

# VIRGINIA ACTS OF ASSEMBLY -- 2001 SESSION

## CHAPTER 681

*An Act to amend the Code of Virginia by adding in Title 51.1 a chapter numbered 13, consisting of sections numbered 51.1-1300 through 51.1-1304, relating to establishment of benefit restoration plans.*

[S 856]

Approved March 26, 2001

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Title 51.1 a chapter numbered 13, consisting of sections numbered 51.1-1300 through 51.1-1304, as follows:**

### *CHAPTER 13.*

#### *BENEFIT RESTORATION PLAN.*

##### *§ 51.1-1300. Definitions.*

*As used in this chapter, unless the context requires a different meaning:*

*"Board" means the Board of Trustees of the Virginia Retirement System.*

*"Member" means any member whose benefits under the Virginia Retirement System (§ 51.1-124.1 et seq.), the State Police Officers' Retirement System (§ 51.1-200 et seq.), the Virginia Law Enforcement Officers' Retirement System (§ 51.1-211 et seq.), or the Judicial Retirement System (§ 51.1-300 et seq.) would otherwise be limited by § 415 (b) of the Internal Revenue Code.*

*"Retirement System" means the Virginia Retirement System.*

##### *§ 51.1-1301. Benefit restoration plan for employees; administration by the Board.*

*A. The Board shall establish and administer a benefit restoration plan for members. Such plan shall meet the requirements to be treated as a plan established under § 415 (m) of the Internal Revenue Code. The Virginia Retirement System Director shall be the chief administrative officer of the plan. The Retirement System is hereby authorized to perform related services including, but not limited to, providing consolidated billing, individual and collective record keeping and accountings, and asset control and safekeeping.*

*B. The benefit restoration plan shall exist to provide nontaxable benefits to members whose annual benefit is reduced pursuant to subsection B of § 51.1-168. The benefit restoration plan shall be funded from those contributions required under Article 7 (§ 51.1-144 et seq.) of Chapter 1 of this title. If it deems it advisable, the Board may create a trust or other special fund for segregation of the funds or assets relating to a benefit restoration plan established herein.*

##### *§ 51.1-1302. Local benefit restoration plans.*

*The governing body of any county, municipality, authority or other political subdivision of the Commonwealth that does not participate in the retirement system may, by ordinance or by resolution adopted by a recorded majority of the members of such governing body, establish for itself and its employees a benefit restoration plan established under § 415 (m) of the Internal Revenue Code and, if it deems it advisable, may create a trust or other special fund for segregation of funds or assets relating to such plan.*

##### *§ 51.1-1303. Standards for benefit restoration plans.*

*No benefit restoration plan shall become effective until the Board, county, municipality or political subdivision of the Commonwealth is satisfied by opinion of its respective counsel, such federal agency or agencies as may be deemed necessary, or otherwise, that the benefits payable under the plan will not be included in the employee's taxable income under federal and state income tax law until it is actually received by or made available to the employee under the terms of the plan.*

##### *§ 51.1-1304. Other retirement, pension systems not affected; annual report.*

*A. Any benefit restoration plan established by this chapter, and any plan adopted hereunder, shall exist and serve in addition to any other retirement, pension or benefit system established by the Commonwealth, its agencies, counties, municipalities or other political subdivisions, and shall not supersede, make inoperative or reduce any benefits provided by the Retirement System or by any other retirement, pension or benefit program established by law.*

*B. The Retirement System shall submit an annual report to the Governor and the General Assembly advising them of the condition and all operational costs associated with the benefit restoration plan.*