

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 209

An Act to amend and reenact §§ 51.1-1000 through 51.1-1003 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 10 of Title 51.1 a section numbered 51.1-1004, relating to the Virginia Retirement System and local retirement systems; communication to members through electronic media.

[S 599]

Approved March 29, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-1000 through 51.1-1003 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Chapter 10 of Title 51.1 a section numbered 51.1-1004 as follows:

§ 51.1-1000. All state and local plans included.

All automated retirement systems administered by the Board of Trustees of the Virginia Retirement System and all automated retirement systems administered by the localities (hereinafter referred to as retirement systems) have a duty to report and disclose certain material information and data to the retirement systems' ~~participants~~ *members* and beneficiaries. Such retirement systems shall cause to be furnished to each ~~participant~~ *member* covered under the retirement systems' plans and to each beneficiary who is receiving benefits under the retirement systems' plans the following:

1. A summary plan description (SPD) that contains all or substantially all the information an average ~~participant~~ *member* would deem crucial to possess a knowledgeable understanding of his benefits under the plan;

2. A statement of benefits that indicates, on the basis of the latest available information: (i) his total accrued benefits and (ii) his nonforfeitable accrued retirement benefits, if any, or the earliest date on which benefits will become nonforfeitable; and

3. A document disclosing material soft dollar transactions (arrangements not negotiated at arm's length or dealings between the retirement systems' fund managers and persons providing services to the systems for noncash considerations) in which the fund managers have engaged. "Material" means transactions wherein it could be asserted that a conflict of interests or an appearance of impropriety was a factor in making the determination of which outside provider of services would be contracted and which involved a transaction or course of dealings involving \$10,000 or more. This disclosure document shall not be a part of the retirement system's annual report, but shall be prepared as an annual supplement and made available to the public upon request. Local retirement systems may publish such disclosure document with their annual reports.

§ 51.1-1001. Summary plan description.

A. A summary plan description shall contain the following information: the name and type of administration of the retirement system; the name and address of the person designated as agent for the service of legal process, if such person is not the administrator; the name and address of the administrator; names, titles and addresses of any trustee or trustees (if they are persons different from the administrator); the retirement system's requirements respecting eligibility for ~~participation~~ *membership* and benefits; and description of the provisions providing for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibility, or denial or loss of benefits; the source of financing of the retirement system and the identity of any organization through which benefits are provided; the date of the end of the retirement system plan year and whether the records of the retirement system are kept on a calendar, policy, or fiscal year basis; the procedures to be followed in presenting claims for benefits and the remedies available for the redress of claims which are denied in whole or in part.

B. The summary plan description shall be written in a manner calculated to be understood by the average retirement system ~~participant~~ *member and beneficiary* and shall be sufficiently comprehensive to apprise the ~~participants~~ *members* and beneficiaries of their rights and obligations under the retirement system plan.

C. Every ~~participant~~ *member* and beneficiary shall be furnished a summary plan description within ~~ninety~~ 90 days of becoming a ~~participant~~ *member* or beneficiary, and every ~~participant~~ *member* and beneficiary shall be furnished an updated summary plan description within 210 days after the end of the retirement system plan year in which a material modification or change in the retirement system or its plan occurs. No charge shall be made for furnishing a copy of the SPD under this subsection.

D. Upon written request, the latest updated summary plan description shall be furnished to any ~~participant~~ *member* or beneficiary. A reasonable charge may be made to cover the cost of furnishing an SPD under this subsection.

§ 51.1-1002. Annual statement of benefits.

Every ~~participant~~ *member* or beneficiary shall be furnished with an annual statement of benefits as provided in § 51.1-1000 after the end of the retirement system's plan year.

§ 51.1-1003. Financial reports by retirement systems; auditor to promulgate standards.

A. Every retirement system shall publish an annual report, which shall contain statements prepared in conformance with the standards for public employee retirement systems issued by the Governmental Accounting Standards Board. Such annual report need not contain the disclosure document reporting soft dollar transactions as provided in subdivision 3 of § 51.1-1000, which may be provided as a separate annual supplemental document, but the annual report shall include a certification that such system is in compliance with criterion (i) of subsection A of § 51.1-800. Every retirement system shall transmit its annual report to the Virginia Retirement System at the same time such report is made available to ~~participants~~ *members* and beneficiaries.

B. The Auditor of Public Accounts shall incorporate GASB standards for financial reporting by public employee retirement systems into the Uniform Financial Reporting Manual and such incorporation of standards shall be implemented on or before July 1, 1991. All retirement systems' annual reports for retirement system plan years beginning on and after January 1, 1992, shall comply with the Auditor's Uniform Financial Reporting Manual. As GASB standards are modified or changed, the Auditor and the retirement systems shall update their standards and reports as may be necessary to ensure accurate and complete disclosure to ~~participants~~ *members* and beneficiaries.

§ 51.1-1004. Use of electronic media.

A. *The duty to report and disclose material information and data to members and beneficiaries imposed by this chapter on the Virginia Retirement System and other notice requirements imposed by this title on the Virginia Retirement System may be satisfied by use of electronic media if the conditions established by the Board of Trustees of the Virginia Retirement System for this purpose are met.*

B. *The duty to report and disclose material information and data to members and beneficiaries imposed by this chapter on any "retirement system" other than the Virginia Retirement System may be satisfied by use of electronic media if the conditions established by the board of such retirement system for this purpose are met.*

C. *The conditions established by any retirement system board shall require that the retirement system take appropriate and necessary measures reasonably calculated to ensure that the electronic media used results in the actual receipt of the transmitted information and protects the confidentiality of personal information relating to the individual's accounts and benefits.*