

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO PUBLIC OFFICERS AND EMPLOYEES

Introduced By: Representatives Nunes, Hearn, Phillips, Costantino, and Casey

Date Introduced: March 08, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 36 of the General Laws entitled "PUBLIC OFFICERS AND
2 EMPLOYEES" is hereby amended by adding thereto the following chapter:

3 CHAPTER 10.2.1

4 RHODE ISLAND PENSION PRUDENT INVESTOR ACT

5 **36-10.2.1-1. Short title.**

6 This chapter shall be known and may be cited as the "Rhode Island pension prudent
7 investor act."

8 **30-10.2.1-2. Purpose.**

9 The purpose of the Rhode Island pension prudent investor act is, together with chapter
10 10.2 of title 36 (Rhode Island protection pension act), to promote security, stability and
11 accountability in the state retirement, whereby a trustee, director or retirement system employee
12 must comply with certain prudent investor guidelines including risk and return objectives,
13 diversification, loyalty, investment costs, compliance and delegation of management functions.

14 **36-10.2.1-3. Prudent investor rule.**

15 (a) Except as otherwise provided in subsection (b) of this section, a trustee, director or
16 retirement system employee of any state or municipal retirement system who invests and
17 manages, or delegates the approval of the investment or management of retirement system assets
18 owes a duty to the beneficiaries of the system to comply with the prudent investor rule set forth in
19 this chapter.

1 (b) A trustee, director or retirement system employee is not liable to a beneficiary or state
2 taxpayer to the extent that the trustee, director or retirement system employee acted in reasonable
3 reliance on the statutory provisions and rules of the retirement system. A trustee, director or
4 retirement system employee who exercises reasonable care, skill and caution in performance of
5 their actions as a trustee, director or retirement system employee is not liable to a beneficiary for
6 the actual investment return results or retirement system operational results.

7 **36-10.2.1-4. Standard of care-Portfolio strategy-risk and return objectives.**

8 (a) A trustee, director or retirement system employee shall invest, manage and approve
9 the investment and management of retirement system assets as a prudent investor would, by
10 considering the purposes, terms, distribution requirements, and other circumstances of the
11 retirement system. In satisfying this standard, the trustee, director or retirement system employee
12 shall exercise reasonable care, skill, and caution.

13 (b) A trustee, director or retirement system employee's investment and management
14 decisions or approval of investment and management decisions respecting individual assets of the
15 retirement system must be evaluated not in isolation but in the context of the retirement system's
16 portfolio as a whole and as part of an overall investment strategy having risk and return objectives
17 reasonably suited to the statutes and rules governing the system. Investment and management
18 decisions shall be made on an impartial basis.

19 (c) Among circumstances that a trustee, director or retirement system employee shall
20 consider in investing and managing retirement system assets or the delegation of approval of
21 investing and managing retirement system assets are any of the following that are relevant to the
22 retirement system or its beneficiaries:

23 (1) General economic conditions;

24 (2) The possible effect of inflation or deflation;

25 (3) The expected tax consequences of investment decisions or strategies;

26 (4) The role that each investment or course of action plays within the overall retirement
27 system portfolio, which may include financial assets, interests in closely held enterprises, tangible
28 and intangible personal property and real property;

29 (5) The expected total return from income and the appreciation of capital;

30 (6) Other resources of the retirement system on behalf of beneficiaries;

31 (7) Needs for liquidity, regularity of income, and preservation or appreciation of capital;

32 and

33 (8) An asset's special relationship or special value, if any, to the purposes of the
34 retirement system, if any, to the retirement system, or to the beneficiaries.

1 (d) A trustee, director or retirement system employee who delegates approval of investing
2 and managing retirement system assets shall make a reasonable effort to verify facts relevant to
3 the investment and management of retirement system assets.

4 (e) A trustee, director or retirement system employee or a trustee, director or retirement
5 system employee who delegates approval of investing and managing retirement system assets,
6 may invest in any kind of property or type of investment consistent with the standards of this
7 chapter.

