

LD7169605

SENATE BILL NO. 78

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations
on March 3, 1994)

(Patron Prior to Substitute—Senator Walker)

A BILL to amend and reenact § 2.1-51.27; to amend the Code of Virginia by adding in chapter 1 of Title 51.1 articles numbered 1.1, 2.1, and 3.1, consisting of sections numbered 51.1-124.1 through 51.1-124.35; and to repeal Articles 1, 2, and 3, (§§ 51.1-100 through 51.1-124) of the Code of Virginia, relating to the structure, governance, and investment policy of the Virginia Retirement System; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-51.27 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 51.1 articles numbered 1.1, 2.1, and 3.1, consisting of sections numbered 51.1-124.1 through 51.1-124.35 as follows:

§ 2.1-51.27. Agencies for which responsible.

The Secretary of Administration shall be responsible to the Governor for the following agencies: Department of Information Technology, Council on Information Management, Department of Personnel and Training, Department of General Services, Compensation Board, ~~Virginia Retirement System~~, Secretary of the Commonwealth, Department of Employee Relations Counselors, Department of Veterans' Affairs, Virginia Veterans Care Center Board of Trustees, and Commission on Local Government. The Governor may, by executive order, assign any other state executive agency to the Secretary of Administration, or reassign any agency listed above to another secretary.

*Article 1.1.**General Provisions.*

§ 51.1-124.1. Legislative intent and purposes.

Article X, Section 11 of the Constitution of Virginia requires the General Assembly to maintain a state employees' retirement system, subject to restrictions and conditions prescribed by the General Assembly, that shall be administered in the best interests of the beneficiaries thereof. Pursuant to this constitutional duty, the General Assembly hereby finds and declares that all present and future members of the Retirement System are entitled to a retirement system whose governing structure and institutional organization foster public confidence and trust in its investment practices, policy decisions, and administrative operations. To that end and for the purposes of providing adequate benefits and pensions to members, encouraging stable employer contribution rates, and ensuring the overall soundness of the Retirement System, the General Assembly hereby establishes the Virginia Retirement System as an independent agency of the Commonwealth, exclusive of the legislative, executive, and judicial branches of government, in the following provisions.

§ 51.1-124.2. Virginia Supplemental Retirement System continued as Virginia Retirement System.

The Virginia Supplemental Retirement System, a body corporate and a retirement system for teachers, state employees, and employees of participating political subdivisions, shall be continued as the Virginia Retirement System. Wherever the term "Virginia Supplemental Retirement System" appears in the Code of Virginia, it shall mean the Virginia Retirement System.

§ 51.1-124.3. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.

"Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, on or after July 1, 1990, except those amounts contributed on behalf of members of the General Assembly who are otherwise retired under the provisions of this chapter, and all interest accruing to these funds. If a member is retired for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.) or if a member dies in service prior to retirement, "accumulated contributions" shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

"Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the Board.

"Average final compensation" means the average annual creditable compensation of a member during his thirty-six highest consecutive months of creditable service or during the entire period of his

60 *creditable service if less than thirty-six months. If a member ceased employment prior to July 1, 1974,*
61 *"average final compensation" means the average annual creditable compensation during the five highest*
62 *consecutive years of creditable service.*

63 *"Beneficiary" means any person entitled to receive benefits under this chapter.*

64 *"Board" means the Board of Trustees of the Virginia Retirement System.*

65 *"Creditable compensation" means the full compensation payable annually to an employee working*
66 *full-time in his covered position. In cases where compensation includes maintenance or other*
67 *perquisites, the Board shall fix the value of that part of the compensation not paid in money.*
68 *Remuneration received by members of the General Assembly not otherwise retired under the provisions*
69 *of this chapter pursuant to §§ 14.1-17.1, 14.1-18 and 14.1-18.2 shall be deemed creditable*
70 *compensation. In addition, for any member of the General Assembly, creditable compensation shall*
71 *include the full amount of salaries payable to such member for working in covered positions, regardless*
72 *of whether a contractual salary is reduced and not paid to such member because of service in the*
73 *General Assembly.*

