

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

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

5 [H 1748]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**  
 8 **1. That the Code of Virginia is amended by adding in Title 51.1 a chapter numbered 13, consisting**  
 9 **of sections numbered 51.1-1300 through 51.1-1304, as follows:**

10 *CHAPTER 13.*  
 11 *BENEFIT RESTORATION PLAN.*

12 § 51.1-1300. *Definitions.*13 *As used in this chapter, unless the context requires a different meaning:*14 *"Board" means the Board of Trustees of the Virginia Retirement System.*

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

19 *"Retirement System" means the Virginia Retirement System.*20 § 51.1-1301. *Benefit restoration plan for employees; administration by the Board.*

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

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

32 § 51.1-1302. *Local benefit restoration plans.*

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

39 § 51.1-1303. *Standards for benefit restoration plans.*

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

45 § 51.1-1304. *Other retirement, pension systems not affected; annual report.*

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

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