

VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

CHAPTER 66

An Act to amend and reenact §§ 2.1-1.1, 2.1-1.3, 2.1-20.1, 2.1-20.1:02, 2.1-20.1:03, 2.1-20.1:04, 2.1-20.1:06, 2.1-20.1:5, 2.1-20.1:6, 2.1-51.27, 2.1-111, 2.1-113.1, 2.1-113.3, 2.1-114.3, 2.1-114.5, 2.1-114.7, 2.1-114.7:1, 2.1-116, 2.1-116.03, 2.1-116.07, 2.1-116.14, 2.1-116.21, 2.1-342.01, 2.1-404, 2.1-557, 15.2-1512.1, 15.2-1609.2, 22.1-209.2, 22.1-342.1, 23-50.16:24, 32.1-137.6, 51.1-126.1, 51.1-153, 51.1-205, 51.1-216, 51.1-502.1, 51.1-512.1, 51.1-513.1, 51.1-1101, 51.1-1106 and 62.1-129.1 of the Code of Virginia, relating to the Department of Personnel and Training.

[H 690]

Approved March 9, 2000

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.1, 2.1-1.3, 2.1-20.1, 2.1-20.1:02, 2.1-20.1:03, 2.1-20.1:04, 2.1-20.1:06, 2.1-20.1:5, 2.1-20.1:6, 2.1-51.27, 2.1-111, 2.1-113.1, 2.1-113.3, 2.1-114.3, 2.1-114.5, 2.1-114.7, 2.1-114.7:1, 2.1-116, 2.1-116.03, 2.1-116.07, 2.1-116.14, 2.1-116.21, 2.1-342.01, 2.1-404, 2.1-557, 15.2-1512.1, 15.2-1609.2, 22.1-209.2, 22.1-342.1, 23-50.16:24, 32.1-137.6, 51.1-126.1, 51.1-153, 51.1-205, 51.1-216, 51.1-502.1, 51.1-512.1, 51.1-513.1, 51.1-1101, 51.1-1106 and 62.1-129.1 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-1.1. Departments generally.

There shall be, in addition to such others as may be established by law, the following administrative departments of the state government:

- Chesapeake Bay Local Assistance Department.
- Department of Accounts.
- Department for the Aging.
- Department of Agriculture and Consumer Services.
- Department of Alcoholic Beverage Control.
- Department of Aviation.
- Department of Business Assistance.
- Department of Conservation and Recreation.
- Department of Corporations.
- Department of Correctional Education.
- Department of Corrections.
- Department of Criminal Justice Services.
- Department for the Deaf and Hard-of-Hearing.
- Department of Education.
- Department of Emergency Services.
- Department of Employee Relations Counselors.
- Department of Environmental Quality.
- Department of Fire Programs.
- Department of Forestry.
- Department of Game and Inland Fisheries.
- Department of General Services.
- Department of Health.
- Department of Health Professions.
- Department of Historic Resources.
- Department of Housing and Community Development.
- Department of Information Technology.
- Department of Juvenile Justice.
- Department of Labor and Industry.
- Department of Law.
- Department of Medical Assistance Services.
- Department of Mental Health, Mental Retardation and Substance Abuse Services.
- Department of Military Affairs.
- Department of Mines, Minerals and Energy.
- Department of Minority Business Enterprise.
- Department of Motor Vehicles.
- Department of ~~Personnel and Training~~ *Human Resource Management*.
- Department of Planning and Budget.
- Department of Professional and Occupational Regulation.
- Department of Rail and Public Transportation.

Department of Rehabilitative Services.
Department for Rights of Virginians With Disabilities.
Department of Social Services.
Department of State Police.
Department of Taxation.
Department of Technology Planning.
Department of Transportation.
Department of the Treasury.
Department of Veterans' Affairs.
Department for the Visually Handicapped.
Governor's Employment and Training Department.

§ 2.1-1.3. Entities subject to standard nomenclature.

The following independent administrative entities are subject to the standard nomenclature provisions of § 2.1-1.2:

Chesapeake Bay Local Assistance Department.
Department of Accounts.
Department for the Aging.
Department of Agriculture and Consumer Services.
Department of Alcoholic Beverage Control.
Department of Aviation.
Department of Business Assistance.
Department of Conservation and Recreation.
Department of Correctional Education.
Department of Corrections.
Department of Criminal Justice Services.
Department for the Deaf and Hard-of-Hearing.
Department of Education.
Department of Emergency Services.
Department of Environmental Quality.
Department of Employee Relations Counselors.
Department of Fire Programs.
Department of Forestry.
Department of Game and Inland Fisheries.
Department of General Services.
Department of Health.
Department of Health Professions.
Department of Historic Resources.
Department of Housing and Community Development.
Department of Information Technology.
Department of Juvenile Justice.
Department of Labor and Industry.
Department of Medical Assistance Services.
Department of Mental Health, Mental Retardation and Substance Abuse Services.
Department of Military Affairs.
Department of Mines, Minerals and Energy.
Department of Minority Business Enterprise.
Department of Motor Vehicles.
Department of ~~Personnel and Training~~ *Human Resource Management*.
Department of Planning and Budget.
Department of Professional and Occupational Regulation.
Department of Rail and Public Transportation.
Department of Rehabilitative Services.
Department for Rights of Virginians With Disabilities.
Department of Social Services.
Department of State Police.
Department of Taxation.
Department of Technology Planning.
Department of Transportation.
Department of the Treasury.
Department of Veterans' Affairs.
Department for the Visually Handicapped.
Governor's Employment and Training Department.

§ 2.1-20.1. Health and related insurance for state employees.

A. 1. The Governor shall establish a plan for providing health insurance coverage, including

chiropractic treatment, hospitalization, medical, surgical and major medical coverage, for state employees and retired state employees with the Commonwealth paying the cost thereof to the extent of the coverage included in such plan. The Department of ~~Personnel and Training~~ *Human Resource Management* shall administer this section. The plan chosen shall provide means whereby coverage for the families or dependents of state employees may be purchased. The Commonwealth may pay all or a portion of the cost thereof, and for such portion as the Commonwealth does not pay, the employee may purchase the coverage by paying the additional cost over the cost of coverage for an employee.

2. Such contribution shall be financed through appropriations provided by law.

B. The plan shall:

1. a. Include coverage for low-dose screening mammograms for determining the presence of occult breast cancer. Such coverage shall make available one screening mammogram to persons age thirty-five through thirty-nine, one such mammogram biennially to persons age forty through forty-nine, and one such mammogram annually to persons age fifty and over and may be limited to a benefit of fifty dollars per mammogram subject to such dollar limits, deductibles, and coinsurance factors as are no less favorable than for physical illness generally. The term "mammogram" shall mean an X-ray examination of the breast using equipment dedicated specifically for mammography, including but not limited to the X-ray tube, filter, compression device, screens, film, and cassettes, with an average radiation exposure of less than one rad mid-breast, two views of each breast.

b. In order to be considered a screening mammogram for which coverage shall be made available under this section:

(1) The mammogram must be (i) ordered by a health care practitioner acting within the scope of his licensure and, in the case of an enrollee of a health maintenance organization, by the health maintenance organization physician, (ii) performed by a registered technologist, (iii) interpreted by a qualified radiologist, and (iv) performed under the direction of a person licensed to practice medicine and surgery and certified by the American Board of Radiology or an equivalent examining body. A copy of the mammogram report must be sent or delivered to the health care practitioner who ordered it;

(2) The equipment used to perform the mammogram shall meet the standards set forth by the Virginia Department of Health in its radiation protection regulations; and

(3) The mammography film shall be retained by the radiologic facility performing the examination in accordance with the American College of Radiology guidelines or state law.

2. Include coverage for the treatment of breast cancer by dose-intensive chemotherapy with autologous bone marrow transplants or stem cell support when performed at a clinical program authorized to provide such therapies as a part of clinical trials sponsored by the National Cancer Institute. For persons previously covered under the plan, there shall be no denial of coverage due to the existence of a preexisting condition.

3. Include coverage for postpartum services providing inpatient care and a home visit or visits which shall be in accordance with the medical criteria outlined in the most current version of or an official update to the "Guidelines for Perinatal Care" prepared by the American Academy of Pediatrics and the American College of Obstetricians and Gynecologists or the "Standards for Obstetric-Gynecologic Services" prepared by the American College of Obstetricians and Gynecologists. Such coverage shall be provided incorporating any changes in such Guidelines or Standards within six months of the publication of such Guidelines or Standards or any official amendment thereto.

4. a. Include an appeals process for resolution of written complaints concerning denials or partial denials of claims that shall provide reasonable procedures for resolution of such written complaints and shall be published and disseminated to all covered state employees. Such appeals process shall include a separate expedited emergency appeals procedure which shall provide resolution within one business day of receipt of a complaint concerning situations requiring immediate medical care. For appeals involving adverse decisions as defined in § 32.1-137.7, the Department shall contract with one or more impartial health entities to review such decisions. Impartial health entities may include medical peer review organizations and independent utilization review companies. The Department shall adopt regulations to assure that the impartial health entity conducting the reviews has adequate standards, credentials and experience for such review. The impartial health entity shall examine the final denial of claims to determine whether the decision is objective, clinically valid, and compatible with established principles of health care. The decision of the impartial health entity shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy.

b. Prior to assigning an appeal to an impartial health entity, the Department shall verify that the impartial health entity conducting the review of a denial of claims has no relationship or association with (i) the covered employee, (ii) the treating health care provider, or any of its employees or affiliates, (iii) the medical care facility at which the covered service would be provided, or any of its employees or affiliates, or (iv) the development or manufacture of the drug, device, procedure or other therapy which is the subject of the final denial of a claim. The impartial health entity shall not be a subsidiary of, nor owned or controlled by, a health plan, a trade association of health plans, or a professional association of health care providers. There shall be no liability on the part of and no cause of action shall arise

against any officer or employee of an impartial health entity for any actions taken or not taken or statements made by such officer or employee in good faith in the performance of his powers and duties.

5. Include coverage for early intervention services. For purposes of this section, "early intervention services" means medically necessary speech and language therapy, occupational therapy, physical therapy and assistive technology services and devices for dependents from birth to age three who are certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services as eligible for services under Part H of the Individuals with Disabilities Education Act (20 U.S.C. § 1471 et seq.). Medically necessary early intervention services for the population certified by the Department of Mental Health, Mental Retardation and Substance Abuse Services shall mean those services designed to help an individual attain or retain the capability to function age-appropriately within his environment, and shall include services which enhance functional ability without effecting a cure.

For persons previously covered under the plan, there shall be no denial of coverage due to the existence of a preexisting condition. The cost of early intervention services shall not be applied to any contractual provision limiting the total amount of coverage paid by the insurer to or on behalf of the insured during the insured's lifetime.

6. Include coverage for prescription drugs and devices approved by the United States Food and Drug Administration for use as contraceptives.

7. Not deny coverage for any drug approved by the United States Food and Drug Administration for use in the treatment of cancer on the basis that the drug has not been approved by the United States Food and Drug Administration for the treatment of the specific type of cancer for which the drug has been prescribed, if the drug has been recognized as safe and effective for treatment of that specific type of cancer in one of the standard reference compendia.

8. Not deny coverage for any drug prescribed to treat a covered indication so long as the drug has been approved by the United States Food and Drug Administration for at least one indication and the drug is recognized for treatment of the covered indication in one of the standard reference compendia or in substantially accepted peer-reviewed medical literature.

9. Include coverage for equipment, supplies and outpatient self-management training and education, including medical nutrition therapy, for the treatment of insulin-dependent diabetes, insulin-using diabetes, gestational diabetes and noninsulin-using diabetes if prescribed by a health care professional legally authorized to prescribe such items under law. To qualify for coverage under this subdivision, diabetes outpatient self-management training and education shall be provided by a certified, registered or licensed health care professional.

10. Include coverage for reconstructive breast surgery. For purposes of this section, "reconstructive breast surgery" means surgery performed on and after July 1, 1998, (i) coincident with a mastectomy performed for breast cancer or (ii) following a mastectomy performed for breast cancer to reestablish symmetry between the two breasts. For persons previously covered under the plan, there may be no denial of coverage due to preexisting conditions.

11. Include coverage for annual pap smears, including coverage, on and after July 1, 1999, for annual testing performed by any FDA-approved gynecologic cytology screening technologies.

12. Include coverage providing a minimum stay in the hospital of not less than forty-eight hours for a patient following a radical or modified radical mastectomy and twenty-four hours of inpatient care following a total mastectomy or a partial mastectomy with lymph node dissection for treatment of breast cancer. Nothing in this subdivision shall be construed as requiring the provision of inpatient coverage where the attending physician in consultation with the patient determines that a shorter period of hospital stay is appropriate.

13. Include coverage (i) to persons age fifty and over and (ii) to persons age forty and over who are at high risk for prostate cancer, according to the most recent published guidelines of the American Cancer Society, for one PSA test in a twelve-month period and digital rectal examinations, all in accordance with American Cancer Society guidelines. For the purpose of this subdivision, "PSA testing" means the analysis of a blood sample to determine the level of prostate specific antigen.

14. Permit any individual covered under the plan direct access to the health care services of a participating specialist (i) authorized to provide services under the plan and (ii) selected by the covered individual. The plan shall have a procedure by which an individual who has an ongoing special condition may, after consultation with the primary care physician, receive a referral to a specialist for such condition who shall be responsible for and capable of providing and coordinating the individual's primary and specialty care related to the initial specialty care referral. If such an individual's care would most appropriately be coordinated by such a specialist, the plan shall refer the individual to a specialist. For the purposes of this subdivision, "special condition" means a condition or disease that is (i) life-threatening, degenerative, or disabling and (ii) requires specialized medical care over a prolonged period of time. Within the treatment period authorized by the referral, such specialist shall be permitted to treat the individual without a further referral from the individual's primary care provider and may authorize such referrals, procedures, tests, and other medical services related to the initial referral as the individual's primary care provider would otherwise be permitted to provide or authorize. The plan shall have a procedure by which an individual who has an ongoing special condition that requires ongoing

care from a specialist may receive a standing referral to such specialist for the treatment of the special condition. If the primary care provider, in consultation with the plan and the specialist, if any, determines that such a standing referral is appropriate, the plan or issuer shall make such a referral to a specialist. Nothing contained herein shall prohibit the plan from requiring a participating specialist to provide written notification to the covered individual's primary care physician of any visit to such specialist. Such notification may include a description of the health care services rendered at the time of the visit.