74 *"Creditable service" means prior service plus membership service for which credit is allowable.*

75 *"Employee" means any teacher, state employee, officer, or employee of a locality participating in the*
76 *Retirement System.*

77 *"Employer" means the Commonwealth in the case of a state employee, the local public school board*
78 *in the case of a teacher, or the political subdivision participating in the Retirement System.*

79 *"Joint Rules Committee" means those members of the House of Delegates and the Senate designated*
80 *by the Speaker of the House and the Chairman of the Senate Committee on Rules, respectively, to meet*
81 *with each other and to act jointly on behalf of the Committee on Rules for each house.*

82 *"Local officer" means the treasurer, commissioner of the revenue, attorney for the Commonwealth,*
83 *clerk of a circuit court, or sheriff of any county or city, or deputy or employee of any such officer.*

84 *"Medical Board" means the board of physicians as provided by this chapter.*

85 *"Member" means any person included in the membership of the Retirement System.*

86 *"Membership service" means service as an employee rendered while a contributing member of the*
87 *Retirement System except as provided in this chapter.*

88 *"Normal retirement date" means a member's sixty-fifth birthday.*

89 *"Political subdivision" means any county, city, or town, any political entity, subdivision, branch, or*
90 *unit of the Commonwealth, or any commission, public authority, or body corporate created by or under*
91 *an act of the General Assembly specifying the powers, privileges, or authority capable of exercise by the*
92 *commission, public authority, or body corporate.*

93 *"Primary social security benefit" means, with respect to any member, the primary insurance amount*
94 *to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions*
95 *of the federal Social Security Act as in effect at his date of retirement, under the provisions of this*
96 *chapter except as otherwise specifically provided.*

97 *"Prior service" means service rendered prior to becoming a member of the Retirement System.*

98 *"Retirement allowance" means the retirement payments to which a member is entitled.*

99 *"Retirement System" means the Virginia Retirement System.*

100 *"Service" means service as an employee.*

101 *"State employee" means any person who is regularly employed full time on a salaried basis, whose*
102 *tenure is not restricted as to temporary or provisional appointment, in the service of, and whose*
103 *compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or*
104 *any department, institution, or agency thereof. "State employee" includes the Governor, Lieutenant*
105 *Governor, Attorney General, and members of the General Assembly but does not include (i) any local*
106 *officer, (ii) any employee of a political subdivision of the Commonwealth, (iii) any member of the State*
107 *Police Officers' Retirement System, or (iv) any member of the Judicial Retirement System.*

108 *"Teacher" means any person who is regularly employed full time on a salaried basis as a*
109 *professional or clerical employee of a county, city, or other local public school board.*

110 *§ 51.1-124.4. Exemption of assets from taxation; exemption of benefits and assets from execution and*
111 *assignment; trust funds; unclaimed property.*

112 *A. The assets of the retirement systems created under this title are hereby exempted from any state,*
113 *county, or municipal tax. Retirement allowances and other benefits accrued or accruing to any person*
114 *under this title and the assets of the retirement systems created under this title shall not be subject to*
115 *execution, attachment, garnishment, or any other process whatsoever, except any process for a debt to*
116 *any employer who has employed such person, and except for administrative actions pursuant to Chapter*
117 *13 (§ 63.1-249 et seq.) of Title 63.1 or any court process to enforce a child or child and spousal*
118 *support obligation, nor shall any assignment thereof be enforceable in any court. However, retirement*
119 *benefits and assets created under this title which are deemed to be marital property pursuant to Chapter*
120 *6 (§ 20-89.1 et seq.) of Title 20 may be divided or transferred by the court by direct assignment to a*
121 *spouse or former spouse pursuant to § 20-107.3. The assets of the retirement systems administered by*

the Board are trust funds and shall be used solely for the benefit of members and beneficiaries and to administer the retirement systems. The Board shall establish procedures whereby persons entitled to property held by the Board, which would be presumed abandoned under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.), may recover it.

