

# VIRGINIA ACTS OF ASSEMBLY -- 2006 SESSION

## CHAPTER 406

*An Act to amend and reenact § 51.1-800 of the Code of Virginia, relating to the Virginia Retirement System's oversight of retirement plans of localities not participating in the Virginia Retirement System.*

[H 473]

Approved March 31, 2006

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

**1. That § 51.1-800 of the Code of Virginia is amended and reenacted as follows:**

§ 51.1-800. Counties, cities, and certain towns to establish local systems or participate in Virginia Retirement System.

A. Every county and city, and every town having a population of 5,000 or more, shall provide a retirement system for those officers and employees listed in subsection B either (i) by establishing and maintaining a local retirement system which provides a service retirement allowance to each employee who retires at age sixty-five or older which equals or exceeds two-thirds of the service retirement allowance to which the employee would have been entitled had the allowance been computed under the provisions of the Virginia Retirement System or (ii) by participating directly in the Virginia Retirement System. The Board of Trustees of the Virginia Retirement System shall determine whether a local retirement system satisfies the criterion of (i) above, taking into account the difference between the employee contribution rates under the local retirement system and the Virginia Retirement System. If any local retirement system fails to satisfy the criterion of (i) above, the Virginia Retirement System shall promptly notify the governing body of the county, city, or town which maintains such local retirement system of the deficiency. If, within ninety days of such notice, the local retirement system, or its governing body, fails to correct the deficiency or to persuade the Virginia Retirement System that its original findings were in error, then the Virginia Retirement System shall notify the Comptroller. The Comptroller shall withhold from such locality the payment of its share of net profits from the operation of the alcoholic beverage control system as provided for by § 4.1-117 until such time as the Virginia Retirement System may notify him that criterion (i) above is being satisfied.

B. The following persons shall be covered by a retirement system as provided in subsection A:

1. Officers and employees who are regularly employed full time on a salaried basis, whose tenure is not restricted to temporary or provisional employment.

2. Officers and employees who are regularly employed full time on a salaried basis, whose tenure is not restricted to temporary or provisional employment by an organization other than a public school board that functions solely within the boundaries of a county, city, or town, unless the cost of the organization's operation is borne by (i) users of services, (ii) more than one county, city, or town, or (iii) an entity other than a county, city, or town.

3. Clerks of the circuit court and deputies or employees of such officers.

C. Nothing in this chapter shall be construed to prohibit a county, city, or town from participating in the Virginia Retirement System and establishing a local retirement system. If a locality participates in the Virginia Retirement System and establishes a local retirement system, pursuant to § 51.1-801, providing supplemental benefits to the state system, the local system shall not be required to satisfy the criterion established in clause A (i) of this section.

D. A county, city, or town shall not be required to provide retirement benefits to an employee who enters into an agreement with the local government for inclusion in a deferred compensation plan when the agreement specifically prohibits inclusion in any other retirement system established by the county, city, or town.