

§19104. Fiduciary roles and responsibilities

The Commissioner of Administrative and Financial Services, referred to in this section as the "commissioner," shall act as fiduciary and fiscal agent with respect to the management and administration of the fund. The commissioner may accept donations to the fund consistent with the guiding principles established under section 19102, subsection 3. The commissioner shall ensure that donations to the fund are segregated from other state assets, separately accounted for and held in trust on behalf of the State for the purposes specified in this chapter and for no other purpose. The commissioner shall enter into and administer an investment contract for the investment of fund funds by an appropriate entity, including, but not limited to, the Board of Trustees of the Maine Public Employees Retirement System or another entity approved by the commissioner. The Treasurer of State shall review the proposed investment contract to ensure that the proposed investment management fees are reasonable for the investment management services provided. [PL 2001, c. 358, Pt. II, §5 (RPR); PL 2003, c. 20, Pt. TT, §1 (AMD); PL 2007, c. 58, §3 (REV).]

1. Investment of fund. If the commissioner determines that the Board of Trustees of the Maine Public Employees Retirement System is the appropriate entity to provide for the investment of fund funds, the following provisions apply.

A. The Board of Trustees of the Maine Public Employees Retirement System shall invest the fund in the same manner and according to the same investment policy and practices by which the board invests the assets of the Maine Public Employees Retirement System. [PL 2001, c. 358, Pt. II, §5 (NEW); PL 2003, c. 20, Pt. TT, §1 (AMD); PL 2007, c. 58, §3 (REV).]

B. The Board of Trustees of the Maine Public Employees Retirement System shall treat the fund as held in trust on behalf of the State for the purposes specified in this chapter and no other and shall separately account for the fund as investment assets, attributing to the fund its proportional share of investment returns and of investment management costs and expenses, including costs and expenses of the retirement system arising because of its investment of the fund. [PL 2001, c. 358, Pt. II, §5 (NEW); PL 2003, c. 20, Pt. TT, §1 (AMD); PL 2007, c. 58, §3 (REV).]

C. The commissioner and the Board of Trustees of the Maine Public Employees Retirement System shall develop jointly a memorandum of understanding, setting out their mutual understanding of the investment of the fund, the related investment accounting and investment return and expense attribution. [PL 2001, c. 358, Pt. II, §5 (NEW); PL 2003, c. 20, Pt. TT, §1 (AMD); PL 2007, c. 58, §3 (REV).]

[PL 2001, c. 358, Pt. II, §5 (RPR); PL 2003, c. 20, Pt. TT, §1 (AMD); PL 2007, c. 58, §3 (REV).]

2. Audit of fund. The commissioner shall ensure adequate audit of the investment management of the fund and the expenditures of the fund each state fiscal year. If the investment of the fund is managed by the Board of Trustees of the Maine Public Employees Retirement System, the audit must be conducted within the scope of the annual audit of the Maine Public Employees Retirement System or through separate audit as considered appropriate by the Board of Trustees of the Maine Public Employees Retirement System. Any separate audit must be reported to the Governor, the Legislature, the commissioner and the State Controller in as timely a manner as possible after the close of each state fiscal year.

[PL 2001, c. 358, Pt. II, §5 (RPR); PL 2003, c. 20, Pt. TT, §1 (AMD); PL 2007, c. 58, §3 (REV).]

3. Use of fund. In addition to the budgeting guidelines pursuant to section 19105, in accordance with the annual learning technology plan established pursuant to section 19102, the income from the fund may be used for necessary audit services, legal expenses, investment management fees and services and general administrative expenses related to the management and administration of the fund. The principal and income of the fund may not be used to implement the fundraising plan required pursuant to section 19103, subsection 2.

[PL 2001, c. 358, Pt. II, §5 (RPR); PL 2003, c. 20, Pt. TT, §1 (AMD).]

4. Fund term. The commissioner shall manage the fund as follows:

A. Prior to January 8, 2003 the commissioner shall take all reasonable and prudent steps to manage the investment, expenditures and cash flow of the fund to ensure that the initial principal of the fund, consisting of General Fund money appropriated by the State, is maximized and, to the greatest extent feasible, not diminished; and [PL 2001, c. 358, Pt. II, §5 (NEW); PL 2003, c. 20, Pt. TT, §1 (AMD).]

B. After January 7, 2003:

(1) If contributions consistent with the guiding principles established under section 19102, subsection 3 totaling \$15,000,000 are received or pledged from other sources by January 7, 2003, the commissioner shall operate the fund in a manner consistent with the learning technology plan in order to maintain in perpetuity any balances remaining at the close of the 2006-2007 school year. The commissioner shall take all reasonable and prudent steps to manage the investment, expenditures and cash flow of the fund to ensure that the initial principal of the fund is maximized and, to the greatest extent feasible, not diminished; or

(2) If the \$15,000,000 goal established in subparagraph (1) is not achieved by January 7, 2003, the fund ceases to operate as a fund and the commissioner shall manage the assets of the former fund, including the use of the principal, in a manner that implements the learning technology plan through at least June 30, 2006. [PL 2001, c. 358, Pt. II, §5 (NEW); PL 2003, c. 20, Pt. TT, §1 (AMD).]

In the annual learning technology plan submitted in the Second Regular Session of the 120th Legislature pursuant to section 19102, subsection 2, the commissioner shall provide to the Governor and the Legislature the status of efforts to raise necessary contributions and recommendations concerning the management of the fund.

For purposes of this subsection, the term "contributions" means, without limitation, cash, stocks, cash equivalents or the equivalent value of goods and services but does not include funds from the General Fund, the Telecommunications Education Access Fund, the Maine Schools and Libraries Network account or the standard federal E-rate program. In the event that the \$15,000,000 contribution goal is not achieved by January 7, 2003, the balance of any and all contributions to the fund must be dedicated to the learning technology plan unless a contributor expressly provides otherwise in a written instrument at the time of a contribution.

[PL 2001, c. 358, Pt. II, §5 (NEW); PL 2003, c. 20, Pt. TT, §1 (AMD).]

SECTION HISTORY

PL 1999, c. 731, §FFF1 (NEW). PL 2001, c. 358, §II5 (RPR). PL 2003, c. 20, §TT1 (AMD). PL 2007, c. 58, §3 (REV).

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