B. Notwithstanding the provisions of subsection A, any employee who elects to participate in a retirement plan as provided in § 51.1-126 or § 51.1-126.1 may direct the Retirement System to transfer the member's accumulated contributions to that plan. Any employee who terminates employment may direct the Retirement System to transfer the member's accumulated contributions to any qualified pension or other qualified retirement plan or to an individual retirement account. The Retirement System shall transfer the member's accumulated contributions to the qualified pension or other qualified retirement plan or individual retirement account as directed.

§ 51.1-124.5. Disclosure of social security account numbers.

The Retirement System may require the disclosure of the social security account number of any employee, judge, or other person covered under this title to be used for any purpose relating to the administration of the retirement systems or the implementation of this title.

§ 51.1-124.6. Benefits to be paid monthly.

All benefits payable by the Retirement System shall be paid in equal monthly installments, unless the Board approves another method of payment.

§ 51.1-124.7. Distribution of assets upon repeal of system.

A. If the General Assembly repeals the provisions of this chapter or terminates its application to any person, the Board shall continue to administer the Retirement System in accordance with the provisions of this chapter for the sole benefit of the then members, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under a joint and last-survivor option who are designated by a member.

B. Upon repeal or termination of the Retirement System, the assets of the Retirement System shall be allocated by the Board in an equitable manner to provide benefits for the persons stated in subsection A of this section in accordance with the provisions of this chapter but based on creditable service and average final compensation as of the date of repeal or termination and in the following order:

1. For the benefit of the then members to the extent of their individual account in the members' contribution account.

2. If any funds remain, then for the benefit of the then beneficiaries and persons already designated by former members who are then beneficiaries under a joint and last-survivor option, to the extent of the then actuarial value of their retirement allowances.

3. If any funds remain, then for the benefit of members, and persons, if any, designated by them under a joint and last-survivor option, to the extent, not provided under subdivision 1 of this subsection, of the then actuarial value of their accrued future retirement allowances. The allocation under this subdivision shall be the basis of the oldest-ages-first method.

The employer is required to contribute the amount necessary to make up any insufficiency of assets needed to provide all benefits payable under subdivisions 1 and 2 of this subsection.

C. The allocation of assets of the Retirement System shall be carried out by the Board as the benefits become due or by the transfer of such assets to any retirement system replacing this Retirement System. The vesting of benefits shall be fully maintained under the new retirement system. Any funds remaining in the assets of this retirement system after all of the vested benefits have been paid shall revert to the general fund.

D. Any allocation of assets shall be final and binding on all persons entitled to benefits.

§ 51.1-124.8. Persons affected by changes in retirement benefits.

Unless otherwise specifically stated, legislation which effects a change in the amount of a retirement benefit other than a post-retirement supplement shall be construed to effect only the benefits of those persons who qualify for a retirement allowance on or after the effective date of the legislation.

§ 51.1-124.9. Changes or errors in records resulting in erroneous payments.

If any change or error in records results in any member or beneficiary receiving more or less than he would have been entitled to receive from the Retirement System had the records been correct, the Board shall correct the error and as far as practicable adjust the payments so that the actuarial equivalent of the correct benefit shall be paid.

If a member has been overpaid through no fault of his and could not reasonably have been expected to detect the error the Board may waive any repayment which it believes would cause hardship.

Upon determination that any person has erroneously been included in membership in the Retirement System, accumulated contributions resulting from the erroneous membership shall be refunded.

§ 51.1-124.10. Falsification of records; penalty.

