

LD7183633

## SENATE BILL NO. 507

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance  
on February 11, 1994)

(Patron Prior to Substitute—Senator Gartlan)

*A BILL to amend and reenact § 2.1-328 of the Code of Virginia, relating to investment of public funds.*

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

**1. That § 2.1-328 of the Code of Virginia is amended and reenacted as follows:**

§ 2.1-328. Legal investments for other public funds.

A. The Commonwealth, all public officers, municipal corporations, other political subdivisions and all other public bodies of the Commonwealth may invest any and all moneys belonging to them or within their control, other than sinking funds, in the following:

1. Obligations of the Commonwealth. - Stocks, bonds, notes, and other evidences of indebtedness of the Commonwealth of Virginia, and those unconditionally guaranteed as to the payment of principal and interest by the Commonwealth of Virginia.

2. Obligations of the United States, etc. - Stocks, bonds, treasury notes and other evidences of indebtedness of the United States, including the guaranteed portion of any loan guaranteed by the Small Business Administration, an agency of the United States government, and those unconditionally guaranteed as to the payment of principal and interest by the United States; bonds of the District of Columbia; bonds and notes of the Federal National Mortgage Association and the Federal Home Loan Banks; bonds, debentures or other similar obligations of federal land banks, federal intermediate credit banks, or banks of cooperatives, issued pursuant to acts of Congress; and obligations issued by the United States Postal Service when the principal and interest thereon is guaranteed by the government of the United States. The evidences of indebtedness enumerated by this paragraph may be held directly or in the form of securities of any open-end or closed-end management type investment company or investment trust registered under the Investment Company Act of 1940, provided that the portfolio of such investment company or investment trust is limited to such evidences of indebtedness.

3. Obligations of other states. - Stocks, bonds, notes and other evidences of indebtedness of any state of the United States upon which there is no default and upon which there has been no default for more than ninety days; provided, that within the twenty fiscal years next preceding the making of such investment, such state has not been in default for more than ninety days in the payment of any part of principal or interest of any debt authorized by the legislature of such state to be contracted.

4. Obligations of Virginia counties, cities, etc. - Stocks, bonds, notes and other evidences of indebtedness of any county, city, town, district, authority or other public body in the Commonwealth of Virginia upon which there is no default; provided, that if the principal and interest be payable from revenues or tolls and the project has not been completed, or if completed, has not established an operating record of net earnings available for payment of principal and interest equal to estimated requirements for that purpose according to the terms of the issue, the standards of judgment and care required in § 26-45.1, without reference to this section, shall apply.

In any case in which an authority, having an established record of net earnings available for payment of principal and interest equal to estimated requirements for that purpose according to the terms of the issue, issues additional evidences of indebtedness for the purposes of acquiring or constructing additional facilities of the same general character that it is then operating, such additional evidences of indebtedness shall be governed fully by the provisions of this section without limitation.

5. Obligations of cities, counties, etc., of other states. - Legally authorized stocks, bonds, notes and other evidences of indebtedness of any city, county, town or district situated in any one of the states of the United States upon which there is no default and upon which there has been no default for more than ninety days; provided, that (i) within the twenty fiscal years next preceding the making of such investment, such city, county, town or district has not been in default for more than ninety days in the payment of any part of principal or interest of any stock, bond, note or other evidence of indebtedness issued by it; (ii) such city, county, town or district shall have been in continuous existence for at least twenty years; (iii) such city, county, town or district has a population, as shown by the federal census next preceding the making of such investment, of not less than 25,000 inhabitants; (iv) the stocks, bonds, notes or other evidences of indebtedness in which such investment is made are the direct legal obligations of the city, county, town or district issuing the same; (v) the city, county, town or district has power to levy taxes on the taxable real property therein for the payment of such obligations without limitation of rate or amount; and (vi) the net indebtedness of such city, county, town or district (including the issue in which such investment is made), after deducting the amount of its bonds issued for self-sustaining public utilities, does not exceed ten percent of the value of the taxable property in

60 such city, county, town or district, to be ascertained by the valuation of such property therein for the  
61 assessment of taxes next preceding the making of such investment.

62 6. Obligations of International Bank, Asian Development Bank and African Development Bank. -  
63 Bonds and other obligations issued, guaranteed or assumed by the International Bank for Reconstruction  
64 and Development, by the Asian Development Bank or by the African Development Bank.

65 7. *Northern Ireland-related investments. - Subject to the prudent person test governing the Board of*  
66 *Trustees of the Virginia Retirement System, stocks, securities, or other obligations of any domestic or*  
67 *American-based institution or company doing business in or with Northern Ireland or with agencies or*  
68 *instrumentalities thereof if such institution or company has implemented an affirmative action plan,*  
69 *commonly known as the MacBride principles, to eliminate ethnic or religious discrimination.*  
70 *Implementation of the following actions shall be satisfactory as an acceptable affirmative action plan:*

71 a. *Increased the representation of individuals from under-represented religious groups in the*  
72 *workforce including managerial, supervisory, administrative and technical jobs;*

73 b. *Provided adequate security for the protection of minority employees in the workplace and while*  
74 *traveling to and from work;*

75 c. *Prohibited provocative religious or political emblems from the workplace;*

76 d. *Publicly advertised all job openings and made special recruitment efforts to attract applicants*  
77 *from under-represented religious groups;*

78 e. *Provided that layoff, recall, and termination procedures do not in practice favor particular*  
79 *religious groups;*

80 f. *Abolished job reservations, apprenticeship restrictions, and differential employment criteria that*  
81 *discriminate on the basis of religion or ethnic origin;*

82 g. *Developed training programs that prepare a substantial number of minority employees for skilled*  
83 *jobs, including the expansion of existing programs and creation of new programs to train, upgrade, and*  
84 *improve the skills of minority employees; and*

85 h. *Established timetables for incorporating affirmative action principles into the business' daily*  
86 *operations.*

87 i. *Appointed senior management staff whose job function is to oversee the company's affirmative*  
88 *action efforts.*

89 Subdivisions A1 through A6 shall not apply to retirement funds and deferred compensation plans to  
90 be invested pursuant to §§ 51.1-114 through 51.1-124 or § 51.1-601.

91 B. Investments made prior to July 1, 1991, pursuant to § 51.1-601 are hereby ratified and deemed  
92 valid to the extent that such investments were made in conformity with the standards set forth in  
93 Chapter 6 of Title 51.1.

94 **2. That the provisions of this act shall be applicable to investments made on and after July 1,**  
95 **1994, and shall not require divestiture of investments held prior to that date.**