15. a. Include provisions allowing employees to continue receiving health care services for a period of up to ninety days from the date of the primary care physician's notice of termination from any of the plan's provider panels.

b. The plan shall notify any provider at least ninety days prior to the date of termination of the provider, except when the provider is terminated for cause.

c. For a period of at least ninety days from the date of the notice of a provider's termination from any of the plan's provider panels, except when a provider is terminated for cause, a provider shall be permitted by the plan to render health care services to any of the covered employees who (i) were in an active course of treatment from the provider prior to the notice of termination and (ii) request to continue receiving health care services from the provider.

d. Notwithstanding the provisions of clause a, any provider shall be permitted by the plan to continue rendering health services to any covered employee who has entered the second trimester of pregnancy at the time of the provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue through the provision of postpartum care directly related to the delivery.

e. Notwithstanding the provisions of clause a, any provider shall be permitted by the plan to continue rendering health services to any covered employee who is determined to be terminally ill (as defined under § 1861 (dd) (3) (A) of the Social Security Act) at the time of a provider's termination of participation, except when a provider is terminated for cause. Such treatment shall, at the covered employee's option, continue for the remainder of the employee's life for care directly related to the treatment of the terminal illness.

f. A provider who continues to render health care services pursuant to this subdivision shall be reimbursed in accordance with the carrier's agreement with such provider existing immediately before the provider's termination of participation.

16. a. Include coverage for patient costs incurred during participation in clinical trials for treatment studies on cancer, including ovarian cancer trials.

b. The reimbursement for patient costs incurred during participation in clinical trials for treatment studies on cancer shall be determined in the same manner as reimbursement is determined for other medical and surgical procedures. Such coverage shall have durational limits, dollar limits, deductibles, copayments and coinsurance factors that are no less favorable than for physical illness generally.

c. For purposes of this subdivision:

"Cooperative group" means a formal network of facilities that collaborate on research projects and have an established NIH-approved peer review program operating within the group. "Cooperative group" includes (i) the National Cancer Institute Clinical Cooperative Group and (ii) the National Cancer Institute Community Clinical Oncology Program.

"FDA" means the Federal Food and Drug Administration.

"Multiple project assurance contract" means a contract between an institution and the federal Department of Health and Human Services that defines the relationship of the institution to the federal Department of Health and Human Services and sets out the responsibilities of the institution and the procedures that will be used by the institution to protect human subjects.

"NCI" means the National Cancer Institute.

"NIH" means the National Institutes of Health.

"Patient" means a person covered under the plan established pursuant to this section.

"Patient cost" means the cost of a medically necessary health care service that is incurred as a result of the treatment being provided to a patient for purposes of a clinical trial. "Patient cost" does not include (i) the cost of nonhealth care services that a patient may be required to receive as a result of the treatment being provided for purposes of a clinical trial, (ii) costs associated with managing the research associated with the clinical trial, or (iii) the cost of the investigational drug or device.

d. Coverage for patient costs incurred during clinical trials for treatment studies on cancer shall be provided if the treatment is being conducted in a Phase II, Phase III, or Phase IV clinical trial. Such treatment may, however, be provided on a case-by-case basis if the treatment is being provided in a Phase I clinical trial.

e. The treatment described in clause d shall be provided by a clinical trial approved by:

- (1) The National Cancer Institute;
- (2) An NCI cooperative group or an NCI center;
- (3) The FDA in the form of an investigational new drug application;
- (4) The federal Department of Veterans Affairs; or

(5) An institutional review board of an institution in the Commonwealth that has a multiple project assurance contract approved by the Office of Protection from Research Risks of the NCI.

f. The facility and personnel providing the treatment shall be capable of doing so by virtue of their experience, training, and expertise.

g. Coverage under this section shall apply only if:

(1) There is no clearly superior, noninvestigational treatment alternative;

(2) The available clinical or preclinical data provide a reasonable expectation that the treatment will be at least as effective as the noninvestigational alternative; and

(3) The patient and the physician or health care provider who provides services to the patient under the plan conclude that the patient's participation in the clinical trial would be appropriate, pursuant to procedures established by the plan.

17. Include coverage providing a minimum stay in the hospital of not less than twenty-three hours for a covered employee following a laparoscopy-assisted vaginal hysterectomy and forty-eight hours for a covered employee following a vaginal hysterectomy, as outlined in Milliman & Robertson's nationally recognized guidelines. Nothing in this subdivision shall be construed as requiring the provision of the total hours referenced when the attending physician, in consultation with the covered employee, determines that a shorter hospital stay is appropriate.

18. a. (Effective until July 1, 2004) Include coverage for biologically based mental illness.

b. For purposes of this subdivision, a "biologically based mental illness" is any mental or nervous condition caused by a biological disorder of the brain that results in a clinically significant syndrome that substantially limits the person's functioning; specifically, the following diagnoses are defined as biologically based mental illness as they apply to adults and children: schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention deficit hyperactivity disorder, autism, and drug and alcoholism addiction.

c. Coverage for biologically based mental illnesses shall neither be different nor separate from coverage for any other illness, condition or disorder for purposes of determining deductibles, benefit year or lifetime durational limits, benefit year or lifetime dollar limits, lifetime episodes or treatment limits, copayment and coinsurance factors, and benefit year maximum for deductibles and copayment and coinsurance factors.

d. Nothing shall preclude the undertaking of usual and customary procedures to determine the appropriateness of, and medical necessity for, treatment of biologically based mental illnesses under this option, provided that all such appropriateness and medical necessity determinations are made in the same manner as those determinations made for the treatment of any other illness, condition or disorder covered by such policy or contract.

e. In no case, however, shall coverage for mental disorders provided pursuant to this section be diminished or reduced below the coverage in effect for such disorders on January 1, 1999.

C. Claims incurred during a fiscal year but not reported during that fiscal year shall be paid from such funds as shall be appropriated by law. Appropriations, premiums and other payments shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The funds of the health insurance fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the employees and beneficiaries thereof. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the health insurance fund.

D. For the purposes of this section:

"Peer-reviewed medical literature" means a scientific study published only after having been critically reviewed for scientific accuracy, validity, and reliability by unbiased independent experts in a journal that has been determined by the International Committee of Medical Journal Editors to have met the Uniform Requirements for Manuscripts submitted to biomedical journals. Peer-reviewed medical literature does not include publications or supplements to publications that are sponsored to a significant extent by a pharmaceutical manufacturing company or health carrier.

"Standard reference compendia" means the American Medical Association Drug Evaluations, the American Hospital Formulary Service Drug Information, or the United States Pharmacopoeia Dispensing Information.

"State employee" means state employee as defined in § 51.1-124.3, employee as defined in § 51.1-201, the Governor, Lieutenant Governor and Attorney General, judge as defined in § 51.1-301 and judges, clerks and deputy clerks of regional juvenile and domestic relations, county juvenile and domestic relations, and district courts of the Commonwealth, interns and residents employed by the School of Medicine and Hospital of the University of Virginia, and interns, residents, and employees of the Medical College of Virginia Hospitals Authority as provided in § 23-50.16:24.

E. Provisions shall be made for retired employees to obtain coverage under the above plan. The Commonwealth may, but shall not be obligated to, pay all or any portion of the cost thereof.

F. Any self-insured group health insurance plan established by the Department of ~~Personnel and Training~~ *Human Resource Management* which utilizes a network of preferred providers shall not exclude any physician solely on the basis of a reprimand or censure from the Board of Medicine, so long as the physician otherwise meets the plan criteria established by the Department.

G. The plan established by the Department shall include, in each planning district, at least two health coverage options, each sponsored by unrelated entities. In each planning district that does not have an available health coverage alternative, the Department shall voluntarily enter into negotiations at any time with any health coverage provider who seeks to provide coverage under the plan. This section shall not apply to any state agency authorized by the Department to establish and administer its own health insurance coverage plan separate from the plan established by the Department.

H. 1. Any self-insured group health insurance plan established by the Department of ~~Personnel and Training~~ *Human Resource Management* that includes coverage for prescription drugs on an outpatient basis may apply a formulary to the prescription drug benefits provided by the plan if the formulary is developed, reviewed at least annually, and updated as necessary in consultation with and with the approval of a pharmacy and therapeutics committee, a majority of whose members are actively practicing licensed (i) pharmacists, (ii) physicians, and (iii) other health care providers.

2. If the plan maintains one or more drug formularies, the plan shall establish a process to allow a person to obtain, without additional cost-sharing beyond that provided for formulary prescription drugs in the plan, a specific, medically necessary nonformulary prescription drug if, after reasonable investigation and consultation with the prescribing physician, the formulary drug is determined to be an inappropriate therapy for the medical condition of the person. The plan shall act on such requests within one business day of receipt of the request.

I. Any plan established by the Department of ~~Personnel and Training~~ *Human Resource Management* requiring preauthorization prior to rendering medical treatment shall have personnel available to provide authorization at all times when such preauthorization is required.

J. Any plan established by the Department of ~~Personnel and Training~~ *Human Resource Management* shall provide to all covered employees written notice of any benefit reductions during the contract period at least thirty days before such reductions become effective.

K. No contract between a provider and any plan established by the Department of ~~Personnel and Training~~ *Human Resource Management* shall include provisions which require a health care provider or health care provider group to deny covered services that such provider or group knows to be medically necessary and appropriate that are provided with respect to a covered employee with similar medical conditions.

L. 1. The Department of ~~Personnel and Training~~ *Human Resource Management* shall appoint an Ombudsman to promote and protect the interests of covered employees under any state employee's health plan.

2. The Ombudsman shall:

a. Assist covered employees in understanding their rights and the processes available to them according to their state health plan.

b. Answer inquiries from covered employees by telephone and electronic mail.

c. Provide to covered employees information concerning the state health plans.

d. Develop information on the types of health plans available, including benefits and complaint procedures and appeals.

e. Make available, either separately or through an existing Internet web site utilized by the Department of ~~Personnel and Training~~ *Human Resource Management*, information as set forth in clause d and such additional information as he deems appropriate.

f. Maintain data on inquiries received, the types of assistance requested, any actions taken and the disposition of each such matter.

g. Upon request, assist covered employees in using the procedures and processes available to them from their health plan, including all appeal procedures. Such assistance may require the review of health care records of a covered employee, which shall be done only with that employee's express written consent. The confidentiality of any such medical records shall be maintained in accordance with the confidentiality and disclosure laws of the Commonwealth.

h. Ensure that covered employees have access to the services provided by the Ombudsman and that the covered employees receive timely responses from the Ombudsman or his representatives to the inquiries.

i. Report annually on his activities to the standing committees of the General Assembly having jurisdiction over insurance and over health and the Joint Commission on Health Care by December 1 of each year.

M. 1. The plan established by the Department of ~~Personnel and Training~~ *Human Resource Management* shall not refuse to accept or make reimbursement pursuant to an assignment of benefits made to a dentist or oral surgeon by a covered employee.

2. For purposes of this subsection, "assignment of benefits" means the transfer of dental care coverage reimbursement benefits or other rights under the plan. The assignment of benefits shall not be

effective until the covered employee notifies the plan in writing of the assignment.

§ 2.1-20.1:02. Health insurance program for employees of local governments, local officers, teachers, etc.; definitions.

A. The Department of ~~Personnel and Training~~ *Human Resource Management* shall establish a plan or plans subject to the approval of the Governor, for providing health insurance coverage for employees of local governments, local officers, teachers, and retirees, and the dependents of such employees, officers, teachers and retirees. The plan or plans shall be rated separately from the plan established pursuant to § 2.1-20.1 to provide health and related insurance coverage for state employees. Participation in such insurance plan or plans shall be (i) voluntary, (ii) approved by the participant's respective governing body, or by the local school board in the case of teachers, and (iii) subject to regulations promulgated by the Department.

B. The plan established by the Department shall satisfy the requirements of the Virginia Public Procurement Act (§ 11-35 et seq.), shall consist of a flexible benefits structure which permits the creation of multiple plans of benefits and may provide for separate rating groups based upon criteria established by the Department. The Department shall promulgate regulations regarding the establishment of such a plan or plans, including, but not limited to, requirements for eligibility, participation, access and egress, mandatory employer contributions and financial reserves, and the administration of the plan or plans. The Department may engage the services of other professional advisors and vendors as necessary for the prudent administration of the plan or plans. The assets of the plan or plans, together with all appropriations, premiums and other payments, shall be deposited in the employee health insurance fund, from which payments for claims, premiums, cost containment programs and administrative expenses shall be withdrawn from time to time. The assets of the fund shall be held for the sole benefit of the employee health insurance fund. The fund shall be held in the state treasury. Any interest on unused balances in the fund shall revert back to the credit of the fund. The State Treasurer shall charge reasonable fees to recover the actual costs of investing the assets of the plan or plans.

In establishing the participation requirements, the Department may provide that those employees, officers, and teachers without access to employer-sponsored health care coverage may participate in the plan. It shall collect all premiums directly from the employers of such employees, officers, and teachers.

C. In the administration of the plan or plans, the Department shall take into consideration the recommendations made by an advisory committee. Such advisory committee shall be composed of at least five members to be appointed by the Governor, with at least one member representing each of the following groups: local governments, local officers, local school boards, teachers, and retirees. Committee members shall be reimbursed for the expenses incurred by them as members of the committee but shall not be otherwise compensated for their services. The terms of service for the advisory committee members shall be established by the Department.

D. In the event that the financial reserves of the plan fall to an unacceptably low level as determined by the Department, it shall have the authority to secure from the State Treasurer a loan sufficient to raise the reserve level to one which is considered adequate. The State Treasurer is hereby authorized to make such a loan, to be repaid on such terms and conditions as established by him.

E. For the purposes of this section, the following terms shall have the meanings indicated:

"Employees of local governments" shall include all officers and employees of the governing body of any county, city or town, and the directing or governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished from §§ 15.2-1303, 15.2-1300, or similar statutes, provided that the officers and employees of a social services department, welfare board, mental health, mental retardation and substance abuse services board, or library board of a county, city, or town shall be deemed to be employees of local government.

"Local officer" means the treasurer, registrar, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, sheriff, or constable of any county or city or deputies or employees of any of the preceding local officers.

"Teacher" means any employee of a county, city, or other local public school board.

F. Any stock and cash distributed to the Commonwealth pursuant to the conversion of Blue Cross and Blue Shield of Virginia, doing business as Trigon Blue Cross Blue Shield, from a mutual insurance company to a stock corporation known as Trigon Healthcare, Inc., that is directly attributable to the health insurance plan or plans established for employees of local governments, local officers, teachers, and retirees, and the dependents of such employees, officers, teachers and retirees, pursuant to subsection A (hereinafter referred to as the "local choice plan distribution") shall be deposited in the state treasury to the credit of the employee health insurance fund to be used as provided in this subsection. Such distribution shall not include any cash paid by Blue Cross and Blue Shield of Virginia or its successor to the Commonwealth in connection with such conversion which was assumed as general fund revenue in Chapter 912 of the 1996 Acts of Assembly. All other stock and cash received by the Commonwealth pursuant to such conversion of Blue Cross and Blue Shield of Virginia to a stock corporation shall be allocated as provided in subsection B of § 23-284.

