

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 51.1-124.12 of the Code of Virginia, relating to the Virginia Retirement System.

[H 14]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 51.1-124.12 of the Code of Virginia is amended and reenacted as follows:

§ 51.1-124.12. Procedure when employer required to withdraw funds.

A. As used in this section, unless the context clearly shows otherwise, the following definitions shall apply.

"Termination date" means the effective date of a change in an employer's status from an agency or political subdivision of the Commonwealth or the termination of the employer's existence that shall cause an employer participating in the Retirement System to become a withdrawing employer. If such date is in question or if the advance notification required by subsection C is not given, the termination date shall be the date determined by the Board.

"Termination event" means an event that results in an employer which participates in the Retirement System ceasing to be an agency or political subdivision of the Commonwealth.

"Withdrawing employer" means an employer that is required to withdraw from the Retirement System under subsection B.

B. Any employer participating in the Retirement System which ceases to be an agency or political subdivision of the Commonwealth or which permanently ceases operations shall withdraw from the Retirement System as of the termination date. All benefit accrual for members employed by a withdrawing employer shall automatically cease as of the termination date.

C. A withdrawing employer shall provide written notification to the Board of its termination date. Notification shall be in the form of a certified copy of an ordinance or resolution adopted by the governing body of the employer and shall be provided to the Board at least ninety days prior to the termination date. Upon receipt of notification or upon the Board's determination that a termination event has occurred or will occur within ninety days, the Retirement System shall request its actuary to determine the present value of the Retirement System's liability to each member, retired member, or beneficiary attributable to service with, and creditable compensation from, the withdrawing employer. For members, such calculation shall be determined based on the liability resulting from the present value of a service retirement allowance beginning at his normal retirement date. Such determination shall be based on actuarial principles and assumptions consistent with those used in the most recent actuarial valuation and financial report for the Retirement System. The expenses incurred by the Board for such actuarial determination report shall be the liability of the withdrawing employer.

D. If no qualified retirement plan, as that term is defined in § 401(a) of the Internal Revenue Code, is established by the withdrawing employer, to which the assets and liabilities relating to members employed by such employer are transferred, as described in subsection E, benefits shall be determined as follows:

1. Each member or beneficiary whose coverage under the Retirement System is affected by the withdrawal of the employer shall become fully vested, as of the termination date, in his service retirement allowance attributable to creditable service with the withdrawing employer regardless of employment status or length of service with the withdrawing employer.

2. Each member, retired member or beneficiary shall be entitled to a distribution of the greater of (i) the balance in his member contribution account established pursuant to § 51.1-147 or (ii) the present value of his service retirement allowance attributable to creditable service and compensation with the withdrawing employer to which such member, retired member or beneficiary would have been entitled immediately prior to the termination event (plus additional amounts, if any, which the withdrawing employer may direct pursuant to subdivision 4 of this subsection). Such members, retired members, and beneficiaries may elect to receive such benefit either in the form of (i) a lump sum payment, subject to the eligible rollover distribution rules and withholding requirements of the Internal Revenue Code or (ii) an annuity equal to the service retirement benefit at normal retirement. The annuity shall be purchased from a private insurance company or companies as selected by the Board. The Board shall establish reasonable notice and election periods for the distribution made pursuant to this subsection. The distribution provided for in this subdivision shall be in the form of a lump sum, subject to applicable withholding requirements, upon the failure of a member, retired member or beneficiary to make an

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57 election.

58 3. If the assets held in the members' contribution account established pursuant to § 51.1-147 and in
59 the retirement allowance account established for withdrawing employer pursuant to § 51.1-148 are less
60 than the amount needed to pay the benefits to which all affected members, retired members, and
61 beneficiaries are entitled, the withdrawing employer shall make a contribution to the retirement
62 allowance account in the amount necessary to make up any insufficiency in assets required to provide
63 all benefits payable under this section. If the withdrawing employer fails to make the required
64 contribution, assets held in the members' contribution account established pursuant to § 51.1-147 and in
65 the retirement allowance account established for the withdrawing employer pursuant to § 51.1-148 shall
66 be distributed to members, retired members and beneficiaries in the manner described in § 51.1-139.

67 4. Any assets remaining in the retirement account established for the withdrawing employer pursuant
68 to § 51.1-148 after full satisfaction of liabilities to members, retired members and beneficiaries under
69 this section shall be distributed to the withdrawing employer or transferred to another qualified
70 retirement plan at the direction of the withdrawing employer; provided, however, that if there is no
71 successor to the withdrawing employer directly responsible for the liabilities of the withdrawing
72 employer, any remaining assets shall be used to offset expenses incurred by the Retirement System in
73 any manner permitted by the Internal Revenue Code.

74 5. Upon completion of the distribution of assets held in the members' contribution account
75 established pursuant to § 51.1-147 and in the retirement allowance account established for the
76 withdrawing employer pursuant to § 51.1-148 as provided in the section, the Retirement System shall
77 have no further liability for such accounts.

78 E. If the withdrawing employer establishes or has established a qualified retirement plan, as that term
79 is defined in § 401(a) of the Internal Revenue Code, which provides (i) for participation by members,
80 retired members and the beneficiaries of members and retired members, (ii) for the transfer to the
81 qualified retirement plan of all contributions and prior service attributable to creditable service with the
82 withdrawing employer, and (iii) member benefits and vesting rights at least equal to those which each
83 member would have been entitled under the Retirement System immediately before the termination of
84 the employer's affiliation with the Retirement System, the Board shall transfer to such qualified
85 retirement plan all balances in the individual accounts of the members' contribution account established
86 pursuant to § 51.1-147 and all balances in the retirement allowance account established for such
87 employer pursuant to § 51.1-148 and attributable to creditable service and compensation with such
88 employer, including all earnings through and including the date of the transfer. Upon such transfer, all
89 liabilities of the Retirement System for benefits, to the extent accrued as of the date of the transfer with
90 respect to service with such employer shall be assumed by such qualified retirement plan and all
91 liabilities of the Retirement System with respect thereto shall terminate.

92 F. Creditable service attributable to employment with a withdrawing employer shall be taken into
93 consideration for purposes of determining whether each employee of the withdrawing employer meets
94 the five or more year requirement to be entitled to a service allowance at normal retirement from the
95 employment of an employer other than the withdrawing employer. Neither creditable service nor
96 creditable compensation attributable to employment with a withdrawing employer shall be taken into
97 account for any other purpose under the Retirement System.

98 *G. Notwithstanding any other provisions of this section or of any other law, if the withdrawing*
99 *employer is a city which reverts to town status or otherwise loses its status as a city or is a town which*
100 *loses its status as a town, then the members, retired members, and beneficiaries of the former city or*
101 *town shall maintain all rights and privileges which they possess at the time of such change in status to*
102 *current or future benefits from the Retirement System.*