

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 51.1-124.30 of the Code of Virginia, relating to liability of the Board of*
3 *Trustees of the Virginia Retirement System.*

4 [S 786]
5 Approved
6

7 **Be it enacted by the General Assembly of Virginia:**

8 **1. That § 51.1-124.30 of the Code of Virginia is amended and reenacted as follows:**

9 § 51.1-124.30. Board as trustee of funds; investments; standard of care; liability for losses.

10 A. The Board shall be the trustee of the funds of the Retirement System that it administers and of
11 those resulting from the abolished system. Subject to the provisions of this chapter, the Board shall have
12 full power to invest and reinvest such funds as authorized by law.

13 B. The Board shall have the power to borrow money in such amounts as may be necessary to
14 discharge current obligations under this chapter whenever in its judgment it would be more
15 advantageous to borrow money than to sell securities held by the Retirement System. Any debt so
16 incurred may be evidenced by notes duly authorized by resolution of the Board, but in no case is the
17 due date of any note or other evidence of debt to be beyond the end of the biennium succeeding the
18 biennium in which the debt is incurred. Securities held by the Retirement System may be hypothecated
19 by the Board as security for the payment of any debt incurred under this section.

20 C. The Board shall discharge its duties with respect to the Retirement System solely in the interest of
21 the beneficiaries thereof and shall invest the assets of the Retirement System with the care, skill,
22 prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like
23 capacity and familiar with such matters would use in the conduct of an enterprise of a like character and
24 with like aims. The Board shall also diversify such investments so as to minimize the risk of large
25 losses unless under the circumstances it is clearly prudent not to do so.

26 D. No officer, director, or member of the Board or of any advisory committee of the Retirement
27 System or any of its tax exempt subsidiary corporations whose actions are within the standard of care in
28 subsection C above shall be held personally liable for losses suffered by the Retirement System on
29 investments made under the authority of this chapter.

30 E. In the case of a plan administered by the Board which provides individual accounts permitting an
31 employee or beneficiary to exercise discretion over assets in his account, if the employee or beneficiary
32 actually exercises discretion over the assets in his account, the Board shall not be liable for any loss
33 resulting from such employee's or beneficiary's exercise of control.

34 *F. In the case of an automatic rollover of a mandatory cash-out, as that term is defined under I.R.C.*
35 *§401 (a) (31) (B) of the United States Internal Revenue Code of 1986 (including as such section is*
36 *amended or renumbered, or any successor provision thereto) and regulations thereunder applicable to*
37 *governmental plans, the Board shall not be liable for any loss resulting from the Board's selection of an*
38 *individual retirement plan provider and investment product where the selection is made in accordance*
39 *with guidelines to be adopted by the Board that are similar to the safe harbor guidelines adopted by the*
40 *United States Department of Labor for this purpose.*