Any person who knowingly makes any false statement or falsifies or permits the falsification of any Retirement System record in any attempt to defraud the Retirement System shall be guilty of a Class 1

183 *misdemeanor.*

184 *§§ 51.1-124.11 through 51.1-124.19: [Reserved.]*

185 *Article 2.1.*

186 *Board of Trustees, Medical Board, and Advisory Committees.*

187 *§ 51.1-124.20. Board of Trustees reconstituted and reestablished; members of Board.*

188 *A. The Board of Trustees of the Virginia Retirement System holding office on the effective date of*
189 *this section is dissolved and the appointees are discharged from any further duties and shall exercise no*
190 *further powers or authority by virtue of their office.*

191 *B. The Board of Trustees is hereby reestablished and reconstituted as follows:*

192 *1. The Board shall consist of nine members. The Governor shall appoint five members of the Board*
193 *who shall be confirmed by the affirmative vote of a majority of those voting in each house of the*
194 *General Assembly. The Joint Rules Committee shall appoint the other four members of the Board who*
195 *shall be confirmed by the affirmative vote of a majority of those voting in each house of the General*
196 *Assembly. The Joint Rules Committee shall designate the term of its appointees under subsection B 3*
197 *below for the term for which each appointee is a candidate.*

198 *2. Members shall be appointed for five-year terms with such members leaving the Board on a*
199 *staggered basis.*

200 *3. For the initial term of the Board of Trustees, the schedule below shall be followed:*

201 *a. One gubernatorial appointee, who shall be the Governor's designee to serve as chairman, shall be*
202 *appointed for a term of one year;*

203 *b. One gubernatorial and one legislative appointee shall be appointed for a term of two years;*

204 *c. One gubernatorial and one legislative appointee shall be appointed for a term of three years;*

205 *d. One gubernatorial and one legislative appointee shall be appointed for a term of four years; and*

206 *e. One gubernatorial and one legislative appointee shall be appointed for a term of five years.*

207 *C. Appointments to fill vacancies shall be for the unexpired terms. A vacancy of a legislatively*
208 *appointed trustee shall be filled by the Joint Rules Committee, and any such appointee shall enter upon*
209 *and continue in office, subject to confirmation at the next session of the General Assembly. If the*
210 *General Assembly refuses or fails to confirm his appointment, such person shall not be eligible for*
211 *reappointment.*

212 *D. No member shall be eligible to serve for more than two successive five-year terms. After the*
213 *expiration of an unexpired term to which appointed, or for an appointment described in subdivision B 3*
214 *a, b, c, or d of this section, a member may serve one additional five-year term.*

215 *E. Subject to confirmation by the affirmative vote of a majority of those voting in each house of the*
216 *General Assembly, the Governor shall designate the chairman of the Board from among the Board*
217 *members described in subsection B above. A chairman may be reappointed and confirmed for additional*
218 *two-year terms, not to exceed a total of two. However, the initial chairman's one-year term shall not be*
219 *counted against the two-term limitation, and such person may serve as chairman for five successive*
220 *years if appointed and confirmed as aforesaid. The chairman shall (i) preside over meetings of the*
221 *Board; (ii) communicate on behalf of the Board to outside entities interested in the Retirement System;*
222 *and (iii) perform additional duties as may be set by resolution of the Board. The Board shall elect one*
223 *of its members as vice chairman and appoint a secretary who may or may not be a member of the*
224 *Board. A majority of the members of the Board shall constitute a quorum.*

225 *F. Trustees shall receive an initial stipend of \$3,000 for each calendar quarter they may serve and a*
226 *per diem of \$300 for each Board meeting attended not to exceed one meeting per day. Commencing*
227 *July 1, 1995, the stipend shall be increased annually by a percentage equal to the most recent salary*
228 *structure adjustment as provided in the general appropriations act. The chairman shall receive an*
229 *additional \$1,500 for each calendar quarter served in such capacity. Government employees, still*
230 *actively employed by any governmental entity, shall receive a per diem of \$300 for each Board meeting*
231 *attended, not to exceed one meeting per day, but shall receive no stipend for their service. Retired*
232 *government employees shall be entitled to receive a stipend of \$3,000 for each calendar quarter they*
233 *may serve and a per diem of \$300 for each Board meeting attended not to exceed one meeting per day.*
234 *Each Board member shall be entitled to receive reimbursement for their actual reasonable and*
235 *necessary expenses incurred for attending Board meetings.*

