly, including any
24 changes to the memorandum of understanding, but may choose less frequent
25 reviews.

26 F. FIFTEEN PER CENT OF GROSS REVENUES THAT ARE DIRECTLY ALLOCABLE TO
27 INTELLECTUAL PROPERTY THAT IS DEVELOPED BY A NONPROFIT RESEARCH PERFORMING
28 INSTITUTION WITH FUNDING FROM THE NONPROFIT CORPORATION SHALL BE REMITTED TO
29 THE ARIZONA STATE RETIREMENT SYSTEM DEPOSITORY, LESS ANY UNREIMBURSED COSTS
30 INCURRED BY A NONPROFIT RESEARCH PERFORMING INSTITUTION'S TECHNOLOGY TRANSFER
31 OFFICE IN PROTECTING, LICENSING, MAINTAINING OR LITIGATING THE INTELLECTUAL
32 PROPERTY. ANY LICENSE OR TRANSFER OF ANY INTELLECTUAL PROPERTY THAT IS

1 DEVELOPED BY A NONPROFIT RESEARCH PERFORMING INSTITUTION WITH THE FUNDING
 2 FROM THE NONPROFIT CORPORATION SHALL BE CONDITIONED ON A GRANT TO THE ARIZONA
 3 STATE RETIREMENT SYSTEM OF A WARRANT TO PURCHASE EQUITY IN THE LICENSEE OR
 4 TRANSFEREE OF THE INTELLECTUAL PROPERTY CONSISTENT WITH THE TERMS OF A
 5 MEMORANDUM OF UNDERSTANDING OR OTHER AGREEMENT BETWEEN THE NONPROFIT
 6 CORPORATION AND THE ARIZONA STATE RETIREMENT SYSTEM. THIS SUBSECTION IS
 7 SUBJECT TO ANY LIMITATIONS IMPOSED BY THE TERMS OF ANY THIRD PARTY OR
 8 GOVERNMENT GRANT, CONTRACT OR COOPERATIVE AGREEMENT OR BY ANY APPLICABLE LAW,
 9 INCLUDING 35 UNITED STATES CODE SECTIONS 200 THROUGH 212 AND ANY REGULATIONS
 10 ADOPTED PURSUANT TO THOSE SECTIONS. ON OR BEFORE JUNE 30 OF EACH YEAR, THE
 11 NONPROFIT CORPORATION SHALL PROVIDE A REPORT THAT INCLUDES AN ACCOUNTING OF
 12 THE WARRANTS GRANTED PURSUANT TO THIS SUBSECTION TO THE ARIZONA STATE
 13 RETIREMENT SYSTEM, THE GOVERNOR, THE PRESIDENT OF THE SENATE AND THE SPEAKER
 14 OF THE HOUSE OF REPRESENTATIVES.

15 G. THE NONPROFIT CORPORATION MAY TAKE AN EQUITY POSITION OF NOT MORE
 16 THAN FORTY-NINE PER CENT IN COMPANIES THAT IT INVESTS WITH AND SHALL TRANSMIT
 17 THE PROCEEDS FROM THE SALE OF THAT EQUITY POSITION OR MONIES DERIVED FROM
 18 THAT EQUITY POSITION TO THE ARIZONA STATE RETIREMENT SYSTEM DEPOSITORY.

19 Sec. 3. Repeal

20 Laws 2007, chapter 260, section 6, as amended by Laws 2008,
 21 chapter 291, section 7, is repealed."

22 Amend title to conform

and, as so amended, it do pass

MICHELE REAGAN
 Chairman

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