

# VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

## CHAPTER 245

*An Act to amend and reenact §§ 51.1-124.22, 51.1-602, 51.1-608, and 51.1-618 of the Code of Virginia, relating to extending exemption from liability to advisory committees appointed by the Virginia Retirement System.*

[H 772]

Approved March 3, 2008

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

**1. That §§ 51.1-124.22, 51.1-602, 51.1-608, and 51.1-618 of the Code of Virginia are amended and reenacted as follows:**

§ 51.1-124.22. Board to administer Retirement System; powers and duties.

A. The Retirement System shall be administered by the Board of Trustees, whose powers and duties include but are not limited to:

1. Appointing a director, who shall not be a member of the Board, to serve as the chief administrative officer of the Retirement System at the pleasure of the Board.

2. Maintaining records of all of its proceedings and making such records available for inspection by the public.

3. Employing an actuary as its technical advisor and employing other persons and incurring expenditures as it deems necessary for the efficient administration of the Retirement System.

4. Causing an actuarial investigation to be made of all the experience under the Retirement System at least once in each four-year period. The Board shall also cause actuarial gain/loss analyses to be made in conjunction with each actuarial valuation of the System. Pursuant to such investigations and analyses, the Board shall periodically revise the actuarial assumptions used in the computation of employer contribution rates.

5. Causing a biennial actuarial valuation to be made of the assets and liabilities of the Retirement System with respect to each employer. Pursuant to the results of such valuations, the Board shall prepare a statement as to the employer contribution rates applicable to each employer.

6. Publishing the results of each actuarial valuation of the assets and liabilities.

7. Publishing annual financial statements of the Retirement System or annual reports in accordance with §§ 51.1-1000 through 51.1-1003.

8. Promulgating regulations and procedures and making determinations necessary to carry out the provisions of this title.

9. Purchasing insurance to insure against losses suffered by the Retirement System if any member of the Board or of any advisory committee breaches the standard of care in § 51.1-124.30.

10. Adopting rules and policies that bring the Retirement System into compliance with any applicable law or regulation of this Commonwealth or the United States.

11. Establishing and administering, for the officers and employees of the Retirement System, (i) a compensation plan which is consistent with the provisions set forth in the general appropriations act for this purpose and (ii) a grievance procedure which is consistent with the provisions of Chapter 10 (§ 2.2-1000 et seq.) of Title 2.2 and any regulations promulgated pursuant thereto.

12. Investing in real estate to be held as a nonrevenue producing asset and used by the Retirement System for administrative offices.

13. Charging and collecting administrative fees to pay actual costs incurred by the Retirement System in administering and overseeing any retirement plan or service award fund other than the Virginia Retirement System (§ 51.1-124.1 et seq.), the State Police Officers' Retirement System (§ 51.1-200 et seq.), the Virginia Law Officers' Retirement System (§ 51.1-211 et seq.), or the Judicial Retirement System (§ 51.1-300 et seq.), for which it is responsible from the Commonwealth or participating political subdivisions whose employees benefit under such retirement plans. Any fee charged under the authority granted herein shall be for costs incurred directly related to the administration and oversight of the retirement plan or service award fund, as determined by the Board. Such fee shall be charged to the employer whose employees benefit under the retirement plan and to the service award fund in the case of costs incurred in administering and overseeing service award funds. Overpayments from benefits received under the Virginia Retirement System, the State Police Officers' Retirement System, the Virginia Law Officers' Retirement System, the Judicial Retirement System, the Virginia Sickness and Disability Program (§ 51.1-1100 et seq.), or Health Insurance Credits for Certain Retirees (§ 51.1-1400 et seq.), may be deducted from life insurance benefits payable under Chapter 5 (§ 51.1-500 et seq.) of this title.

14. The Board is authorized to charge and collect from participating employers any penalties, interest, compliance fees, or other charges charged to the Retirement System by the Internal Revenue

Service or other regulatory body.

B. The Board shall be vested with the powers and duties of the Board of Trustees of the abolished system to the extent necessary for the payment of vested rights and the return of accumulated contributions.

C. The Commonwealth, the Board, employees of the Retirement System, ~~and the Investment Advisory Committee of the Retirement System, and any other advisory committee established by the Board~~ shall not incur any liability for any losses suffered by the deferred compensation, ~~the cash match, and or~~ the defined contribution retirement plans established or administered under the authority of this title, *except as provided in § 51.1-124.30.*

§ 51.1-602. Deferred compensation plan for employees of the Commonwealth; administered by the Board.