236 *G. No elected or appointed official shall serve on the Board of Trustees. Except for the faculty*
237 *member or employee of a state-supported institution of higher education, none of the gubernatorial*
238 *appointees shall be an employee of state government.*

239 *H. The gubernatorial appointees shall be as follows: two shall have a minimum of five years of*
240 *experience in the direct management, analysis, supervision, or investment of assets; one shall have at*
241 *least five years of direct experience in the management and administration of employee benefit plans;*
242 *one shall be a local employee; and one shall be a faculty member or employee of a state-supported*
243 *institution of higher education.*

244 *I. The legislative appointees shall be as follows: two shall have a minimum of five years of*

experience in the direct management, analysis, supervision, or investment of assets; and one shall be a state employee and one shall be a teacher, as such terms are defined in § 51.1-124.3.

J. State and local government employees appointed to the Board pursuant to this section shall be members of the Retirement System at the time of their appointment and may be actively employed or retired.

K. Members of the Board shall be subject to removal from office only as set forth in Article 7 (§§ 24.2-230 through 24.2-238) of Chapter 1 of Title 24.2. The Circuit Court of the City of Richmond shall have exclusive jurisdiction over all proceedings for such removal.

§ 51.1-124.21. Application of State and Local Government Conflict of Interests Act.

The provisions of the State and Local Government Conflict of Interests Act (§ 2.1-639.1 et seq.) shall apply to the members of the Board and the employees of the Virginia Retirement System.

§ 51.1-124.22. Board to administer Retirement System; powers and duties.

A. The Retirement System shall be administered by the Board of Trustees, whose powers and duties include but are not limited to:

1. Appointing a director, who shall not be a member of the Board, to serve as the chief administrative officer of the retirement system at the pleasure of the Board.

2. Maintaining records of all of its proceedings and making such records available for inspection by the public.

3. Employing an actuary as its technical advisor and employing other persons and incurring expenditures as it deems necessary for the efficient administration of the Retirement System.

4. Causing an actuarial investigation to be made of all the experience under the Retirement System at least once in each four-year period. The Board shall also cause actuarial gain/loss analyses to be made in conjunction with each actuarial valuation of the System. Pursuant to such investigations and analyses, the Board shall periodically revise the actuarial assumptions used in the computation of employer contribution rates.

5. Causing a biennial actuarial valuation to be made of the assets and liabilities of the Retirement System with respect to each employer. Pursuant to the results of such valuations, the Board shall prepare a statement as to the employer contribution rates applicable to each employer.

6. Publishing the results of each actuarial valuation of the assets and liabilities.

7. Publishing annual financial statements of the Retirement System or annual reports in accordance with §§ 51.1-1000 through 51.1-1004.

8. Promulgating regulations and procedures and making determinations necessary to carry out the provisions of this title.

9. Purchasing insurance to insure against losses suffered by the Retirement System if any member of the Board or of any advisory committee breaches the standard of care in § 51.1-124.30.

B. The Board shall be vested with the powers and duties of the Board of Trustees of the abolished system to the extent necessary for the payment of vested rights and the return of accumulated contributions.

§ 51.1-124.23. Medical Board.

A. The Board shall employ a Medical Board of three physicians who are not eligible to participate in the Retirement System. Each physician shall be employed for a four-year term to commence at the expiration of the term of his predecessor. Employment to fill a vacancy shall be for the unexpired portion of the term. The Medical Board shall appoint three physicians, subject to confirmation by the Board, to serve as substitutes when members of the Medical Board cannot serve in their official capacity. Members of the Medical Board and their substitutes shall serve at the pleasure of the Board.

B. The Medical Board shall:

1. Review all reports of medical examinations required by this chapter.

2. Investigate all essential health and medical statements and certificates filed in connection with disability retirement.

3. Submit to the Board a written report of its conclusions and recommendations on all matters referred to it.

C. The Medical Board, its substitutes, and its employees shall not be held personally liable for conclusions, advice, or recommendations made in accordance with the duties of the Medical Board under the provisions of this title.