The State Treasurer shall sell any stock received pursuant to the local choice plan distribution as soon as practicable following its receipt, subject to any lockup period or other restriction on its sale, and the proceeds therefrom shall be deposited in the state treasury to the credit of the employee health insurance fund. Notwithstanding any other provision of law to the contrary, the State Treasurer shall not be liable for any losses incurred from the sale or distribution of such stock.

The Department of ~~Personnel and Training~~ *Human Resource Management* shall use any stock, or the proceeds therefrom, and cash received pursuant to the local choice plan distribution to reduce premiums payable by employers participating in a plan or plans established pursuant to subsection A. In setting health insurance premiums for such plan or plans, the Director of the Department of ~~Personnel and Training~~ *Human Resource Management* shall allocate the value of such stock, or proceeds therefrom, and cash among each participating employer. Such allocation shall be based on the proportionate amounts of premiums previously paid by each participating employer. If a participating employer withdraws from such plan or plans before all of the value allocated to it has been used for the benefit of the participating employer, the remaining value shall be transferred to such participating employer upon his withdrawal.

§ 2.1-20.1:03. Purchase of continued health insurance coverage by the surviving spouse and any dependents of an active or retired state employee.

A. The surviving spouse and any dependents of an active state employee or a retired state employee shall be entitled, upon proper application to the Department of ~~Personnel and Training~~ *Human Resource Management*, to purchase continued health insurance coverage on the following conditions: (i) on the date of death, the state employee participated in a health insurance plan administered by the Department of ~~Personnel and Training~~ *Human Resource Management* pursuant to § 2.1-20.1 or § 2.1-20.1:02 and (ii) on the date of the deceased's death, the applicants were included in the health insurance plan in condition (i) of this subsection. The health insurance plans administered by the Department of ~~Personnel and Training~~ *Human Resource Management* pursuant to § 2.1-20.1 or § 2.1-20.1:02 shall provide means whereby coverage for the spouse and dependents of active or retired state employees may be purchased.

B. Any application to purchase continued health insurance coverage hereunder shall be made in writing to the Department of ~~Personnel and Training~~ *Human Resource Management* within sixty days of the date of the deceased's death. The time for making application may be extended by the Department for good cause shown.

C. In addition to any necessary information requested by the Department of ~~Personnel and Training~~ *Human Resource Management*, the application shall state whether conditions (i) and (ii) set forth in subsection A of this section have been met. If the Department states that such conditions have not been met, the Department shall conduct an informal fact-finding conference or consultation with the applicant pursuant to § 9-6.14:11 of the Administrative Process Act. Upon scheduling the conference or consultation, the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.) shall apply thereafter.

D. Upon payment of any required premiums, coverage shall automatically be extended during the period for making application and shall be effective retroactive to the date of the deceased's death.

E. The terms, conditions, and costs of continued health insurance coverage purchased hereunder shall be subject to administration by the Department of ~~Personnel and Training~~ *Human Resource Management*. The Department may increase the cost of coverage consistent with its administration of health insurance plans under § 2.1-20.1 or § 2.1-20.1:02.

F. For the surviving spouse, continued health insurance coverage purchased hereunder shall automatically terminate upon occurrence of any of the following: (i) death, (ii) remarriage, (iii) alternate health insurance coverage being obtained, or (iv) any applicable condition outlined in the policies and procedures of the Department of ~~Personnel and Training~~ *Human Resource Management* governing health insurance plans administered pursuant to § 2.1-20.1 or § 2.1-20.1:02.

G. For any surviving dependents, continued health insurance coverage purchased hereunder shall automatically terminate upon occurrence of any of the following: (i) death; (ii) marriage; (iii) alternate health insurance coverage being obtained; (iv) attaining the age of twenty-one, unless the dependent is (a) a full-time college student, in which event coverage shall not terminate until such dependent has either attained the age of twenty-five or until such time as the dependent ceases to be a full-time college student, whichever occurs first, or (b) under a mental or physical disability, in which event coverage shall not terminate until three months following cessation of the disability; or (v) any applicable condition outlined in the policies and procedures of the Department of ~~Personnel and Training~~ *Human Resource Management* governing health insurance plans administered pursuant to § 2.1-20.1 or § 2.1-20.1:02.

§ 2.1-20.1:04. Purchase of continued health insurance coverage by the surviving spouse and any dependents of an active or retired local law-enforcement officer, firefighter, etc.

A. The surviving spouse and any dependents of an active or retired law-enforcement officer of any county, city, or town of this Commonwealth; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a member of any fire company or department or rescue squad which has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of this Commonwealth as an integral part

of the official safety program of such county, city or town; or a member of an emergency medical services department, whose death occurs as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, and 65.2-402, shall be entitled, upon proper application to the Department of ~~Personnel and Training~~ *Human Resource Management*, to purchase continued health insurance coverage on the following conditions: (i) on the date of death, the deceased participated in a health insurance plan administered by the Department of ~~Personnel and Training~~ *Human Resource Management* pursuant to § 2.1-20.1:02 and (ii) on the date of the deceased's death, the applicants were included in the health insurance plan in condition (i) of this subsection. The health insurance plan administered by the Department of ~~Personnel and Training~~ *Human Resource Management* pursuant to § 2.1-20.1:02 shall provide means whereby coverage for the spouse and any dependents of the deceased as provided in this section may be purchased. The spouse and any dependents of the deceased who purchase continued health insurance coverage pursuant to this section shall pay the same portion of the applicable premium as active employees pay for the same class of coverage, and the local government employer that employed the deceased shall pay the remaining portion of the premium.

B. Any application to purchase continued health insurance coverage hereunder shall be made in writing to the Department of ~~Personnel and Training~~ *Human Resource Management* within sixty days of the date of the deceased's death. The time for making application may be extended by the Department for good cause shown.

C. In addition to any necessary information requested by the Department of ~~Personnel and Training~~ *Human Resource Management*, the application shall state whether conditions (i) and (ii) set forth in subsection A of this section have been met. If the Department states that such conditions have not been met, the Department shall conduct an informal fact-finding conference or consultation with the applicant pursuant to § 9-6.14:11 of the Administrative Process Act. Upon scheduling the conference or consultation, the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.) shall apply thereafter.

D. Upon payment of any required premiums, coverage shall automatically be extended during the period for making application and shall be effective retroactive to the date of the deceased's death.

E. The terms, conditions, and costs of continued health insurance coverage purchased hereunder shall be subject to administration by the Department of ~~Personnel and Training~~ *Human Resource Management*. The Department may increase the cost of coverage consistent with its administration of health insurance plans under § 2.1-20.1:02. However, at no time shall a surviving spouse or dependents pay more for continued health insurance coverage than active employees pay under the same plan for the same class of coverage.

F. For the surviving spouse, continued health insurance coverage purchased hereunder shall automatically terminate upon occurrence of any of the following: (i) death, (ii) remarriage, (iii) alternate health insurance coverage being obtained, or (iv) any applicable condition outlined in the policies and procedures of the Department of ~~Personnel and Training~~ *Human Resource Management* governing health insurance plans administered pursuant to § 2.1-20.1:02.

G. For any surviving dependents, continued health insurance coverage purchased hereunder shall automatically terminate upon occurrence of any of the following: (i) death; (ii) marriage; (iii) alternate health insurance coverage being obtained; (iv) attaining the age of twenty-one, unless the dependent is (a) a full-time college student, in which event coverage shall not terminate until such dependent has either attained the age of twenty-five or until such time as the dependent ceases to be a full-time college student, whichever occurs first, or (b) under a mental or physical disability, in which event coverage shall not terminate until three months following cessation of the disability; or (v) any applicable condition outlined in the policies and procedures of the Department of ~~Personnel and Training~~ *Human Resource Management* governing health insurance plans administered pursuant to § 2.1-20.1:02.

§ 2.1-20.1:06. Purchase of health insurance coverage by part-time state employees.

A. Any part-time state employee employed by the Commonwealth and working twenty or more hours per week for a period of at least six months shall be entitled, upon proper application to the Department of ~~Personnel and Training~~ *Human Resource Management* (the Department), to purchase health insurance coverage for himself through a health insurance plan administered by the Department. This plan for part-time employees may differ from the other plans sponsored by the Department for state employees and shall be exempt from all mandates contained in § 2.1-20.1.

B. Applications to purchase health insurance coverage hereunder shall be made on an application form prescribed by the Department. In addition to his application, the applicant shall provide any necessary supporting documents requested by the Department.

C. Upon payment of the required premiums, coverage shall be effective retroactive to the date of the application.

D. The terms, conditions, and costs of health insurance coverage purchased hereunder shall be subject to administration by the Department. The Department may increase the cost of coverage consistent with its administration of the health insurance plans under § 2.1-20.1.

E. Health insurance coverage purchased hereunder shall automatically terminate upon the occurrence of any of the following: (i) the applicant's death, (ii) alternate health insurance coverage being obtained

by the applicant, (iii) the applicant's separation from state service, or (iv) any applicable condition outlined in the policies and procedures of the Department governing its administration of health insurance plans pursuant to § 2.1-20.1.

§ 2.1-20.1:5. Optional supplemental health insurance credit for retired state employees.

A. As used in this section, "lump sum payment amount" means the amount a state employee is entitled to be paid upon the date of retirement from state service, in accordance with the applicable rules and procedures of the employee's agency or institution, for any (i) accumulated annual leave balance, (ii) accumulated sick leave balance, and (iii) wages and salary for any period for which the employee worked and has not yet been paid.

B. Any state employee retiring from service pursuant to subsection A, B or D of §§ 51.1-153, 51.1-156, subsection A, B or D of § 51.1-205, or subsection A, B or B1 of § 51.1-305 on or after July 1, 1999, who participates in the state health insurance plan, shall have the option to require that his lump sum payment amount be credited to a supplemental health insurance credit account which would qualify under Internal Revenue Code § 125 to be used to supplement the amount of the monthly health insurance credit provided pursuant to § 2.1-20.1:2. Such option shall be irrevocably exercised on or before the employee's last day of service.

C. Amounts credited to supplemental health insurance credit accounts shall be deposited in a special fund in the state treasury. Interest accruing on amounts in the special fund shall be credited pro rata among the accounts. Amounts shall be paid from the special fund at the request of the Department of ~~Personnel and Training~~ *Human Resource Management*, which shall determine, in cooperation with the Board of Trustees of the Virginia Retirement System, the amount required to be withdrawn from an electing retired employee's supplemental health insurance credit account in order to cover, in conjunction with the health care credit, the premium for the retiree-only or family health insurance coverage.

D. Amounts in a retiree's supplemental health insurance credit account shall be exempt from taxation and exempt from execution, attachment, garnishment or any other process to the same extent, and subject to the same conditions, as are retirement allowances and benefits pursuant to § 51.1-124.4.

E. In the event that an electing retiree dies prior to exhausting the amount in the retiree's supplemental health insurance credit account, the balance in the account shall be paid in the same manner as provided in § 51.1-163.

§ 2.1-20.1:6. Participation in the state retiree health benefits program.

A. As used in this section:

"Involuntarily separated" means separated from state service as the result of any dismissal, requested resignation, or failure to obtain reappointment, excluding a separation resulting from a conviction for a felony or crime involving moral turpitude or dishonesty or a separation related to the job performance or misconduct of the state employee.

"Retiree health benefits program" or "program" means the plan for providing health insurance coverage for retired state employees provided pursuant to subsection E of § 2.1-20.1.

"State employee" has the same meaning as defined in § 2.1-20.1.

"State retiree" means a state employee retired under the Virginia Retirement System, State Police Officers' Retirement System, Judicial Retirement System or any retirement system authorized pursuant to § 51.1-126, who is eligible to receive a monthly retirement annuity from that retirement system.

B. A state retiree shall be eligible to participate in the retiree health benefits program only if he makes an election to participate in the program within thirty-one days following the date of termination of employment with the Commonwealth. A retired state employee who fails to elect to participate in the state health plan within thirty-one days of the effective date of retirement, or who, once having elected to participate, discontinues participation, is barred from participating in the state health plan thereafter.

C. Any state retiree who was involuntarily separated who on July 1, 1999, is participating in the retiree health benefits program and is receiving monthly retirement annuity payments may elect, by notifying the Virginia Retirement System and the Department of ~~Personnel and Training~~ *Human Resource Management* before September 1, 1999, to cease receiving monthly retirement annuity payments until reapplying for such benefits at a later date and to continue participation in the retiree health benefits program.

§ 2.1-51.27. Agencies for which responsible.

The Secretary of Administration shall be responsible to the Governor for the following agencies and boards: Department of ~~Personnel and Training~~ *Human Resource Management*, Department of General Services, Compensation Board, Secretary of the Commonwealth, Department of Employee Relations Counselors, Department of Veterans' Affairs, Virginia Veterans Care Center Board of Trustees, Commission on Local Government, Charitable Gaming Commission, and Virginia Public Broadcasting Board. The Governor may, by executive order, assign any other state executive agency to the Secretary of Administration, or reassign any agency listed above to another secretary.

§ 2.1-111. Appointments, promotions and tenure based upon merit and fitness.

In accordance with the provisions of this chapter all appointments and promotions to and tenure in positions in the service of the Commonwealth shall be based upon merit and fitness, to be ascertained, as far as possible, by the competitive rating of qualifications by the respective appointing authorities.

Persons holding positions in the service of the Commonwealth on July 1, 1952, shall be deemed to be holding their positions as though they had received appointment under the terms of this chapter.

Persons who, on such date, had left the service of the Commonwealth for service in any of the armed forces of the United States shall be deemed to have held the positions which they had thus left as though they had received appointment under the terms of this chapter, and all such persons, as well as persons who thereafter leave the service of the Commonwealth for service in such armed forces, shall be entitled to be restored to such positions upon the termination of their service with the armed forces, provided such persons, except for good cause shown, have filed an application for restoration to such positions within ninety calendar days following such termination of military service, accompanied by a certificate attesting that the military duty was satisfactorily performed. Such persons shall thereafter hold such positions as though they had received appointment under the terms of this chapter, except as to any such position which, in the meantime, may have been abolished; and any such former employee returning to, or applying for, employment in the state service, as provided by this section, shall be considered as having at least as favorable a status with reference to this chapter as he would have occupied if his service had been continuous.

Provided, however, that with respect to state employees who enter on active military duty in the armed forces of the United States after June 30, 1956, such rights shall extend only to such employees who (a) have appointments other than temporary in state service prior to entering on active military duty, and (b) serve not more than four years on active military duty or such longer periods as shall be fixed by the Governor, and (c) have a certificate attesting that the military duty was satisfactorily completed, and (d) apply for reinstatement in state service not later than ninety calendar days following separation from active military duty unless a longer period be approved by the Governor.

