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SENATE BILL NO. 364

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Joint Conference Committee
on March 11, 2006)

(Patron Prior to Substitute—Senator Wampler)

A BILL to amend and reenact § 2.2-3202 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 2.2-109.01 and in Chapter 28 of Title 2.2 a section numbered 2.2-2831, relating to Workforce Transition Act; state severance benefits.

Be it enacted by the General Assembly of Virginia:

1. That § 2.2-3202 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 2.2-109.01 and in Chapter 28 of Title 2.2 a section numbered 2.2-2831 as follows:

§ 2.2-109.01. Signed statements required from appointees.

For purposes of this section:

"Appointed position" means a position appointed by the Governor or other appointing authority in accordance with law.

"Covered appointee" means any person serving in an appointed position who is eligible for severance benefits under the Workforce Transition Act of 1995 (§ 2.2-3200 et seq.), including but not limited to, any (i) officer, (ii) agency head, or (iii) member of a board, commission, council, or other collegial body.

Upon initial appointment or reappointment, the Governor or other appointing authority, or their designee, shall obtain a signed statement from each covered appointee providing that such person has read and understands the severance benefits for which he is eligible under the Workforce Transition Act of 1995. The Governor or other appointing authority, or their designee shall provide all such statements to the Secretary of the Commonwealth. The Secretary shall provide for such statements to be retained in the records of the Commonwealth.

§ 2.2-2831. Payment of severance benefits; exceptions.

No severance benefit shall be provided to any state officer or employee except as specifically provided by law. The provisions of this section shall not apply to any severance benefit provided to (i) any officers or faculty of a public institution of higher education as defined in § 23-38.89 or (ii) a state officer or employee who is not eligible for a transitional severance benefit pursuant to Chapter 32 (§ 2.2-3200 et seq.) of this title. Nothing in this section shall be construed to prohibit payments in settlement of an employment dispute or payments in satisfaction of a judgment.

§ 2.2-3202. Eligibility for transitional severance benefit.

A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia Personnel Act (§ 2.2-2900 et seq.), (ii) whose position is exempt from the Virginia Personnel Act pursuant to subdivisions 2, 4 (except those persons specified in subsection C of this section), 7, 15 or 16 of § 2.2-2905, (iii) who is employed by the State Corporation Commission, (iv) who is employed by the Virginia Workers' Compensation Commission, (v) who is employed by the Virginia Retirement System, (vi) who is employed by the State Lottery Department, (vii) who is employed by the Medical College of Virginia Hospitals or the University of Virginia Medical Center, (viii) who is employed at a state educational institution as administrative or professional faculty (including, but not limited to, presidents and teaching and research faculty) as defined in the Consolidated Salary Authorization for Faculty Positions in Institutions of Higher Education, 1994-95, or (ix) whose position is exempt from the Virginia Personnel Act pursuant to subdivision 3 or 20 of § 2.2-2905 and was employed continuously full time by the Commonwealth for 15 years or more prior to appointment; and (a) who, on or after January 1, 1995, is involuntarily separated, or is involuntarily separated on or after July 1, 1994, if at the time of involuntary separation had attained age 50 and had 15 or more years of service; and (b) for whom reemployment with the Commonwealth is not possible because there is no available position for which the employee is qualified or the position offered to the employee requires relocation or a reduction in salary; and (b) whose involuntary separation was due to causes other than job performance or misconduct, shall be eligible, under the conditions specified, for the transitional severance benefit conferred by this chapter. The date of involuntary separation shall mean the date an employee was terminated from employment or placed on leave without pay-layoff or equivalent status.

B. An otherwise eligible employee whose position is contingent upon project grants as defined in the Catalogue of Federal Domestic Assistance, shall not be eligible for the transitional severance benefit conferred by this chapter unless the funding source had agreed to assume all financial responsibility therefor in its written contract with the Commonwealth.

C. Members of the Judicial Retirement System (§ 51.1-300 et seq.) and officers elected by popular

60 vote shall not be eligible for the transitional severance benefit conferred by this chapter.

61 D. Eligibility shall commence on the date of involuntary separation.

62 *E. Persons authorized by § 2.2-106 or 51.1-124.22 to appoint a chief administrative officer or the*
63 *administrative head of an agency shall adhere to the same criteria for eligibility for transitional*
64 *severance benefits as is required for gubernatorial appointees pursuant to subsection A.*

65 **2. That the provisions of § 2.2-3202 of this act shall be applicable to involuntary separations**
66 **occurring on or after July 1, 2006.**