§ 51.1-124.24. Chief investment officer; qualifications; duties.

A. To assist the Board of Trustees in fulfilling its fiduciary duty as trustee of the funds of the Virginia Retirement System, the Board shall employ a chief investment officer to direct, manage, and administer the investment department. The chief investment officer shall be employed under special contract with the Board, shall report directly to the Board, shall serve at the pleasure of the Board, and may be removed by a majority vote of the Board.

B. To ensure that the Board of Trustees receives competent, professional advice regarding its

investment decisions from the chief investment officer, the chief investment officer shall demonstrate (i) an ability to oversee, structure, and evaluate institutional investment portfolios and (ii) extensive experience in any two or more of the following areas: domestic equity or fixed-income securities, international equity or fixed-income securities, cash management, alternative investments, managed futures, or large real estate investments. By resolution of the Board, additional qualifications for the chief investment officer may be set.

C. In addition to such duties as the Board of Trustees may include in its special employment contract with the chief investment officer, he shall have the following duties: (i) coordinating asset allocation for all asset classes and subclasses within each class; (ii) supervising, evaluating, and monitoring the investment portfolio and associated investment activities; (iii) facilitating communication between and among the Board of Trustees, advisory committees, employees, members, beneficiaries, and outside entities interested in the investment programs of the retirement system; (iv) enhancing the Board's ability to make effective, prompt decisions in all matters related to investments and the administration of the investment department; and (v) reporting as requested by the General Assembly.

§ 51.1-124.25. Existing advisory committees of the Virginia Retirement System abolished.

As of the effective date hereof, the existing advisory committees of the Virginia Retirement System are abolished and the members are discharged from any further duties.

§ 51.1-124.26. Advisory Committees to the Board of Trustees; membership; terms; qualifications; duties.

To further assist the Board of Trustees in fulfilling its fiduciary duty as trustee of the funds of the Retirement System, the Board shall immediately elect an Investment Advisory Committee and a Real Estate Advisory Committee to provide the Board with sophisticated, objective, and prudent investment advice.

A. Each Committee shall consist of seven members and each member shall be elected by a two-thirds vote of the Board. Committee members shall serve at the pleasure of the Board and may be removed by a majority vote of the Board.

B. Each Advisory Committee shall include no more than two Board members and no individual Board member shall serve on more than one Committee.

C. Except for any Board member who serves on an Advisory Committee, no elected or appointed official shall serve on either Advisory Committee.

D. No former trustee of the Virginia Retirement System or its predecessors in interest shall serve on either Advisory Committee.

E. Except for Board members, members of the Investment Advisory Committee and the Real Estate Advisory Committee shall receive an initial stipend of \$1,875 for each calendar quarter they may serve and a per diem of \$300 for each meeting attended not to exceed one meeting per day. Commencing July 1, 1995, the stipend shall be increased annually by a percentage equal to the most recent salary structure adjustment as provided in the general appropriations act. Government employees shall receive no stipend for their service but shall be entitled to receive a per diem of \$300 for each Committee meeting attended not to exceed one meeting per day. Each Committee member shall be entitled to receive reimbursement for their actual reasonable and necessary expenses incurred for attending Committee meetings.

F. Any Board member who serves on an Advisory Committee shall not receive the quarterly stipend for Committee members provided for in subsection E above, but shall receive the per diem applicable to Committee meetings attended in that section plus reasonable and necessary expenses incurred.

G. The disclosure requirements of subsection B of § 2.1-639.13 of the State and Local Government Conflict of Interests Act shall apply to members of the Advisory Committees who are not also Board members.

H. Members of the Real Estate Advisory Committee shall demonstrate extensive experience with substantial real estate investments. Members of the Investment Advisory Committee shall demonstrate extensive experience in any one or more of the following areas: domestic or international equity or fixed-income securities, cash management, alternative investments, or managed futures. By resolution of the Board, additional qualifications for members of the advisory committees may be set.