No establishment of a position or rate of pay, and no change in rate of pay shall become effective except on order of the appointing authority and approval by the Governor; provided, however, that this paragraph shall not apply to any position the compensation of which is at a rate of \$1,200 per annum or less.

Provided, further, however, that in order to attract and retain professional auditors, accountants and staff members in the service of the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission may establish scales of pay for such positions notwithstanding the provisions of this chapter. Such scales when established and certified to the Department of ~~Personnel and Training~~ *Human Resource Management* and the Comptroller shall be applicable in the stead of the scales established under the personnel plan.

§ 2.1-113.1. Personnel Advisory Committee continued as Personnel Advisory Board; membership; terms.

The Personnel Advisory Committee is continued and shall hereafter be known as the Personnel Advisory Board. The Board shall consist of eleven members, as follows: four management state employees; four nonsupervisory state employees; and three members from the public at large, who shall be appointed by the Governor and subject to confirmation by the General Assembly. The members shall serve for four-year terms and no member shall serve for more than two full successive terms. In addition, the Director of the Department of ~~Personnel and Training~~ *Human Resource Management* and the Director of the Department of Employee Relations Counselors shall serve permanently as ex officio members without voting privileges. A chairman of the Board shall be elected annually by the Board.

§ 2.1-113.3. Personnel Advisory Committee continued as Personnel Advisory Board; powers and duties.

The Personnel Advisory Board shall exercise the following powers and duties and such others as may be provided by law:

1. Advise the Governor, the Director of the Department of ~~Personnel and Training~~ *Human Resource Management* and the Director of the Department of Employee Relations Counselors on all matters relating to personnel administration.

2. Review all public employer-employee relations throughout the Commonwealth.

3. Review the Department of Employee Relations Counselors' program of employee-management relations and make recommendations to improve communications between employees and agencies and instrumentalities of the Commonwealth.

4. Carry out such other functions as the Governor deems appropriate.

5. Review the Department of ~~Personnel and Training's~~ *Human Resource Management's* training and management programs, compensation and classification practices, benefit programs, and recruitment practices.

§ 2.1-114.3. Department of Personnel and Training continued as the Department of Human Resource Management; Director.

~~There is hereby created a~~ *The Department of Personnel and Training is hereby continued as the Department of Human Resource Management.* The Department shall be headed by the Director of ~~Personnel and Training~~ *Human Resource Management.*

§ 2.1-114.5. Duties of Department.

The Department shall have the following duties:

1. Make recommendations to the Governor regarding the establishment and maintenance of a classification plan for the service of the Commonwealth, and recommend amendments thereto as may be necessary.

2. Make recommendations to the Governor regarding the establishment and administration of a compensation plan for all employees, and recommend amendments thereto as may be necessary.

3. Design and maintain a personnel information system which shall support the operational needs of the Department and of state agencies, and which shall provide for the management information needs of the Governor, his secretaries, and the General Assembly. The system shall provide at a minimum a roster of all employees in the service of the Commonwealth, in which there shall be set forth as to each employee, the employing agency, the class title, pay, status and such other data as may be deemed desirable to produce significant facts pertaining to personnel administration.

4. Establish and direct a program of employee-management relations designed to improve communications between employees and agencies of the Commonwealth.

5. Establish and administer a system of performance evaluation for all employees in the service of the Commonwealth, based on the quality of service rendered, related where practicable to specific standards of performance. In no event shall workers' compensation leave affect the total number of hours credited during a performance cycle for purposes of calculating incentive increases in salary based on such performance evaluations.

6. Establish and administer a system of recruitment designed to attract high quality employees to the service of the Commonwealth. In administering this system, applicants shall be rated on the basis of relative merit and classified in accordance with their suitability for the various classes of positions in the service of the Commonwealth, and a record thereof shall be maintained in the open register.

7. Design and utilize an application form which shall include, but not be limited to, information on prior volunteer work performed by the applicant.

8. Establish and administer a comprehensive and integrated program of employee training and management development.

9. Establish and administer a program of evaluation of the effectiveness of performance of the personnel activities of the agencies of the Commonwealth.

10. Establish and administer a program to assure equal employment opportunity to applicants for state employment and to state employees in all incidents of employment.

11. Establish and administer regulations relating to disciplinary actions; however, no disciplinary action shall include the suspension without pay for more than ten days of any state employee who is under investigation without a hearing conducted either by a level of supervision above the employee's immediate supervisor or by his agency head.

12. Adopt and implement a program of meritorious service awards to employees who propose procedures or ideas which are adopted and which will result in eliminating or reducing state expenditures or improving operations, provided such proposals are placed in effect.

13. Develop state personnel policies and, after approval by the Governor, disseminate and interpret state personnel policies and procedures to all agencies. Such personnel policies shall permit an employee, with the written approval of his agency head, to substitute (i) up to 33 percent of his accrued paid sick leave, (ii) up to 100 percent of any other paid leave, or (iii) any combination of accrued paid sick leave and any other paid leave for leave taken pursuant to the Family and Medical Leave Act of 1993 (29 U.S.C. § 2601 et seq.). On and after December 1, 1999, such personnel policy shall include an acceptable use policy for the international network of computer systems commonly known as the Internet. At a minimum, the Department's acceptable use policy shall contain provisions which (i) prohibit use by state employees of the Commonwealth's computer equipment and communications services for sending, receiving, viewing, or downloading illegal material via the Internet and (ii) establish strict disciplinary measures for violation of the acceptable use policy. An agency head may supplement the Department's acceptable use policy with such other terms, conditions, and requirements as he deems appropriate. The Director of the Department of ~~Personnel and Training~~ *Human Resource Management* shall have the final authority to establish and interpret personnel policies and procedures and shall have the authority to assure full compliance with such policies. However, unless specifically authorized by law, the Director of the Department of ~~Personnel and Training~~ *Human Resource Management* shall have no authority with respect to the state grievance procedures.

14. Ascertain and publish on an annual basis, by agency, the number of employees in the service of the Commonwealth, including permanent full-time and part-time employees, those employed on a temporary or contractual basis, and constitutional officers and their employees whose salaries are funded by the Commonwealth. The publication shall contain the net gain or loss to the agency in personnel from the previous fiscal year. Effective July 1, 1995, the publication shall include net gains and losses in personnel for each agency for a three-year period.

§ 2.1-114.7. Duties of agencies and their appointing authorities.

The heads of state agencies shall be the appointing authorities of the respective agencies, and shall establish and maintain within their agencies such methods of administration relating to the establishment and maintenance of personnel standards on a merit basis as are approved by the Governor for the proper

and efficient enforcement of this chapter. But the Governor shall exercise no authority with respect to the selection or tenure of office of any individual employed in accordance with such methods, except when the Governor is the appointing authority.

At their discretion, appointing authorities may assign to the personnel officers or to other officers and employees of their agencies such personnel duties as they see fit.

Agencies shall establish and maintain rosters of their employees in which shall be set forth, as to each employee, the class title, pay and status and such other data as they may deem desirable to produce significant facts pertaining to personnel administration.

Agencies shall establish and maintain such promotion and employment lists, rated according to merit and fitness, as they deem desirable; but such agencies as desire to do so may make use of the employment list kept by the Department of ~~Personnel and Training~~ *Human Resource Management* in lieu of keeping employment lists for their agencies.

Agencies shall supply the Governor with any information he deems necessary for the performance of his duties in connection with the administration of this chapter.

§ 2.1-114.7:1. Reporting transfers of personnel; granting reports.

A. Whenever a state employee is transferred for a limited period of time from one state agency to another without transferring appropriations, as may be provided by law, such transfer shall be reported by the transferring agency to the Department of ~~Personnel and Training~~ *Human Resource Management*, including the name and classification of the employee, the name of the transferring and receiving agencies and the length of time of transfer. If, at a subsequent time, the length of time is shortened or extended, a subsequent report of that fact shall also be submitted.

B. A consolidated report of all such current transfers and all that have begun and ended within the preceding three-month period shall be prepared as of the first day of each January, April, July and October. A copy of each such report shall be submitted to the Chairmen of the House Appropriations and Senate Finance Committees and the Director of the Department of Planning and Budget no later than three working days after the effective date of the report.

§ 2.1-116. Certain officers and employees exempt from chapter.

The provisions of this chapter shall not apply to:

1. Officers and employees for whom the Constitution specifically directs the manner of selection;
2. Officers and employees of the Supreme Court and the Court of Appeals;
3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
4. Officers elected by popular vote or by the General Assembly or either house thereof;
5. Members of boards and commissions however selected;
6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
7. Officers and employees of the General Assembly and persons employed to conduct temporary or special inquiries, investigations, or examinations on its behalf;
8. The presidents, and teaching and research staffs of state educational institutions;
9. Commissioned officers and enlisted personnel of the National Guard and the naval militia;
10. Student employees in institutions of learning, and patient or inmate help in other state institutions;
11. Upon general or special authorization of the Governor, laborers, temporary employees and employees compensated on an hourly or daily basis;
12. County, city, town and district officers, deputies, assistants and employees;
13. The employees of the Virginia Workers' Compensation Commission;
14. The officers and employees of the Virginia Retirement System;
15. Employees whose positions are identified by the State Council of Higher Education and the boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History and The Library of Virginia, and approved by the Director of the Department of ~~Personnel and Training~~ *Human Resource Management* as requiring specialized and professional training;
16. Employees of the State Lottery Department;
17. Production workers for the Virginia Industries for the Blind Sheltered Workshop programs;
18. [Repealed.]
19. Employees of the Medical College of Virginia Hospitals Authority;
20. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the provisions of Chapter 10.01 (§ 2.1-116.01 et seq.) of this title;
21. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential

assistant for policy or administration. An employee serving in either one of these two positions shall be deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;

22. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions of Chapter 10.01 (§ 2.1-116.01 et seq.) of this title;

23. Officers and employees of the Virginia Port Authority;

24. Employees of the Virginia Higher Education Tuition Trust Fund; and

25. Directors of state facilities operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to § 37.1-42.2.

§ 2.1-116.03. Director to administer Department; powers and duties.

The Director shall, under the direction and control of the Governor, administer and supervise the Department and shall:

1. Establish a comprehensive program of employee relations management which includes alternative processes for resolving employment disputes;

2. Establish the grievance procedure and a statewide mediation program;

3. Promulgate rules and set hearing officer fees for grievance hearings;

4. For employees who are covered by the grievance procedure, (i) provide forms necessary for the proper use of the grievance procedure, (ii) direct full compliance with the grievance procedure process, (iii) investigate allegations of retaliation as the result of use of or participation in the grievance procedure or of reporting, in good faith, an allegation of fraud, waste or abuse to the State Employee Fraud, Waste and Abuse Hotline and advise the agency head of such findings, and (iv) rule on the qualification of a grievance or the question of access to the grievance procedure;

5. Render final decisions on all matters related to procedural compliance with the grievance procedure;

6. Establish a process to select, on a rotating basis, hearing officers from the list maintained by the Executive Secretary of the Supreme Court; train and assign such hearing officers to conduct grievance hearings; and evaluate the quality of their services to determine eligibility for continued selection;

7. Establish, in conjunction with the Department of ~~Personnel and Training~~ *Human Resource Management*, a training program for human resources personnel on employee relations management and employment rights and responsibilities;

8. Implement a comprehensive training and instructional program for all supervisory personnel which includes the role of the grievance procedure in harmonious employee relations management. The training program shall also include methods for supervisors to instruct nonsupervisory personnel in the use of the grievance procedure. Use of the grievance procedure to resolve disputes shall be encouraged. In-house resources shall be developed to allow the Department and its personnel to conduct on-site training of this nature for units and agencies of state government throughout Virginia. The Department shall assist agencies in establishing performance criteria for such supervisory personnel;

9. Provide information upon the request of any employee concerning personnel policies, rules and regulations, and statutes applicable to the grievance procedure and counsel employees in the resolution of conflict in the workplace;

10. Establish and maintain a toll-free telephone number to facilitate access by employees to the services of the Department;

11. Collect information and statistical data in regard to the use of the grievance procedure and the effectiveness of employee relations management in the various state agencies;

12. Make recommendations to the Governor and the General Assembly to improve the grievance procedure and employee relations management;

13. Exercise such other powers and perform such other duties as may be requested by the Governor; and

14. Perform all acts and employ such personnel as may be required, necessary, or convenient to carry out the provisions of this chapter.

§ 2.1-116.07. Hearing officers; duties; decisions; costs.

A. The Director shall assign a hearing officer to conduct the grievance hearing. All hearing officers shall be selected, on a rotating basis, from the list of administrative hearing officers maintained by the Supreme Court of Virginia pursuant to § 9-6.14:14.1. In addition to the training requirements imposed by the Supreme Court, each hearing officer shall attend annually at least one day of training in employment law or state personnel policies and organizations. Such training shall be conducted by the Department or an organization approved by the Virginia State Bar for continuing legal education.

B. Hearing officers shall have the following powers and duties:

1. Hold conferences for the settlement or simplification of issues;

2. Dispose of procedural requests;

3. Issue orders requiring testimony or the production of evidence;

4. Administer oaths and affirmations;

5. Receive probative evidence; exclude irrelevant, immaterial, insubstantial, privileged, or repetitive

proofs, rebuttals, or cross-examinations; rule upon offers of proof; and oversee an accurate verbatim recording of the evidence;

6. For those issues qualified for a hearing, order appropriate remedies. Relief may include reinstatement, back pay, full reinstatement of fringe benefits and seniority rights, or any combination of these remedies; and

7. Take other actions as necessary or specified in the grievance procedure.

C. The decision of the hearing officer shall (i) be in writing, (ii) contain findings of fact as to the material issues in the case and the basis for those findings, and (iii) be final and binding if consistent with law and policy. In grievances initiated by state employees, the Director of the Department of ~~Personnel and Training~~ *Human Resource Management* shall determine whether the decision is consistent with policy. In grievances arising out of the Department of Mental Health, Mental Retardation and Substance Abuse Services which challenge allegations of patient abuse, the Director of the Department of Employee Relations Counselors shall determine whether the decision is consistent with law. The hearing officer's decision is effective from the date issued and shall be implemented immediately unless circumstances beyond the control of the agency delay such implementation.

D. Either party may petition the circuit court having jurisdiction in the locality in which the employee is employed for an order requiring implementation of the hearing officer's decision. The court may award attorneys' fees to either party if such party substantially prevails on the merits of the case and the opposing party's position is not substantially justified, unless special circumstances would make an award unjust.

E. Except for the employee's counsel or advocate fees, the agency from which the grievance arises shall bear the costs for the hearing officer and other associated hearing expenses.

