

## Virginia Retirement System 2006 Fiscal Impact Statement

**1. Bill Number** HB467

**House of Origin**    ☒ Introduced    ☐ Substitute    ☐ Engrossed

**Second House**    ☐ In Committee    ☐ Substitute    ☐ Enrolled

**2. Patron**    Ingram

**3. Committee**    Appropriations

**4. Title**    Virginia Retirement System; membership.

**5. Summary/Purpose:**

Virginia Retirement System; membership. Adds to the membership of the Virginia Retirement System all full-time employees of the Virginia Municipal League and the Virginia Association of Counties.

**6. No Fiscal Impact (or)**

**Fiscal Impact Estimates are:** \$17,000 for attorneys' fees and the application fee for an Internal Revenue Service Private Letter Ruling.

**7. Budget amendment necessary:** No

**8. Fiscal implications:** There is no fiscal impact

**9. Specific agency or political subdivisions affected:** VRS

**10. Technical amendment necessary:** Yes. An enactment clause should be drafted to include the requirement that the bill would not become effective until such time as a favorable Private Letter Ruling from the IRS is obtained.

**11. Other comments:** According to the *Code of Virginia*, the Virginia Municipal League and the Virginia Association of Counties are "instrumentalities" of the political subdivisions that are members of the Virginia Retirement System. However, the Internal Revenue Service (IRS) may not interpret these organizations to be an instrumentality of the Commonwealth for purposes of the Internal Revenue Code (IRC) and related Department of the Treasury regulations. These organizations are composed of elected officials from political subdivisions of the Commonwealth, but the organizations do not appear to be subject to the control of the political subdivisions themselves. When IRS determines whether an entity is an "instrumentality" for purposes of inclusion as an employer in a governmental plan, the control of the entity by the government or political subdivision carries weight in the analysis. Although the *Code* identifies these organizations as instrumentalities, it does not qualify them for the purpose of inclusion as employers in a governmental pension plan. Any inclusion of these entities as VRS employers should be conditioned upon receipt of a favorable private letter ruling from IRS to ensure inclusion of these entities will not put the VRS plan qualification in jeopardy.

In addition, if these entities are allowed to participate, it should not be accomplished by altering the definition of "employee" in Title 51.1. Doing so would only serve to introduce ambiguity into the employer/membership relationship. It appears that it would be advisable to have such groups enter at the employer level, either by altering the definition of "employer" or "political subdivision" in the VRS title.

**Date:** 01/23/06/pas

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