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HOUSE BILL NO. 2073

Offered January 14, 1997

A BILL to amend and reenact § 51.1-803 of the Code of Virginia, relating to investments of local retirement systems.

Patron—Heilig

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:**1. That § 51.1-803 of the Code of Virginia is amended and reenacted as follows:**

§ 51.1-803. Investments of retirement systems.

If the governing body of any county, city, or town establishes a retirement system pursuant to the provisions of this article, any funds that may be allocated, segregated, or otherwise designated for the retirement system, which are on hand at any time and are not necessary for immediate payment of pensions or benefits, shall be invested 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; and bonds of the District of Columbia, and bonds and notes of the Federal National Mortgage Association and the Federal Home Loan Banks, and 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 are 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 repurchase agreements collateralized by such debt securities 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 or repurchase agreements collateralized by such debt securities, or securities of other such investment companies or investment trusts whose portfolios are so restricted.

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

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60 next preceding the making of such investment, of not less than 25,000 inhabitants; (iv) the stocks,
61 bonds, notes or other evidences of indebtedness in which such investment is made are the direct legal
62 obligations of the city, county, town or district issuing the same; (v) the city, county, town or district
63 has power to levy taxes on the taxable real property therein for the payment of such obligations without
64 limitation of rate or amount; and (vi) the net indebtedness of such city, county, town or district
65 (including the issue in which such investment is made), after deducting the amount of its bonds issued
66 for self-sustaining public utilities, does not exceed ten percent of the value of the taxable property in
67 such city, county, town or district, to be ascertained by the valuation of such property therein for the
68 assessment of taxes next preceding the making of such investment.

69 6. Obligations of International Bank, Asian Development Bank and African Development Bank. -
70 Bonds and other obligations issued, guaranteed or assumed by the International Bank for Reconstruction
71 and Development, by the Asian Development Bank or by the African Development Bank.

72 7. Other investments made ~~in conformity with the standards and requirements set forth in~~
73 ~~§ 51.1-124.32~~ *with the care, skill, prudence and diligence under the circumstances then prevailing that a*
74 *prudent person acting in a like capacity and familiar with such matters would use in the conduct of an*
75 *enterprise of like character and with the same aims. Such investments shall be diversified so as to*
76 *minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so.*

77 *The selection of services related to the management, purchase, or sale of investments authorized by*
78 *this section, including but not limited to actuarial services, shall be governed by the standard of care*
79 *set forth in this section and shall not be subject to the provisions of the Virginia Public Procurement*
80 *Act (§ 11-35 et seq. of Title 11).*