§ 2.1-116.14. Duties and powers.

The Council shall be charged with the responsibility of monitoring the Commonwealth's equal employment opportunity practices so as to assure that such practices fulfill the Commonwealth's obligations of providing equal opportunity to all employees and applicants. The Council may (i) call upon the Director of ~~Personnel and Training~~ *Human Resource Management* and other state officials for information and reports to assist them in their work; (ii) act as a communications channel for groups both inside and outside of state government that wish to have their views on equal employment opportunity expressed to state government; (iii) make recommendations to state agencies concerning the implementation of their affirmative action plans and programs.

The Council members shall refer employees who have work related discrimination complaints to the Director of Equal Opportunity and Employee Programs. Once the discrimination complaint is referred to the Director, the matter shall be reviewed in accordance with the Equal Employment Opportunity Complaint Procedure of the Department of ~~Personnel and Training~~ *Human Resource Management*, or at the employee's option, the State Grievance Procedure. The Committee shall audit and review the Commonwealth's equal opportunity posture at least once a year and recommend improvements to the Governor.

The Council shall review the progress of state agency affirmative action plans and programs, and make recommendations for changes as warranted.

§ 2.1-116.21. Duties of Department and executive branch agencies to involuntarily separated employees.

A. Prior to terminating or placing on leave without pay-layoff or equivalent status any employee of an agency or institution in the executive branch of government, the management of the agency or institution shall make every effort to place the employee in any vacant position within the agency for which the employee is qualified. If reemployment within the agency or institution is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary, the name of the employee shall be forwarded to the Department of ~~Personnel and Training~~ *Human Resource Management*.

B. Any preferential employment rights vested in the employee under the Commonwealth's layoff policy shall not be denied, abridged, or modified in any way by the Department of ~~Personnel and Training~~ *Human Resource Management*. The Department shall coordinate the preferential hiring of the employee, at the same salary classification, in any agency or institution of the executive branch of government. The Department shall also establish a program to assist employees in finding employment outside of state government.

C. If, as of the date the employee is terminated from employment or placed on leave without pay-layoff or equivalent status, reemployment within his agency or institution or any other agency or institution of the executive branch of government is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary, then the employee shall be deemed to be involuntarily separated. If such employee is otherwise eligible, he shall be entitled, under the conditions specified, to receive the transitional severance benefit conferred by this chapter.

D. The Department of ~~Personnel and Training~~ *Human Resource Management* shall report all involuntary separations in the executive branch of government to the Department of Planning and

Budget, which shall make an appropriate reduction, pursuant to § 2.1-391, in the terminating agency's maximum employment level in preparing its executive budget for the next session of the General Assembly.

§ 2.1-342.01. Exclusions to application of chapter.

A. The following records are excluded from the provisions of this chapter but may be disclosed by the custodian in his discretion, except where such disclosure is prohibited by law:

1. Confidential records of all investigations of applications for licenses and permits, and all licensees and permittees made by or submitted to the Alcoholic Beverage Control Board, the State Lottery Department, the Virginia Racing Commission, or the Charitable Gaming Commission.

2. State income, business, and estate tax returns, personal property tax returns, scholastic and confidential records held pursuant to § 58.1-3.

3. Scholastic records containing information concerning identifiable individuals, except that such access shall not be denied to the person who is the subject thereof, or the parent or legal guardian of the student. However, no student shall have access to (i) financial records of a parent or guardian or (ii) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto, which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute.

The parent or legal guardian of a student may prohibit, by written request, the release of any individual information regarding that student until the student reaches the age of eighteen years. For scholastic records of students under the age of eighteen years, the right of access may be asserted only by his legal guardian or parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. For scholastic records of students who are emancipated or attending a state-supported institution of higher education, the right of access may be asserted by the student.

Any person who is the subject of any scholastic record and who is eighteen years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

4. Personnel records containing information concerning identifiable individuals, except that access shall not be denied to the person who is the subject thereof. Any person who is the subject of any personnel record and who is eighteen years of age or older may waive, in writing, the protections afforded by this subdivision. If the protections are so waived, the public body shall open such records for inspection and copying.

5. Medical and mental records, except that such records may be personally reviewed by the subject person or a physician of the subject person's choice. However, the subject person's mental records may not be personally reviewed by such person when the subject person's treating physician has made a part of such person's records a written statement that in his opinion a review of such records by the subject person would be injurious to the subject person's physical or mental health or well-being.

Where the person who is the subject of medical records is confined in a state or local correctional facility, the administrator or chief medical officer of such facility may assert such confined person's right of access to the medical records if the administrator or chief medical officer has reasonable cause to believe that such confined person has an infectious disease or other medical condition from which other persons so confined need to be protected. Medical records shall only be reviewed and shall not be copied by such administrator or chief medical officer. The information in the medical records of a person so confined shall continue to be confidential and shall not be disclosed by the administrator or chief medical officer of the facility to any person except the subject or except as provided by law.

For the purposes of this chapter, statistical summaries of incidents and statistical data concerning patient abuse as may be compiled by the Commissioner of the Department of Mental Health, Mental Retardation and Substance Abuse Services shall be open to inspection and copying as provided in § 2.1-342. No such summaries or data shall include any patient-identifying information. Where the person who is the subject of medical and mental records is under the age of eighteen, his right of access may be asserted only by his guardian or his parent, including a noncustodial parent, unless such parent's parental rights have been terminated or a court of competent jurisdiction has restricted or denied such access. In instances where the person who is the subject thereof is an emancipated minor or a student in a public institution of higher education, the right of access may be asserted by the subject person.

6. Working papers and correspondence of the Office of the Governor; Lieutenant Governor; the Attorney General; the members of the General Assembly or the Division of Legislative Services; the mayor or chief executive officer of any political subdivision of the Commonwealth; or the president or other chief executive officer of any public institution of higher education. However, no record which is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been attached to or incorporated within any working paper or correspondence.

As used in this subdivision:

"Working papers" means those records prepared by or for an above-named public official for his personal or deliberative use.

"Office of the Governor" means the Governor; his chief of staff, counsel, director of policy, Cabinet

Secretaries, and the Director of the Virginia Liaison Office; and those individuals to whom the Governor has delegated his authority pursuant to § 2.1-39.1.

7. Written advice of the county, city and town attorneys to their local government clients and any other records protected by the attorney-client privilege.

8. Legal memoranda and other work product compiled specifically for use in litigation or for use in an active administrative investigation concerning a matter which is properly the subject of a closed meeting under § 2.1-344.

9. Confidential letters and statements of recommendation placed in the records of educational agencies or institutions respecting (i) admission to any educational agency or institution, (ii) an application for employment, or (iii) receipt of an honor or honorary recognition.

10. Library records which can be used to identify both (i) any library patron who has borrowed material from a library and (ii) the material such patron borrowed.

11. Any test or examination used, administered or prepared by any public body for purposes of evaluation of (i) any student or any student's performance, (ii) any employee or employment seeker's qualifications or aptitude for employment, retention, or promotion, or (iii) qualifications for any license or certificate issued by a public body.

As used in this subdivision, "test or examination" shall include (i) any scoring key for any such test or examination and (ii) any other document which would jeopardize the security of the test or examination. Nothing contained in this subdivision shall prohibit the release of test scores or results as provided by law, or limit access to individual records as provided by law. However, the subject of such employment tests shall be entitled to review and inspect all records relative to his performance on such employment tests.

When, in the reasonable opinion of such public body, any such test or examination no longer has any potential for future use, and the security of future tests or examinations will not be jeopardized, the test or examination shall be made available to the public. However, minimum competency tests administered to public school children shall be made available to the public contemporaneously with statewide release of the scores of those taking such tests, but in no event shall such tests be made available to the public later than six months after the administration of such tests.

12. Applications for admission to examinations or for licensure and scoring records maintained by the Department of Health Professions or any board in that department on individual licensees or applicants. However, such material may be made available during normal working hours for copying, at the requester's expense, by the individual who is the subject thereof, in the offices of the Department of Health Professions or in the offices of any health regulatory board, whichever may possess the material.

13. Records of active investigations being conducted by the Department of Health Professions or by any health regulatory board in the Commonwealth.

14. Records recorded in or compiled exclusively for use in closed meetings lawfully held pursuant to § 2.1-344. However, no record which is otherwise open to inspection under this chapter shall be deemed exempt by virtue of the fact that it has been reviewed or discussed in a closed meeting.

15. Reports, documentary evidence and other information as specified in §§ 2.1-373.2 and 63.1-55.4.

16. Proprietary information gathered by or for the Virginia Port Authority as provided in § 62.1-132.4 or § 62.1-134.1.

17. Contract cost estimates prepared for the confidential use of the Department of Transportation in awarding contracts for construction or the purchase of goods or services, and records and automated systems prepared for the Department's Bid Analysis and Monitoring Program.

18. Vendor proprietary information software which may be in the official records of a public body. For the purpose of this subdivision, "vendor proprietary software" means computer programs acquired from a vendor for purposes of processing data for agencies or political subdivisions of the Commonwealth.

19. Financial statements not publicly available filed with applications for industrial development financings.

20. Data, records or information of a proprietary nature produced or collected by or for faculty or staff of public institutions of higher education, other than the institutions' financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the institution alone or in conjunction with a governmental body or a private concern, where such data, records or information has not been publicly released, published, copyrighted or patented.

21. Lists of registered owners of bonds issued by a political subdivision of the Commonwealth, whether the lists are maintained by the political subdivision itself or by a single fiduciary designated by the political subdivision.

22. Confidential proprietary records, voluntarily provided by private business pursuant to a promise of confidentiality from the Department of Business Assistance, the Virginia Economic Development Partnership, the Virginia Tourism Authority, or local or regional industrial or economic development authorities or organizations, used by the Department, the Partnership, the Authority, or such entities for business, trade and tourism development; and memoranda, working papers or other records related to

businesses that are considering locating or expanding in Virginia, prepared by the Partnership, where competition or bargaining is involved and where, if such records are made public, the financial interest of the governmental unit would be adversely affected.

23. Information which was filed as confidential under the Toxic Substances Information Act (§ 32.1-239 et seq.), as such Act existed prior to July 1, 1992.

24. Confidential records, including victim identity, provided to or obtained by staff in a rape crisis center or a program for battered spouses.

25. Computer software developed by or for a state agency, state-supported institution of higher education or political subdivision of the Commonwealth.

26. Investigator notes, and other correspondence and information, furnished in confidence with respect to an active investigation of individual employment discrimination complaints made to the Department of ~~Personnel and Training~~ *Human Resource Management*. However, nothing in this section shall prohibit the disclosure of information taken from inactive reports in a form which does not reveal the identity of charging parties, persons supplying the information or other individuals involved in the investigation.

27. Fisheries data which would permit identification of any person or vessel, except when required by court order as specified in § 28.2-204.

28. Records of active investigations being conducted by the Department of Medical Assistance Services pursuant to Chapter 10 (§ 32.1-323 et seq.) of Title 32.1.

29. Records and writings furnished by a member of the General Assembly to a meeting of a standing committee, special committee or subcommittee of his house established solely for the purpose of reviewing members' annual disclosure statements and supporting materials filed under § 2.1-639.40 or of formulating advisory opinions to members on standards of conduct, or both.

30. Customer account information of a public utility affiliated with a political subdivision of the Commonwealth, including the customer's name and service address, but excluding the amount of utility service provided and the amount of money paid for such utility service.

31. Investigative notes and other correspondence and information furnished in confidence with respect to an investigation or conciliation process involving an alleged unlawful discriminatory practice under the Virginia Human Rights Act (§ 2.1-714 et seq.). However, nothing in this section shall prohibit the distribution of information taken from inactive reports in a form which does not reveal the identity of the parties involved or other persons supplying information.

32. Investigative notes; proprietary information not published, copyrighted or patented; information obtained from employee personnel records; personally identifiable information regarding residents, clients or other recipients of services; and other correspondence and information furnished in confidence to the Department of Social Services in connection with an active investigation of an applicant or licensee pursuant to Chapters 9 (§ 63.1-172 et seq.) and 10 (§ 63.1-195 et seq.) of Title 63.1. However, nothing in this section shall prohibit disclosure of information from the records of completed investigations in a form that does not reveal the identity of complainants, persons supplying information, or other individuals involved in the investigation.

33. Personal information, as defined in § 2.1-379, (i) filed with the Virginia Housing Development Authority concerning individuals who have applied for or received loans or other housing assistance or who have applied for occupancy of or have occupied housing financed, owned or otherwise assisted by the Virginia Housing Development Authority, (ii) concerning persons participating in or persons on the waiting list for federally funded rent-assistance programs, or (iii) filed with any local redevelopment and housing authority created pursuant to § 36-4 concerning persons participating in or persons on the waiting list for housing assistance programs funded by local governments or by any such authority. However, access to one's own information shall not be denied.

34. Records regarding the siting of hazardous waste facilities, except as provided in § 10.1-1441, if disclosure of them would have a detrimental effect upon the negotiating position of a governing body or on the establishment of the terms, conditions and provisions of the siting agreement.

35. Appraisals and cost estimates of real property subject to a proposed purchase, sale or lease, prior to the completion of such purchase, sale or lease.

36. Records containing information on the site specific location of rare, threatened, endangered or otherwise imperiled plant and animal species, natural communities, caves, and significant historic and archaeological sites if, in the opinion of the public body which has the responsibility for such information, disclosure of the information would jeopardize the continued existence or the integrity of the resource. This exemption shall not apply to requests from the owner of the land upon which the resource is located.

37. Records, memoranda, working papers, graphics, video or audio tapes, production models, data and information of a proprietary nature produced by or for or collected by or for the State Lottery Department relating to matters of a specific lottery game design, development, production, operation, ticket price, prize structure, manner of selecting the winning ticket, manner of payment of prizes to holders of winning tickets, frequency of drawings or selections of winning tickets, odds of winning, advertising, or marketing, where such official records have not been publicly released, published,

copyrighted or patented. Whether released, published or copyrighted, all game-related information shall be subject to public disclosure under this chapter upon the first day of sales for the specific lottery game to which it pertains.

38. Records of studies and investigations by the State Lottery Department of (i) lottery agents, (ii) lottery vendors, (iii) lottery crimes under §§ 58.1-4014 through 58.1-4018, (iv) defects in the law or regulations which cause abuses in the administration and operation of the lottery and any evasions of such provisions, or (v) the use of the lottery as a subterfuge for organized crime and illegal gambling where such official records have not been publicly released, published or copyrighted. All studies and investigations referred to under clauses (iii), (iv) and (v) shall be open to inspection and copying upon completion of the study or investigation.