I. On all matters involving real estate, the Real Estate Advisory Committee shall (i) review, evaluate, and monitor investments and investment opportunities and (ii) make appropriate recommendations to the Board about such investments and investment opportunities. The Investment Advisory Committee shall have the same duties with regard to all other investment matters, and shall also make recommendations to the Board about overall asset allocation, including real estate investments. The recommendations of the Advisory Committees are not binding upon the Board of Trustees.

§ 51.1-124.27. Employees of the Retirement System.

Notwithstanding the provisions of § 2.1-116, employees of the Virginia Retirement System shall be exempt from the provisions of the Virginia Personnel Act, Chapter 10 (§ 2.1-110 et seq.) of Title 2.1. Personnel actions shall be taken without regard to race, sex, color, national origin, religion, age,

handicap or political affiliation.

§§ 51.1-124.28 through 51.1-124.29: [Reserved.]

Article 3.1.

Investments.

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

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

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

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

D. No member of the Board or of any advisory committee whose actions are within the standard of care in subsection C above shall be held personally liable for losses suffered by the Retirement System on investments made under the authority of this chapter.

§ 51.1-124.31. Pooling of assets for investment.

The Board may invest the assets of the Virginia Retirement System, the State Police Officers' Retirement System, and the Judicial Retirement System on a pooled or consolidated basis. The Board shall maintain a separate accounting of the funds of each of the retirement systems.

§ 51.1-124.32. Exemption from Public Procurement Act.

The selection of services related to the management, purchase, or sale of authorized investments, including but not limited to actuarial services, shall be governed by the standard of care in § 51.1-124.30 and shall not be subject to the provisions of the Virginia Public Procurement Act (§ 11-35 et seq.).

§ 51.1-124.33. Deposit of trust funds not an investment; authorized deposits.

The Board may authorize the deposit of trust funds in interest-bearing time deposits and certificates of deposit of national banks located within the Commonwealth, of banks organized pursuant to the Virginia Banking Act (§ 6.1-3 et seq.), of savings institutions which are under state supervision, and of federal associations located in this Commonwealth and organized under the laws of the United States and under federal supervision and federally insured. Such deposits shall not be considered the investment of trust funds for the purposes of this chapter. Deposit of the funds in demand and time deposits and in certificates of deposit of national banks located within this Commonwealth and of banks organized pursuant to the Virginia Banking Act (§ 6.1-3 et seq.) is hereby authorized, provided that the deposits are secured as provided by law and that no deposit is made for any one period in excess of one year. Deposit of trust funds in savings accounts and certificates of savings institutions which are under state supervision and of federal associations located in this Commonwealth and organized under the laws of the United States and under federal supervision is hereby authorized. Such deposits shall not exceed the amount insured by the Federal Deposit Insurance Corporation or other federal insurance agency, unless deposits in excess of the amount insured are fully collateralized by eligible collateral as defined in § 2.1-360 (e). No such deposit shall be made for any one period in excess of one year.

§ 51.1-124.34. Retention of investments that become ineligible.

An investment that conformed with the provisions of this chapter at the time the investment was made may be retained even though the investment ceases to be eligible for purchase under the provisions of this chapter, unless the standard of care in § 51.1-124.30 requires the sale or other disposition of the investment.

§ 51.1-124.35. Investment provisions exclusive.

Investment of trust funds by the Board shall be governed exclusively by this article.

2. That Articles 1 and 3 of Title 51.1 of the Code of Virginia are repealed upon passage of Articles 1.1 and 3.1 of this act.

3. That an emergency exists and that Articles 1.1 and 3.1 of this act are in force from their passage.

4. That Article 2 of Title 51.1 of the Code of Virginia is repealed two weeks after confirmation of

429 the Board of Trustees described in subsection B of § 51.1-124.20.

430 5. That an emergency exists and Article 2.1 of this act is in force two weeks after confirmation of
431 the Board of Trustees described in subsection B of § 51.1-124.20.

432 6. That any reference in the Code of Virginia to repealed Articles 1, 2, and 3 of Title 51.1 shall be
433 cross-referenced to its new section if the context so allows.