A. The Board shall establish and administer a deferred compensation plan for employees of the Commonwealth and its agencies. The Virginia Retirement System Director shall be the chief administrative officer of the plan. The Board may contract with private corporations or institutions subject to the standards set forth in § 51.1-124.30 to provide investment products as well as any other goods and services related to the administration of the deferred compensation plan. The Virginia Retirement System is hereby authorized to perform related services including, but not limited to, providing consolidated billing, individual and collective record keeping and accountings, and asset purchase, control, and safekeeping. In accordance with such plan, and upon contract or agreement with an eligible employee, deferrals of compensation may be accomplished by payroll deductions made by the appropriate officer of the Commonwealth, with such funds being thereafter held and administered in accordance with the plan. Administrative fees related to the VRS program oversight that otherwise would be charged to an employee participating in the plan shall be paid by the participating employer under procedures established by the Board. Any political subdivision participating in the plan pursuant to § 51.1-603.1 may collect the administrative fee imposed by the Virginia Retirement System from employees participating in the plan.

B. If it deems it advisable, the Board may create a trust or other special fund for the segregation of the funds or assets resulting from compensation deferred at the request of employees of the Commonwealth or its agencies and for the implementation of such program.

C. The Department of Accounts shall be responsible for the (i) accounting and reconciliations associated with state employees' contributions to the plan through payroll deductions and (ii) timely transfer of withheld funds to the private corporation or institution designated by the Board pursuant to subsection A. However, any state agency that has decentralized its payroll function and any political subdivision of the Commonwealth participating in the plan pursuant to § 51.1-603.1 shall be responsible for the (i) accounting and reconciliations associated with their employees' contributions to the plan through payroll deductions and (ii) timely transfer of withheld funds to the private corporation or institution designated by the Board pursuant to subsection A.

~~D. The Commonwealth, the Board of Trustees of the Virginia Retirement System, the employees of the System, and the Investment Advisory Committee of the System shall not incur any liability for any losses suffered by a deferred compensation plan established or administered under the authority of this chapter.~~

§ 51.1-608. Cash match plan for employees of the Commonwealth; administered by the Board.

A. The Board shall establish and administer a cash match plan for employees of the Commonwealth and its agencies. The Virginia Retirement System Director shall be the chief administrative officer of the plan. The Board may contract with private corporations or institutions subject to the standards set forth in § 51.1-124.30 to provide investment products as well as any other goods and services related to the administration of the deferred compensation plan. The Virginia Retirement System is hereby authorized to perform related services including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, and asset purchase, control, and safekeeping. Administrative fees related to the Virginia Retirement System Program oversight shall be paid by the participating employer under procedures established by the Board.

B. If it deems it advisable, the Board may create a trust or other special fund for the segregation of the funds or assets resulting from contributions made on behalf of qualified participants.

C. The Department of Accounts shall be responsible for the timely transfer of the matching contributions to the private corporation or institution designated by the Board pursuant to subsection A. However, any state agency that has decentralized its payroll function and any political subdivision of the Commonwealth participating in the plan pursuant to § 51.1-611 shall be responsible for the timely transfer of matching contributions to the private corporation or institution designated by the Board pursuant to subsection A.

~~D. The Commonwealth, the Board of Trustees of the Virginia Retirement System, the employees of the System, and the Investment Advisory Committee of the System shall not incur any liability for any losses suffered by a cash match plan established or administered under the authority of this chapter.~~

E. Alternatively, agencies of the Commonwealth that sponsor or maintain programs described in § 403 (b) of the Internal Revenue Code of 1986, as amended, may establish separate cash match plans

with the consent of the Board in lieu of participation in the plan established pursuant to this section.

§ 51.1-618. Defined contribution plan for eligible employees of local public school boards; administered by the Board.

A. The Board shall establish and administer a defined contribution plan for eligible employees. The Director of the Virginia Retirement System shall be the chief administrative officer of the plan. The Board may contract with private corporations or institutions subject to the standards set forth in § 51.1-124.30 to provide investment products as well as any other goods and services related to the administration of the plan. The Virginia Retirement System is hereby authorized to perform related services including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, and asset purchase, control, and safekeeping.

B. If it deems it advisable, the Board may create a trust or other special fund for the segregation of the funds or assets resulting from contributions made on behalf of qualified participants.

C. Participating employers shall be responsible for setting the contribution rate for their eligible employees and timely transferring contributions to the private corporation or institution designated by the Board pursuant to subsection A.

D. ~~The Commonwealth, the Board of Trustees of the Virginia Retirement System, the employees of the System, the Investment Advisory Committee of the System and the participating employer shall not incur any liability for any losses suffered by a plan established or administered under the authority of this chapter.~~