39. Those portions of engineering and construction drawings and plans submitted for the sole purpose of complying with the Building Code in obtaining a building permit which would identify specific trade secrets or other information the disclosure of which would be harmful to the competitive position of the owner or lessee. However, such information shall be exempt only until the building is completed. Information relating to the safety or environmental soundness of any building shall not be exempt from disclosure.

40. Records concerning reserves established in specific claims administered by the Department of General Services through its Division of Risk Management as provided in Article 5.1 (§ 2.1-526.1 et seq.) of Chapter 32 of this title, or by any county, city, or town.

41. Information and records collected for the designation and verification of trauma centers and other specialty care centers within the Statewide Emergency Medical Services System and Services pursuant to Article 2.1 (§ 32.1-111.1 et seq.) of Chapter 4 of Title 32.1.

42. Reports and court documents required to be kept confidential pursuant to § 37.1-67.3.

43. Investigative notes, correspondence and information furnished in confidence, and records otherwise exempted by this chapter or any Virginia statute, provided to or produced by or for the (i) Auditor of Public Accounts; (ii) Joint Legislative Audit and Review Commission; (iii) Department of the State Internal Auditor with respect to an investigation initiated through the State Employee Fraud, Waste and Abuse Hotline; or (iv) the committee or the auditor with respect to an investigation or audit conducted pursuant to § 15.2-825. Records of completed investigations shall be disclosed in a form that does not reveal the identity of the complainants or persons supplying information to investigators. Unless disclosure is prohibited by this section, the records disclosed shall include, but not be limited to, the agency involved, the identity of the person who is the subject of the complaint, the nature of the complaint, and the actions taken to resolve the complaint. If an investigation does not lead to corrective action, the identity of the person who is the subject of the complaint may be released only with the consent of the subject person.

44. Data formerly required to be submitted to the Commissioner of Health relating to the establishment of new or the expansion of existing clinical health services, acquisition of major medical equipment, or certain projects requiring capital expenditures pursuant to former § 32.1-102.3:4.

45. Documentation or other information which describes the design, function, operation or access control features of any security system, whether manual or automated, which is used to control access to or use of any automated data processing or telecommunications system.

46. Confidential financial statements, balance sheets, trade secrets, and revenue and cost projections provided to the Department of Rail and Public Transportation, provided such information is exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration.

47. In the case of corporations organized by the Virginia Retirement System (i) proprietary information provided by, and financial information concerning, coventurers, partners, lessors, lessees, or investors and (ii) records concerning the condition, acquisition, disposition, use, leasing, development, coventuring, or management of real estate, the disclosure of which would have a substantial adverse impact on the value of such real estate or result in a competitive disadvantage to the corporation or subsidiary.

48. Confidential proprietary records related to inventory and sales, voluntarily provided by private energy suppliers to the Department of Mines, Minerals and Energy, used by that Department for energy contingency planning purposes or for developing consolidated statistical information on energy supplies.

49. Confidential proprietary information furnished to the Board of Medical Assistance Services or the Medicaid Prior Authorization Advisory Committee pursuant to Article 4 (§ 32.1-331.12 et seq.) of Chapter 10 of Title 32.1.

50. Proprietary, commercial or financial information, balance sheets, trade secrets, and revenue and cost projections provided by a private transportation business to the Virginia Department of Transportation and the Department of Rail and Public Transportation for the purpose of conducting transportation studies needed to obtain grants or other financial assistance under the Transportation Equity Act for the 21st Century (P.L. 105-178) for transportation projects, provided such information is

exempt under the federal Freedom of Information Act or the federal Interstate Commerce Act or other laws administered by the Surface Transportation Board or the Federal Railroad Administration with respect to data provided in confidence to the Surface Transportation Board and the Federal Railroad Administration. However, the exemption provided by this subdivision shall not apply to any wholly owned subsidiary of a public body.

51. Names and addresses of subscribers to Virginia Wildlife magazine, published by the Department of Game and Inland Fisheries, provided the individual subscriber has requested in writing that the Department not release such information.

52. Information required to be provided pursuant to § 54.1-2506.1.

53. Confidential information designated as provided in subsection D of § 11-52 as trade secrets or proprietary information by any person who has submitted to a public body an application for prequalification to bid on public construction projects in accordance with subsection B of § 11-46.

54. All information and records acquired during a review of any child death by the State Child Fatality Review team established pursuant to § 32.1-283.1, during a review of any child death by a local or regional child fatality review team established pursuant to § 32.1-283.2, and all information and records acquired during a review of any death by a family violence fatality review team established pursuant to § 32.1-283.3.

55. Financial, medical, rehabilitative and other personal information concerning applicants for or recipients of loan funds submitted to or maintained by the Assistive Technology Loan Fund Authority under Chapter 11 (§ 51.5-53 et seq.) of Title 51.5.

56. Confidential proprietary records which are voluntarily provided by a private entity pursuant to a proposal filed with a public entity under the Public-Private Transportation Act of 1995 (§ 56-556 et seq.), pursuant to a promise of confidentiality from the responsible public entity, used by the responsible public entity for purposes related to the development of a qualifying transportation facility; and memoranda, working papers or other records related to proposals filed under the Public-Private Transportation Act of 1995, where, if such records were made public, the financial interest of the public or private entity involved with such proposal or the process of competition or bargaining would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the private entity shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reasons why protection is necessary. For the purposes of this subdivision, the terms "public entity" and "private entity" shall be defined as they are defined in the Public-Private Transportation Act of 1995.

57. Records of law-enforcement agencies, to the extent that such records contain specific tactical plans, the disclosure of which would jeopardize the safety or security of law-enforcement personnel or the general public; or records of emergency service agencies to the extent that such records contain specific tactical plans relating to antiterrorist activity.

58. All records of the University of Virginia or the University of Virginia Medical Center which contain proprietary, business-related information pertaining to the operations of the University of Virginia Medical Center, including its business development or marketing strategies and its activities with existing or future joint venturers, partners, or other parties with whom the University of Virginia Medical Center has formed, or forms, any arrangement for the delivery of health care, if disclosure of such information would be harmful to the competitive position of the Medical Center.

59. Patient level data collected by the Board of Health and not yet processed, verified, and released, pursuant to § 32.1-276.9, to the Board by the nonprofit organization with which the Commissioner of Health has contracted pursuant to § 32.1-276.4.

60. Records of the Medical College of Virginia Hospitals Authority pertaining to any of the following: an individual's qualifications for or continued membership on its medical or teaching staffs; proprietary information gathered by or in the possession of the Authority from third parties pursuant to a promise of confidentiality; contract cost estimates prepared for confidential use in awarding contracts for construction or the purchase of goods or services; data, records or information of a proprietary nature produced or collected by or for the Authority or members of its medical or teaching staffs; financial statements not publicly available that may be filed with the Authority from third parties; the identity, accounts or account status of any customer of the Authority; consulting or other reports paid for by the Authority to assist the Authority in connection with its strategic planning and goals; and the determination of marketing and operational strategies where disclosure of such strategies would be harmful to the competitive position of the Authority; and data, records or information of a proprietary nature produced or collected by or for employees of the Authority, other than the Authority's financial or administrative records, in the conduct of or as a result of study or research on medical, scientific, technical or scholarly issues, whether sponsored by the Authority alone or in conjunction with a governmental body or a private concern, when such data, records or information have not been publicly released, published, copyrighted or patented.

61. Confidential proprietary information or trade secrets, not publicly available, provided by a private person or entity to the Virginia Resources Authority or to a fund administered in connection with

financial assistance rendered or to be rendered by the Virginia Resources Authority where, if such information were made public, the financial interest of the private person or entity would be adversely affected, and, after June 30, 1997, where such information was provided pursuant to a promise of confidentiality.

62. Confidential proprietary records which are provided by a franchisee under § 15.2-2108 to its franchising authority pursuant to a promise of confidentiality from the franchising authority which relates to the franchisee's potential provision of new services, adoption of new technologies or implementation of improvements, where such new services, technologies or improvements have not been implemented by the franchisee on a nonexperimental scale in the franchise area, and where, if such records were made public, the competitive advantage or financial interests of the franchisee would be adversely affected. In order for confidential proprietary information to be excluded from the provisions of this chapter, the franchisee shall (i) invoke such exclusion upon submission of the data or other materials for which protection from disclosure is sought, (ii) identify the data or other materials for which protection is sought, and (iii) state the reason why protection is necessary.

63. Records of the Intervention Program Committee within the Department of Health Professions, to the extent such records may identify any practitioner who may be, or who is actually, impaired to the extent disclosure is prohibited by § 54.1-2517.

64. Records submitted as a grant application, or accompanying a grant application, to the Commonwealth Neurotrauma Initiative Advisory Board pursuant to Article 12 (§ 32.1-73.1 et seq.) of Chapter 2 of Title 32.1, to the extent such records contain (i) medical or mental records, or other data identifying individual patients or (ii) proprietary business or research-related information produced or collected by the applicant in the conduct of or as a result of study or research on medical, rehabilitative, scientific, technical or scholarly issues, when such information has not been publicly released, published, copyrighted or patented, if the disclosure of such information would be harmful to the competitive position of the applicant.

65. Information which would disclose the security aspects of a system safety program plan adopted pursuant to 49 C.F.R. Part 659 by the Commonwealth's designated Rail Fixed Guideway Systems Safety Oversight agency; and information in the possession of such agency, the release of which would jeopardize the success of an ongoing investigation of a rail accident or other incident threatening railway safety.

66. Documents and other information of a proprietary nature furnished by a supplier of charitable gaming supplies to the Charitable Gaming Commission pursuant to subsection E of § 18.2-340.34.

67. Personal information, as defined in § 2.1-379, provided to the Board of the Virginia Higher Education Tuition Trust Fund or its employees by or on behalf of individuals who have requested information about, applied for, or entered into prepaid tuition contracts or savings trust account agreements pursuant to Chapter 4.9 (§ 23-38.75 et seq.) of Title 23. Nothing in this subdivision shall be construed to prohibit disclosure or publication of information in a statistical or other form which does not identify individuals or provide personal information. Individuals shall be provided access to their own personal information.

68. Any record copied, recorded or received by the Commissioner of Health in the course of an examination, investigation or review of a managed care health insurance plan licensee pursuant to §§ 32.1-137.4 and 32.1-137.5, including books, records, files, accounts, papers, documents, and any or all computer or other recordings.

69. Engineering and architectural drawings, operational, procedural, tactical planning or training manuals, or staff meeting minutes or other records, the disclosure of which would reveal surveillance techniques, personnel deployments, alarm systems or technologies, or operational and transportation plans or protocols, to the extent such disclosure would jeopardize the security or employee safety of (i) the Virginia Museum of Fine Arts or any of its warehouses; (ii) any government store or warehouse controlled by the Department of Alcoholic Beverage Control; (iii) any courthouse, jail, detention or law-enforcement facility; or (iv) any correctional or juvenile facility or institution under the supervision of the Department of Corrections or the Department of Juvenile Justice.

70. Records and reports related to Virginia apple producer sales provided to the Virginia State Apple Board pursuant to §§ 3.1-622 and 3.1-624.

B. Neither any provision of this chapter nor any provision of Chapter 26 (§ 2.1-377 et seq.) of this title shall be construed as denying public access to (i) contracts between a public official and a public body, other than contracts settling public employee employment disputes held confidential as personnel records under subdivision 4 of subsection A; (ii) records of the position, job classification, official salary or rate of pay of, and records of the allowances or reimbursements for expenses paid to any officer, official or employee of a public body; or (iii) the compensation or benefits paid by any corporation organized by the Virginia Retirement System or its officers or employees. The provisions of this subsection, however, shall not require public access to records of the official salaries or rates of pay of public employees whose annual rate of pay is \$10,000 or less.

C. No provision of this chapter shall be construed to afford any rights to any person incarcerated in a state, local or federal correctional facility, whether or not such facility is (i) located in the

Commonwealth or (ii) operated pursuant to the Corrections Private Management Act (§ 53.1-261 et seq.). However, this subsection shall not be construed to prevent an incarcerated person from exercising his constitutionally protected rights, including, but not limited to, his rights to call for evidence in his favor in a criminal prosecution.

§ 2.1-404. Submission of additional information to legislative committees.

To enable the House of Delegates Committee on Appropriations and the Senate Committee on Finance to fully carry out their prescribed duties, all departments, agencies and institutions of the Commonwealth, their staff and employees shall, upon request, provide such committees with any additional information, as may be deemed necessary, and allow such committees ample opportunity to physically observe the department's, agency's or institution's daily operations. The Department of ~~Personnel and Training~~ *Human Resource Management* shall present a report, submitted on or before September 30 of each year, of the number of employees who voluntarily and involuntarily terminated their employment with each department, agency, or institution in the previous fiscal year.

§ 2.1-557. Responsibilities of departments.

Each department utilizing the services of volunteers shall:

1. Take such actions as are necessary and appropriate to develop meaningful opportunities for volunteers involved in its programs and to improve public services;
2. Develop written rules governing the recruitment, screening, training, responsibility, utilization and supervision of volunteers;
3. Take such actions as are necessary to ensure that volunteers and paid staff understand their respective duties and responsibilities, their relationship to each other, and their respective roles in fulfilling the objectives of their department;
4. Take such actions as are necessary and appropriate to ensure a receptive climate for citizen volunteers;
5. Provide for the recognition of volunteers who have offered exceptional service to the Commonwealth; and
6. Recognize prior volunteer service as partial fulfillment of state employment requirements for training and experience established by the Department of ~~Personnel and Training~~ *Human Resource Management*.

§ 15.2-1512.1. Disposition of property received by subdivisions as result of conversion of mutual insurance company to stock corporation.

The governing body of each locality that receives cash, shares of stock, or both, as a result of the conversion of Blue Cross and Blue Shield of Virginia, doing business as Trigon Blue Cross Blue Shield (hereafter referred to as "Trigon"), from a mutual insurance company to a stock corporation known as Trigon Healthcare, Inc., by reason of its school division's status as a present or former group policyholder of Trigon shall, by appropriate ordinance or resolution, authorize the treasurer of such locality to create two separate funds upon the books of the locality, as hereinafter described. Upon the enactment or adoption of such ordinance or resolution, the treasurer of the locality shall place all such stock, including any proceeds derived from the sale or other conveyance of any such stock, and cash, into these separate funds. The stock or proceeds and cash shall be divided equally between the two separate funds set forth in subsections A and B of this section; however, (i) the local governing body may place a greater proportion or all of the stock or proceeds and cash in the fund described in subsection A, with the consent of the school board and (ii) if on or before January 1, 1997, a school board has requested and the local governing body has approved the allocation of the proceeds from the sale of its stock for a school construction or renovation project, the remainder of such proceeds shall be used to create a fund to offset health insurance premium increases incurred by the present and future employees of the school board and governing body.

