

House Bill 481

By: Representatives Carson of the 46th, Thomas of the 21st, Kelley of the 16th, Taylor of the 173rd, Martin of the 49th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 7 of Chapter 20 of Title 47 of the Official Code of Georgia Annotated, the
2 "Public Retirement Systems Investment Authority Law," so as to provide for a fiduciary duty
3 to invest retirement assets solely in the financial interest of participants and their
4 beneficiaries; to provide for duties; to provide for delegation of duties; to provide for
5 objective; to provide for conformance; to provide for a definition; to provide for related
6 matters; to provide for an effective date; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Article 7 of Chapter 20 of Title 47 of the Official Code of Georgia Annotated, the "Public
10 Retirement Systems Investment Authority Law," is amended by adding a new Code section
11 to read as follows:

12 "47-20-88.

13 (a) As used in this Code section, the term 'fiduciary' means any retirement system
14 administration or any person that with respect to any retirement system subject to the
15 provisions of this chapter:

16 (1) Exercises any discretionary authority or control relative to the management or
17 disposition of a retirement system's assets;

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- 18 (2) Renders investment advice for a fee or other compensation, whether directly or
19 indirectly, with respect to any moneys or other property of a retirement system, or has
20 any authority or responsibility to do so; or
- 21 (3) Has any discretionary authority or control in the management or administration of the
22 retirement system.
- 23 (b) With regard to the investments and assets of a retirement system, each fiduciary:
- 24 (1) Shall discharge its duties:
- 25 (A) Solely in the interest of plan participants and their beneficiaries;
26 (B) For the exclusive purpose of providing benefits to plan participants and their
27 beneficiaries; and
- 28 (C) In accordance with this Code section first and with the laws, resolutions,
29 ordinances, and plan documents appurtenant to such retirement system second;
- 30 (2) Shall only make investments with care, skill, prudence, and diligence under the
31 circumstances then prevailing that a prudent expert acting in like capacity and familiar
32 with such matters would use in the conduct of an enterprise of a like character and with
33 like aims;
- 34 (3) Shall diversify the investments of the plan so as to minimize the risk of large losses,
35 unless doing so is clearly not prudent under the circumstances; and
- 36 (4) Shall not subordinate the interests of the participants and their beneficiaries or
37 sacrifice investment returns or accept increased investment risks in the promotion of any
38 nonpecuniary interests. Such nonpecuniary interests shall include, but shall not be
39 limited to, the furtherance of any social, political, or ideological interests.
- 40 (c) A fiduciary may delegate investment management responsibilities to qualified
41 professional investment personnel; provided, however, that the fiduciary or fiduciaries
42 making such delegation shall still be liable for a breach of its fiduciary duty if such
43 delegation is shown to have been based upon influences other than the belief that the plan
44 was best served by such delegation.

45 (d) The investment objectives of a retirement system shall be to provide the greatest
46 possible long-term benefits to members of the retirement system by maximizing the total
47 rate of return on investment within prudent limits of risk for a retirement fund of its type
48 and consistent with any investment return requirement assumed by the actuaries in
49 determining the present and future soundness of the fund.

50 (e) By November 1, 2023, any retirement system subject to the provisions of this chapter
51 shall fully adhere to this Code section and conform, as necessary, any plan documents or
52 contracts or local laws, ordinances, or resolutions that are not in compliance with this Code
53 section."

54 **SECTION 2.**

55 This Act shall become effective on July 1, 2023.

56 **SECTION 3.**

57 All laws and parts of laws in conflict with this Act are repealed.