

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act for the relief of Deborah G. Wheeling.*

3 [H 2071]

4 Approved

5 Whereas, Deborah G. Wheeling (Ms. Wheeling) is a resident of Rocky Mount, Virginia; and  
 6 Whereas, Ms. Wheeling was employed as a Special Education teacher with the City of Salem Public  
 7 School System from August of 1985 to February of 1998; and

8 Whereas, in September of 1997, Ms. Wheeling received physical injuries when she was involved in  
 9 an automobile accident; and

10 Whereas, the physical injuries compounded existing emotional and physiological problems for which  
 11 Ms. Wheeling was already receiving treatment; and

12 Whereas, on December 18, 1997, Ms. Wheeling filed for disability retirement benefits; and

13 Whereas, Ms. Wheeling's application for disability retirement was reviewed by a medical board  
 14 created by the Virginia Retirement System (VRS) pursuant to § 51.1-124.23 of the Code of Virginia and  
 15 recommended for denial in March 1998; and

16 Whereas, Ms. Wheeling appealed the decision of the medical board; and

17 Whereas, upon further review, the medical board recommended denial of the application in April  
 18 1998; and

19 Whereas, Ms. Wheeling appealed the second decision of the medical board; and

20 Whereas, after additional review of information provided by Ms. Wheeling, the medical board again  
 21 recommended denial of her application in September 1998; and

22 Whereas, Ms. Wheeling appealed the third decision of the medical board; and

23 Whereas, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), an informal fact-finding  
 24 conference was held on February 4, 1999, before a hearing officer regarding Ms. Wheeling's application;  
 25 and

26 Whereas, on March 16, 1999, the hearing officer issued his decision recommending that Ms.  
 27 Wheeling's application for disability be denied; and

28 Whereas, on April 9, 1999, Ms. Wheeling, after receiving a copy of the hearing officer's proposed  
 29 finding, provided the VRS with a letter stating her intention to "...appeal [her] case to the full  
 30 commission...", citing medical records that were not reviewed by the medical board; and

31 Whereas, on April 15, 1999, the VRS issued a final case decision stating that Ms. Wheeling's  
 32 application for disability retirement was denied. The final decision informed Ms. Wheeling that she  
 33 could appeal the decision and that any further appeal must be made within 30 days of the letter in  
 34 accordance with the Rules of the Supreme Court of Virginia; and

35 Whereas, the letter received by the VRS on April 9, 1999, did not comply with the requirements of  
 36 the Administrative Process Act for perfecting the appeal of a final decision; and

37 Whereas, Ms. Wheeling's mental condition, upon which her disability retirement application was  
 38 based, had deteriorated to the point that she was unable to ensure that the previous medical board had  
 39 all relevant medical records or to understand the communications she had received concerning the final  
 40 decision and what she needed to do to perfect her appeal; and

41 Whereas, Ms. Wheeling's failure to perfect her appeal of the final decision is directly due to the  
 42 ongoing mental problems she has been experiencing and continues to experience and has resulted in her  
 43 losing the opportunity to contest the decision of the VRS regarding her disability application; and

44 Whereas, Ms. Wheeling has no other means to obtain relief except by action of this body; now,  
 45 therefore,

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

47 **1. § 1. That the Virginia Retirement System (VRS) is directed to allow Deborah G. Wheeling to submit**  
 48 **the additional medical records relative to her disability application within 60 days of the effective date**  
 49 **of this act and to review such records in determining the merits of her application for disability**  
 50 **retirement.**

ENROLLED

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