A. The first fund shall be known as the "County/City of _____ Schools Health Insurance Premium Fund." All principal placed into this fund, together with all income arising from or attributable to the fund, shall be used solely to offset health insurance premium expenses incurred by or on behalf of present and future employees of the school division of the locality; however, the governing body of the locality may use a portion of the principal placed into the fund, a portion of the income arising from or attributable to the fund, or both, to compensate present or future retired employees of the school division of the locality for (i) health insurance premium expenses payable by the retired employees, (ii) health insurance premium expenses paid for by such retired employees for periods prior to July 1, 1997, during which the retired employees were insured under a health insurance policy through the school division of the locality as a group policyholder of Trigon, or (iii) both (i) and (ii), in such amounts, if any, as the governing body shall determine appropriate. No disbursement from the fund may be made except upon specific appropriation by the governing body in accordance with applicable law.

B. The second fund, if any, shall be known as the "County/City of _____ School Construction, Renovation, Maintenance, Capital Outlay, and Debt Service Fund." All principal placed into this fund, together with all income arising from or attributable to the fund, shall be used solely for the purposes of school construction, school renovation, major school maintenance, capital outlay, and

debt service in the public schools of the locality. No disbursement from this fund may be made except upon specific appropriation by the governing body in accordance with applicable law.

C. All stock or proceeds and cash placed into separate funds pursuant to the provisions of this act, including all income arising from or attributable to such funds, shall be deemed public funds of the locality and shall be subject to all limitations upon deposit and investment provided by general law, including without limitation the Virginia Security for Public Deposits Act (§ 2.1-359 et seq.). Income, dividends, distributions and sale proceeds accruing to the separate funds shall be retained in the funds and may be expended only in accordance with the terms of this act.

D. Any funds transferred by the Department of ~~Personnel and Training~~ *Human Resource Management* to a participating employer upon its withdrawal from a plan or plans as provided in subsection F of § 2.1-20.1:02 of the Code of Virginia shall be (i) placed in the separate funds described in subsections A and B of this section if the withdrawing employer is a school board or school division or (ii) deposited in the general fund of the locality if the withdrawing employer is not a school board or school division.

§ 15.2-1609.2. Sheriffs' salaries; salaries of certain full-time deputies; maximum limits.

A. The sheriffs of the counties and the cities of the Commonwealth and their full-time deputies shall be paid salaries for their services and allowances for the necessary expenses incurred in the performance of their duties, to be determined as hereinafter provided.

B. The annual salaries of the sheriffs of the counties and cities of the Commonwealth shall be as prescribed in the general appropriation act, except as otherwise provided in subsection C.

C. Any sheriff whose salary in the year ending June 30, 1980, included an increase under deleted provisions of former § 14.1-74 shall receive the same amount of such increase for the terms in which he continues in office.

D. The annual salary of each full-time deputy sheriff who is primarily a courtroom security officer, a correctional officer or a law-enforcement officer shall be determined by the sheriff in whose service he is employed and shall be reported to the Compensation Board by the sheriff at the time he files his report for the allowance of the expenses of his office as provided in § 15.2-1636.7 and at any time thereafter when the sheriff effects a change in the salary or employs a new such deputy sheriff. Such salaries as determined by the respective sheriff shall conform to the requirements set forth in subsection E and shall not in the aggregate exceed the aggregate allowance by the Compensation Board for personal services to the respective sheriffs for such deputy sheriffs.

However, notwithstanding any contrary provisions of this section and of § 15.2-1636.8, the salary of any full-time deputy sheriff who, in addition to having primary duties related to courtroom security, corrections or law enforcement, also supervises other deputy sheriffs, or who is designated an investigator by the sheriff in whose services he is employed, shall be fixed and determined by the Compensation Board. Nothing in this section shall prohibit the Compensation Board from setting salary levels of civil process officers in localities having a population of more than one hundred thousand at a level equal to salary levels of deputy sheriffs who are primarily courtroom security, correctional, or law-enforcement officers.

E. The salary range of any full-time deputy sheriff who is primarily a courtroom security officer, a correctional officer or a law-enforcement officer and, if employed on or after July 1, 1974, also has a high school education or the equivalent thereof, shall be no less than that of a correctional officer within the classification and pay system for state employees and shall be administered in accordance with regulations for that system administered by the Department of ~~Personnel and Training~~ *Human Resource Management*. The Governor shall provide the Compensation Board the salary range and regulations within that system as of July 1, 1980, and as of any subsequent date on which changes in the salary ranges and regulations may be adopted.

F. The salary of any deputy sheriff shall not exceed ninety percent of the salary of the sheriff by whom he is employed.

§ 22.1-209.2. Programs and teachers in regional detention homes, certain local detention homes and state agencies and institutions.

The Board of Education shall prepare and supervise the implementation in the regional detention homes and those local detention homes having teachers whose salaries were being funded by the Commonwealth on January 1, 1984, a program designed to educate and train the children detained in the homes. In addition, the Board shall supervise those programs of evaluation, education and training provided to school-age children by the Department of Health, the Department of Mental Health, Mental Retardation and Substance Abuse Services, the children's teaching hospital associated with the Medical College of Hampton Roads, the Medical College of Virginia Hospitals, and the University of Virginia Hospitals pursuant to the Board's standards and regulations as required by § 22.1-7.

The Board shall promulgate such rules and regulations as may be necessary to conform these programs with the applicable federal and state laws and regulations including, but not limited to, teacher-student ratios and special education requirements for children with disabilities. The education programs in the relevant detention homes and state agencies and institutions shall be approved by the Board and the Board shall prepare a budget for these educational programs which shall be solely

supported by such general funds as are appropriated by the General Assembly for this purpose.

The Board of Education shall enter into contracts with the relevant state agency or institution or detention facility or the local school divisions in which the state agencies or institutions or the regional detention homes and the relevant local detention homes are located for the hiring and supervision of teachers.

In any case in which the Board enters into a contract with the relevant state agency or institution, the Department of ~~Personnel and Training~~ *Human Resource Management* shall establish salary schedules for the teachers which are competitive with those in effect for the school divisions in which the agency or institution is located.

§ 22.1-342.1. Compensation of teachers in the schools of correctional centers.

In any case in which the Board employs a teacher licensed by the Board of Education to provide instruction in the schools of the correctional centers, the Department of ~~Personnel and Training~~ *Human Resource Management* shall establish salary schedules for the teachers which endeavor to be competitive with those in effect for the school division in which the correctional center is located.

§ 23-50.16:24. Employees of the Authority.

A. Until July 1, 2001, employees of the Authority shall be considered employees of the Commonwealth. Employees of the Authority shall be employed on such terms and conditions as established by the Authority. The Board of Directors of the Authority shall develop and adopt policies and procedures that will afford its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants and shall prohibit discrimination because of race, religion, color, sex or national origin. Any grievance procedure adopted by the Board other than that contained in Chapter 10.01 (§ 2.1-116.01 et seq.) of Title 2.1 shall take effect no earlier than July 1, 1997; however, such grievance procedure shall not take effect unless the Authority delivers copies of such grievance procedure to the chairmen of the House Committee on Appropriations and the Senate Committee on Finance on or before January 1, 1997.

B. The Authority shall issue a written notice to all persons whose employment will be transferred to the Authority. The date upon which such written notice is issued shall be referred to herein as the "Option Date." Each person whose employment will be transferred to the Authority may, by written request made within 180 days of the Option Date, elect not to become employed by the Authority. Any employee of the Medical College of Virginia Hospitals who: (i) elects not to become employed by the Authority and who is not reemployed by any department, institution, board, commission or agency of the Commonwealth; (ii) is not offered the opportunity to transfer to employment by the Authority; or (iii) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary, shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.1-116.20 et seq.). Any employee who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act.

C. Without limiting its power generally with respect to employees, the Authority may employ any person employed by the University in the operation of the hospital facilities and may assume obligations under any employment agreement for such person and the University may assign any such contract to the Authority.

D. The Authority and the University may also enter into agreements providing for the purchase of services of employees of the University utilized in the operation of the hospital facilities by payment of such amounts as may be agreed upon to cover all or part of the salaries and other costs of such employees.

E. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this chapter and who is a member of any plan for providing health insurance coverage pursuant to Chapter 2 (§ 2.1-11.1 et seq.) of Title 2.1, shall continue to be a member of such health insurance plan under the same terms and conditions as if no transfer had occurred. Notwithstanding subdivision A 2 of § 2.1-20.1, the costs of providing health insurance coverage to such employees who elect to continue to be members of the state employees' health insurance plan shall be paid by the Authority. Alternatively, an employee may elect to become a member of any health insurance plan established by the Authority. The Authority is authorized to (i) establish a health insurance plan for the benefit of its employees, residents and interns and (ii) enter into agreements with the Department of ~~Personnel and Training~~ *Human Resource Management* providing for the coverage of its employees, interns and residents under the state employees' health insurance plan, provided that such agreement shall require the Authority to pay the costs of providing health insurance coverage under such plan.

F. Notwithstanding any other provision of law to the contrary, any person whose employment is transferred to the Authority as a result of this chapter and who is a member of the Virginia Retirement System, or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1, shall continue to be a member of the Virginia Retirement System or other such authorized retirement plan under the same terms and conditions as if no transfer had occurred. Alternatively, such

employee (and any employee employed by the Authority between July 1, 1997, and June 30, 1998, who elected to be covered by the Virginia Retirement System) may elect, during an open enrollment period from April 1, 2001, through April 30, 2001, to become a member of the retirement program established by the Authority for the benefit of its employees pursuant to § 23-50.16:24.1 by transferring assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. The Authority shall reimburse the Virginia Retirement System for the actual cost of actuarial services necessary to determine the present value of the accrued basic benefit of employees who elect to transfer to the Authority's retirement plan. The following rules shall apply:

1. With respect to any transferred employee who elects to remain a member of the Virginia Retirement System or other such authorized retirement plan, the Authority shall collect and pay all employee and employer contributions to the Virginia Retirement System or other such authorized retirement plan for retirement in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for such transferred employees.

2. Transferred employees who elect to become members of the retirement program established by the Authority for the benefit of its employees shall be given full credit for their creditable service as defined in § 51.1-124.3, vesting and benefit accrual under the retirement program established by the Authority. For any such employee, employment with the Authority shall be treated as employment with any nonparticipating employer for purposes of the Virginia Retirement System or other retirement plan as authorized by Article 4 of Chapter 1 of Title 51.1.

3. For transferred employees who elect to become members of the retirement program established by the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the retirement plan established by the Authority assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. For purposes hereof, the basic benefits shall be the benefit accrued under the Virginia Retirement System or other such authorized retirement plan, based on creditable service and average final compensation as defined in § 51.1-124.3 and determined as of the transfer date. The actuarial present value shall be determined on the same basis, using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or other such authorized retirement plan, so that the transfer of assets to the retirement plan established by the Authority will have no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan.

§ 32.1-137.6. Complaint system.

A. Each managed care health insurance plan licensee subject to § 32.1-137.2 shall establish and maintain for each of its managed care health insurance plans a complaint system approved by the Commissioner and the Bureau of Insurance to provide reasonable procedures for the resolution of written complaints in accordance with the requirements established under this article and Title 38.2, and shall include the following:

1. A record of the complaints shall be maintained for the period set forth in § 32.1-137.16 for review by the Commissioner.

2. Each managed care health insurance plan licensee shall provide complaint forms and/or written procedures to be given to covered persons who wish to register written complaints. Such forms or procedures shall include the address and telephone number of the managed care licensee to which complaints shall be directed and the mailing address, telephone number, and the electronic mail address of the Managed Care Ombudsman established pursuant to § 38.2-5904 and shall also specify any required limits imposed by or on behalf of the managed care health insurance plan. Such forms and written procedures shall include a clear and understandable description of the covered person's right to appeal adverse decisions pursuant to § 32.1-137.15.

B. The Commissioner, in cooperation with the Bureau of Insurance, shall examine the complaint system. The effectiveness of the complaint system of the managed care health insurance plan licensee in allowing covered persons, or their duly authorized representatives, to have issues regarding quality of care appropriately resolved under this article shall be assessed by the State Health Commissioner under this article. Compliance by the health carrier and its managed care health insurance plans with the terms and procedures of the complaint system, as well as the provisions of Title 38.2, shall be assessed by the Bureau of Insurance.

C. As part of the renewal of a certificate, each managed care health insurance plan licensee shall submit to the Commissioner and to the Managed Care Ombudsman an annual complaint report in a form agreed and prescribed by the Board and the Bureau of Insurance. The complaint report shall include, but shall not be limited to (i) a description of the procedures of the complaint system, (ii) the total number of complaints handled through the complaint system, (iii) the disposition of the complaints, (iv) a compilation of the nature and causes underlying the complaints filed, (v) the time it took to process and resolve each complaint, and (vi) the number, amount, and disposition of malpractice claims adjudicated during the year with respect to any of the managed care health insurance plan's health care providers.

The Department of ~~Personnel and Training~~ *Human Resource Management* and the Department of Medical Assistance Services shall file similar periodic reports with the Commissioner, in a form prescribed by the Board, providing appropriate information on all complaints received concerning quality

of care and utilization review under their respective health benefits program and managed care health insurance plan licensee contractors.

D. The Commissioner shall examine the complaint system under subsection B for compliance of the complaint system with respect to quality of care and shall require corrections or modifications as deemed necessary.

E. The Commissioner shall have no jurisdiction to adjudicate individual controversies arising under this article.

F. The Commissioner of Health or the nonprofit organization pursuant to § 32.1-276.4 may prepare a summary of the information submitted pursuant to this provision and § 32.1-122.10:01 to be included in the patient level data base.

§ 51.1-126.1. Certain employees of teaching hospitals.

A. Any teaching hospital affiliated with an institution of higher education, other than the Medical College of Virginia Hospitals Authority or the University of Virginia Medical Center, may establish a retirement plan covering in whole or in part its employees who are health care providers, as determined by the Department of ~~Personnel and Training~~ *Human Resource Management* pursuant to § 2.1-116, and is authorized to make contributions for the benefit of its employees who elect to participate in such plan or arrangement rather than in the retirement system established by this chapter. Any such alternative retirement plan shall not become effective until July 1, 1991, or any time thereafter, as determined by such teaching hospital. Any health care provider employed by such teaching hospital on or after July 1, 1991, may make an irrevocable election to participate in either the retirement plan established by this chapter or the plan provided by the teaching hospital, in accordance with guidelines established by the Virginia Retirement System. The election herein provided shall, as to any health care provider employed after the alternative retirement plan implementation date, be exercised not later than thirty-one days from the time of entry upon the performance of his duties.

B. No health care provider employed by a teaching hospital who is an active member of a plan established under this section shall also be an active member of the retirement system or a beneficiary other than a contingent annuitant.

