

SENATE FILE NO. SF0009

State retirement-board immunity.

Sponsored by: Management Audit Committee

A BILL

for

1 AN ACT relating to the Uniform Management of Public
2 Employee Retirement Systems Act; clarifying personal
3 liability of board members and other retirement
4 fiduciaries; clarifying retirement and volunteer firemen's
5 pension board member liability accordingly; specifying
6 intent; and providing for an effective date.

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8 *Be It Enacted by the Legislature of the State of Wyoming:*

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10 **Section 1.** W.S. 9-3-404 by creating a new subsection
11 (e), 9-3-443(a) and 35-9-610 are amended to read:

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13 **9-3-404. Wyoming retirement board; responsibility for**
14 **administration of system; composition; appointment; term;**
15 **vacancies; meetings; election of chairman; liability**
16 **limited.**

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1 (e) Pursuant to W.S. 9-3-443(a) and as provided by
2 the Wyoming Governmental Claims Act, individual board
3 members shall be granted immunity from liability while
4 acting within the scope of administering and operating the
5 retirement system and shall not be personally liable for
6 breaches of fiduciary duties in carrying out system
7 administration and operation except in cases of willful
8 misconduct or gross negligence.

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10 **9-3-443. Liability of trustee or other fiduciary.**

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12 (a) A trustee or other fiduciary who by willful
13 misconduct or gross negligence breaches a duty imposed by
14 this act is personally liable to a retirement system for
15 any losses resulting from the breach and any profits made
16 by the trustee or other fiduciary through use of assets of
17 the system by the trustee or other fiduciary. The trustee
18 or other fiduciary is subject to other equitable remedies
19 as the court considers appropriate, including removal.

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21 **35-9-610. Board; established; nomination;**
22 **appointment; terms and qualification of members; liability**
23 **limited.**

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1 (a) There is established a volunteer firemen's
2 pension board to administer the volunteer firemen's pension
3 account. The board shall consist of six (6) members who
4 shall be appointed by the governor for staggered terms of
5 three (3) years. Appointments shall be made from nominees
6 recommended to the governor by the Wyoming state firemen's
7 association. The nominees shall be volunteer firemen who
8 have a minimum of five (5) years service as members of
9 volunteer fire departments in the state of Wyoming. The
10 governor may remove any board member as provided in W.S.
11 9-1-202.

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13 (b) Pursuant to W.S. 9-3-443(a) and as provided by
14 the Wyoming Governmental Claims Act, individual board
15 members shall be granted immunity from liability while
16 acting within the scope of administering the pension
17 account and shall not be personally liable for breaches of
18 fiduciary duties in carrying out account administration
19 except in cases of willful misconduct or gross negligence.

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21 **Section 2.** The intent of this act is to clarify the
22 personal liability of public employee retirement system
23 trustees and fiduciaries, including members of the Wyoming
24 retirement board and the Wyoming volunteer fireman's

1 pension board, in the administration and operation of
2 respective retirement programs only. Nothing in this act
3 shall otherwise change or modify the intent and purpose of
4 the Uniform Management of Public Employees Retirement
5 Systems Act as provided in W.S. 9-3-433 through 9-3-452.

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7 **Section 3.** This act is effective immediately upon
8 completion of all acts necessary for a bill to become law
9 as provided by Article 4, Section 8 of the Wyoming
10 Constitution.

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12

(END)