8 (f) A trustee, director or retirement system employee or a trustee, director or retirement
9 system employee who delegates approval of investing and managing retirement system assets,
10 shall not make a determination to invest or increase the investment of retirement system assets
11 based on ideological or non-financial related criteria for or against specific industries. A trustee,
12 director or retirement system employee or a trustee, director or retirement system employee who
13 delegates approval of investing and managing retirement system assets, shall not make a
14 determination to employ or terminate employment of an investment manager or consultant based
15 on ideological or non-financial related criteria. Prior to a determination by a trustee, director or
16 retirement system employee to avoid investment of or reduce the investment of retirement system
17 assets in a specific industry, or to employ or terminate employment of an investment manager or
18 consultant, external expertise from an independent third-party must be consulted. The results and
19 recommendations of the consulted independent third-party expert shall be made available for
20 public review.

21 **36-10.2.1-5. Diversification.**

22 A trustee, director or retirement system employee or a trustee, director or retirement
23 system employee who delegates approval of investing and managing retirement system assets,
24 shall diversify the investments of the retirement system assets unless it is reasonably determined
25 that, because of special circumstances, the purposes of the retirement system are better served
26 without diversifying.

27 **36-10.2.1-6. Loyalty.**

28 A trustee, director or retirement system employee or a trustee, director or retirement
29 system employee who delegates approval of investing and managing retirement system assets,
30 shall invest and manage the retirement assets solely in the interest of the beneficiaries.

31 **36-10.2.1-7. Investment costs.**

32 In investing and managing retirement assets, a trustee, director or retirement system
33 employee or a trustee, director or retirement system employee who delegates approval of
34 investing and managing retirement system assets, may only incur costs that are appropriate and

1 reasonable in relation to the assets of the retirement system.

2 **36-10.2.1-8. Reviewing compliance.**

3 Compliance with the prudent investor rule is determined in light of the facts and
4 circumstances existing at the time of a trustee, director or retirement system employee or a
5 trustee, director or retirement system employee who delegates approval of investing and
6 managing retirement system assets decision or action and not by hindsight.

7 **36-10.2.1-9. Delegation of investment and management functions.**

8 (a) A trustee, director or retirement system employee may delegate investment and
9 management functions. The trustee, director or retirement system employee shall exercise
10 reasonable care, skill, and caution in:

11 (1) Selecting an agent;

12 (2) Establishing the scope and terms of the delegation, consistent with the purposes and
13 terms of the retirement system; and

14 (3) Periodically reviewing the agent's actions in order to monitor the agent's performance
15 and compliance with the terms of the delegation.

16 (b) In performing a delegated function, an agent owes a duty to the retirement system to
17 exercise reasonable care to comply with the terms of the delegation.

18 (c) A trustee, director or retirement system employee who complies with the
19 requirements of subsection (a) of this section is not liable to the beneficiaries or to the retirement
20 system for the decisions or actions of the agent to whom the function was delegated.

21 (d) By accepting the delegation of a retirement system function from a trustee, director or
22 retirement system employee of a retirement system that is subject to the law of this state, an agent
23 submits to the jurisdiction of the courts of this state.

24 **36-10.2.1-10. Severability.**

25 If any provision of this chapter or its application to any person or circumstance is held
26 invalid, the invalidity shall not affect other provisions or applications of this chapter which can be
27 given effect without the invalid provision or application, and to this end the provisions of this
28 chapter are severable.

29 SECTION 2. This act shall take effect upon passage.

=====
LC001751
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO PUBLIC OFFICERS AND EMPLOYEES

- 1 This act would establish a prudent investor rule for trustees, directors and retirement
- 2 system employees of state and municipal retirement systems who invest and manage or delegate
- 3 the approval of investment or management of retirement system assets.
- 4 This act would take effect upon passage.

=====
LC001751
=====