C. The contribution by the Commonwealth to any other retirement plan established on behalf of health care providers as provided in subsection A shall be the contribution by the Commonwealth which would be required if the health care provider were a member of the retirement system or eight percent of creditable compensation, whichever is less.

D. If the institution of higher education with which the teaching hospital is affiliated has adopted a retirement plan under § 51.1-126 for its employees who are engaged in the performance of teaching, administrative, or research duties, the plan established under this section shall offer the same investment opportunities as are available to the participants of the plan established under § 51.1-126.

E. The Virginia Retirement System shall develop policies and procedures for the administration of the retirement plan established under this section.

§ 51.1-153. Service retirement.

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire at any time upon written notification to the Board setting forth the date the retirement is to become effective. Any member in service who was denied membership prior to July 1, 1987, as a result of being age sixty or over when first employed may retire at any time after his normal retirement date and the requirement of having five or more years of service shall not apply.

B. Early retirement.

1. Any member in service who has attained his fifty-fifth birthday with five or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective.

2. Any state employee, teacher, or employee of a political subdivision who is a member of the retirement system may retire prior to his normal retirement date after attaining age fifty and thirty years of creditable service, upon written notification to the Board setting forth the date the retirement is to become effective. The benefit for such member shall be calculated in accordance with the provisions of subdivision A 1 of § 51.1-155.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service, regardless of termination date, may retire under the provisions of subsection A, B, or D of this section if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective. A

member who is a state employee shall not be eligible for retirement pursuant to this subsection unless the employee has entered into a binding agreement with the Department of ~~Personnel and Training~~ *Human Resource Management* providing that the employee shall not thereafter reenter into full-time or part-time employment with any agency in the executive branch of the Commonwealth for a period of two years following retirement. Institutions of higher education may enter into a contract with a member on a part-time basis, not to exceed twenty hours per week, to provide unique technical expertise for projects sponsored by institution-affiliated research foundations, authorities, or nonprofit corporations.

E. Effective date of retirement. - The effective date of retirement shall be after the last day of service of the member, but shall not be more than ninety days prior to the filing of the notice of retirement.

F. Notification on behalf of member. - If the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification on his behalf.

§ 51.1-205. Service retirement generally.

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire upon written notification to the Board, setting forth the date the retirement is to become effective. Any member, except one appointed by the Governor or elected by the people, who attains seventy years of age shall be retired forthwith. Any employer, subsequent to the employee's normal retirement date, may provide for compulsory service retirement upon a determination that age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or that the employee is incapable of performing his duties in a safe and efficient manner. Any such determination shall be made by the employer.

B. Early retirement. - Any member in service who has attained his fiftieth birthday with five or more years of creditable service may retire upon written notification to the Board setting forth the date the retirement is to become effective.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service, may retire under the provisions of subsection A, B, or D of this section if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service, regardless of termination date, for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective. A member shall not be eligible for retirement pursuant to this subsection unless the member has entered into a binding agreement with the Department of ~~Personnel and Training~~ *Human Resource Management* providing that the member shall not thereafter reenter into full-time or part-time employment with any agency in the executive branch of the Commonwealth for a period of two years following retirement.

E. Effective date of retirement. - The effective date of retirement shall be after the last day of service of the member, but shall not be more than ninety days prior to the filing of the notice of retirement.

F. Notification on behalf of member. - If the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification on his behalf.

§ 51.1-216. Service retirement generally.

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire upon written notification to the Board, setting forth the date the retirement is to become effective.

B. Early retirement. - Any member in service who has attained his fiftieth birthday with five or more years of creditable service may retire upon written notification to the Board setting forth the date the retirement is to become effective.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service may retire under the provisions of subsection A, B, or D of this section if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective. A member shall not be eligible for retirement pursuant to this subsection unless the member has entered

into a binding agreement with the Department of ~~Personnel and Training~~ *Human Resource Management* providing that the member shall not thereafter reenter into full-time or part-time employment with any agency in the executive branch of the Commonwealth for a period of two years following retirement.

E. Effective date of retirement. - The effective date of retirement shall be after the last day of service of the member, but shall not be more than ninety days prior to the filing of the notice of retirement.

F. Notification on behalf of member. - If the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification on his behalf.

§ 51.1-502.1. Certain employees of teaching hospitals.

Any teaching hospital affiliated with an institution of higher education, other than the University of Virginia Medical Center, may purchase group life, accidental death and dismemberment, and disability insurance policies covering in whole or in part its employees who are health care providers, as determined by the Department of ~~Personnel and Training~~ *Human Resource Management* pursuant to § 2.1-116. In addition, any such teaching hospital may increase the coverage under such policies to make available to each active insured employee optional life, accidental death and dismemberment insurance as provided in § 51.1-512. All health care providers employed by such teaching hospital on or after July 1, 1992, shall be covered by the policies purchased by the teaching hospital as soon as such policies become effective and may not elect to be covered by the Board's group insurance program under § 51.1-501. Nor shall they be required to present at their own expense evidence of insurability satisfactory to an insurance company upon changing from one form of coverage to another provided by this chapter. No other section of this chapter shall apply to insurance coverage offered by a teaching hospital to which this section applies, except §§ 51.1-510 and 51.1-511.

Notwithstanding the definition of "state employee" contained in § 51.1-124.3, a health care provider, as determined in accordance with subdivision A 18 of § 2.1-116, may be enrolled in a health care plan other than that provided for in § 2.1-20.1, at the election of a teaching hospital to which this section applies, and subject to the review and approval of the Secretary of Education.

§ 51.1-512.1. Optional insurance for the spouse and minor dependents of employees.

A. The Board shall, under the terms and conditions specified in this chapter, make available to any active insured employee optional life, accidental death, and dismemberment insurance on the employee's spouse and minor dependents in the following amounts:

1. For the spouse of an active insured employee: an amount up to fifty percent of the maximum amount of optional insurance available to the employee under § 51.1-512.

2. For any minor dependent of an active insured employee: \$5,000, \$10,000, or \$15,000. The Board shall adjust these amounts periodically to account for changes in the purchasing power of money over time.

B. The optional life, accidental death, and dismemberment insurance on the employee's spouse and minor dependents shall be made available for purchase by each active insured employee under conditions prescribed by the Board.

C. All optional insurance on an employee's spouse shall cease upon the earliest of (i) the date the employee retires from service, (ii) the date the employee's basic coverage ceases, or (iii) the entry of a final divorce decree terminating the marriage of the employee and the employee's spouse. All optional insurance on an employee's minor dependent shall cease upon the earliest of (i) the date the employee retires for service, (ii) the minor dependent attains the age of twenty-one, unless the minor dependent is a full-time college student, then age twenty-five or unless the minor dependent is under a mental or physical disability, in which event coverage shall not terminate until three months following cessation of the disability, (iii) marriage of the minor dependent, or (iv) the date the employee's basic coverage ceases. Subject to foregoing limitations, the optional amount of life insurance in force on the spouse or minor dependent of an employee who retires for disability on an immediate retirement allowance may be continued, subject to payment of any required premium by the employee, during continuance of such disability but not beyond the end of the month in which the employee attains age sixty-five.

D. During any period in which an active employee has optional insurance in force on the employee's spouse or minor dependent, the full cost thereof shall be withheld from the employee's salary. During any period in which an employee continues optional life insurance on the employee's spouse or minor dependent after retiring for disability on an immediate retirement allowance, the full cost thereof shall be withheld from the employee's retirement allowance.

E. The cost of the optional insurance shall be determined periodically by the Board on the basis it considers appropriate. On or after July 1, 1998, the Board may discontinue the optional insurance plan at any time upon determination that employee participation is not sufficient to continue the plan on a sound actuarial basis.

F. The amount of optional life, accidental death, and dismemberment insurance in force on an employee's spouse or minor dependent at the date of his or her death shall be paid as provided in this chapter.

G. The Board shall determine the form and content of the accounting reports to be made by the insurance company with respect to the optional insurance. Any expenses incurred by the Retirement

System for operating and administering the optional insurance programs provided in this section may be recovered by the Board from the advance premium deposit reserve required by subsection B of § 51.1-514.

H. As used in this section, an employee's "minor dependent" means a child member of the employee's family who is eligible for coverage under the family membership program offered under policies and procedures of the Department of ~~Personnel and Training~~ *Human Resource Management* governing health insurance plans administered pursuant to § 2.1-20.1 or § 2.1-20.1:02.

I. The provisions of this chapter applicable to the provision of group insurance policies to insure eligible employees shall apply to optional insurance insuring the spouses and minor dependents of eligible employees pursuant to this section, with the respective differences having been considered.

§ 51.1-513.1. Long-term care insurance.

The Department of ~~Personnel and Training~~ *Human Resource Management* is authorized to develop, implement, and administer a long-term care insurance program. The program shall be coordinated with any disability, life, or other insurance program administered under this title. The Department of ~~Personnel and Training~~ *Human Resource Management* is authorized to contract for and purchase such coverage or use other actuarially sound funding necessary to effectuate this provision.

§ 51.1-1101. Sickness and disability program; disability insurance policies.

A. The Board shall develop, implement, and administer a sick leave, short-term disability, and long-term disability benefits program in accordance with the provisions of this chapter. The Board is authorized to delegate or assign to any person any of the duties required to be performed by the Board pursuant to this chapter. The Board is authorized to purchase long-term disability insurance policies for participating employees. The policies shall be purchased from and carried with a disability insurance company which is authorized to do business in the Commonwealth. Each policy shall contain a provision stipulating the maximum expense and risk charges that are determined by the Board to be on a basis consistent with the general level of charges made by disability insurance companies under policies of long-term disability insurance issued to large employers. The Board may require that the policies have reinsurance with a disability insurance company incorporated or organized under the laws of and authorized to do business in the Commonwealth. This section is not intended to abrogate the final authority of the Director of the Department of ~~Personnel and Training~~ *Human Resource Management* under subdivision 13 of § 2.1-114.5 to establish and interpret personnel policy and procedures, such as the sick leave policy.

B. Notwithstanding the provisions of subsection A, the Board may self-insure long-term disability benefits in accordance with the standards set forth in § 51.1-124.30.

§ 51.1-1106. Sick leave benefit for nonparticipating employees.

Eligible employees subject to personnel policies of the Department of ~~Personnel and Training~~ *Human Resource Management* who do not elect to participate in the program shall receive sick leave benefits in accordance with policies of the Department of ~~Personnel and Training~~ *Human Resource Management*. Eligible employees not subject to personnel policies of the Department of ~~Personnel and Training~~ *Human Resource Management* who do not elect to participate in the program shall receive sick leave benefits in accordance with policies of their appointing authority.

§ 62.1-129.1. Employees; employment; personnel rules; health insurance; retirement plans.

A. Employees of the Authority shall be employed on such terms and conditions as established by the Authority. The Board of Commissioners of the Authority shall develop and adopt personnel rules, policies, and procedures to give its employees grievance rights, ensure that employment decisions shall be based upon the merit and fitness of applicants, and prohibit discrimination because of race, religion, color, sex or national origin.

B. The Authority shall issue a written notice to its employees regarding the Authority's status. The date upon which such written notice is issued shall be referred to herein as the "option date." Each employee may, by written request made within 180 days of the option date, elect not to become employed by the Authority. Any employee of the Virginia Port Authority who: (i) elects not to become employed by the Authority and who is not reemployed by any other department, institution, board, commission or agency of the Commonwealth; (ii) is not offered the opportunity to remain employed by the Authority; or (iii) is not offered a position with the Authority for which the employee is qualified or is offered a position that requires relocation or a reduction in salary, shall be eligible for the severance benefits conferred by the provisions of the Workforce Transition Act (§ 2.1-116.20 et seq.). Any employee who accepts employment with the Authority shall not be considered to be involuntarily separated from state employment and shall not be eligible for the severance benefits conferred by the Workforce Transition Act.

C. Any employee of the Authority who is a member of any plan providing health insurance coverage pursuant to Chapter 2 (§ 2.1-11.1 et seq.) of Title 2.1, shall continue to be a member of such health insurance plan under the same terms and conditions. Notwithstanding subdivision A 2 of § 2.1-20.1, the costs of providing health insurance coverage to such employees who elect to continue to be members of the state employees' health insurance plan shall be paid by the Authority. Alternatively, an employee may elect to become a member of any health insurance plan established by the Authority. The Authority

is authorized to: (i) establish a health insurance plan for the benefit of its employees and (ii) enter into agreements with the Department of ~~Personnel and Training~~ *Human Resource Management* providing for the coverage of its employees under the state employees' health insurance plan, provided that such agreement requires the Authority to pay the costs of providing health insurance coverage under such plan.

D. Any retired employee of the Authority shall be eligible to receive the health insurance credit set forth in § 2.1-20.1:2 provided the retired employee meets the eligibility criteria set forth in that section.

E. Any Authority employee who is a member of the Virginia Retirement System or other retirement plan as authorized by Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1, shall continue to be a member of the Virginia Retirement System or other authorized retirement plan under the same terms and conditions. Alternatively, such employee may elect to become a member of the retirement program established by the Authority for the benefit of its employees pursuant to § 51.1-126.4. The following rules shall apply:

1. The Authority shall collect and pay all employee and employer contributions to the Virginia Retirement System or other such authorized retirement plan for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of Title 51.1 for any employee who elects to remain a member of the Virginia Retirement System or other such authorized retirement plan.

2. Employees who elect to become members of the alternative retirement plan established by the Authority pursuant to § 51.1-126.4 shall be given full credit for their creditable service as defined in § 51.1-124.3, and vesting and benefit accrual under the retirement plan. For any such employee, employment with the Authority shall be treated as employment with any nonparticipating employer for purposes of the Virginia Retirement System or other retirement plan authorized pursuant to Article 4 (§ 51.1-125 et seq.) of Chapter 1 of Title 51.1.

3. For employees who elect to become members of the alternative retirement plan established by the Authority, the Virginia Retirement System or other such authorized plan shall transfer to the alternative retirement plan established by the Authority, assets equal to the actuarially determined present value of the accrued basic benefits as of the transfer date. For purposes hereof, the "basic benefits" means the benefits accrued under the Virginia Retirement System or other such authorized retirement plan based on creditable service and average final compensation as defined in § 51.1-124.3. The actuarial present value shall be determined by using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or other such authorized retirement plan so that the transfer of assets to the alternative retirement plan established by the Authority will have no effect on the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan. The Authority shall reimburse the Virginia Retirement System for the cost of actuarial services necessary to determine the present value of the accrued basic benefit of employees who transfer to an Authority retirement plan.

2. That wherever in the Code of Virginia the term "Department of Personnel and Training" is used, it shall be deemed to mean the "Department of Human Resource Management."