

# VIRGINIA ACTS OF ASSEMBLY -- 2008 SESSION

## CHAPTER 597

*An Act to amend the Code of Virginia by adding a section numbered 62.1-129.2, relating to the creation of a trust or equivalent arrangement to fund the cost of providing postemployment benefits for the employees of the Virginia Port Authority.*

[H 1211]

Approved March 12, 2008

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

**1. That the Code of Virginia is amended by adding a section numbered 62.1-129.2 as follows:**

**§ 62.1-129.2. Trust for postemployment benefits authorized; administration.**

A. The Authority is hereby authorized to establish and maintain a trust or equivalent arrangement for the purpose of accumulating and investing assets to fund postemployment benefits other than pensions, as defined herein. Such trust or equivalent arrangement shall be irrevocable; the assets of such trust or similar arrangement shall be dedicated to providing benefits to retirees and their beneficiaries in accordance with the terms of the plan or programs providing postemployment benefits other than pensions; and the assets of such trust or equivalent arrangement shall be exempt from taxation and execution, attachment, garnishment or any other process against the Authority or a retiree or beneficiary. The funds of the trust or similar arrangement shall be deemed separate, and independent trust funds shall be segregated from all other funds of the Authority, and shall be invested and administered solely in the interests of the active or former employees (and their dependents or beneficiaries) entitled to postemployment benefits other than pensions covered by the Fund.

B. The Authority may make appropriations to any such trust or equivalent arrangement, and the Authority may require active and former employees covered by a postemployment benefit program to contribute to the trust or equivalent arrangement through payments or deductions from their wages, salaries, or pensions.

C. Nothing in this section shall be construed to inhibit the Authority's right to revise or discontinue its plans or programs providing such postemployment benefits other than pensions for its active and former officers and employees as it may deem necessary. If all plans or programs providing such postemployment benefits other than pensions for which the trust or equivalent arrangement is established are repealed or terminated by the Authority, then there shall be no continuing responsibility for the Authority to continue to make appropriations to such trust or equivalent arrangement, and the assets of such trust or equivalent arrangement shall be used to provide any benefits continuing to be due to active or former employees (and their dependents or beneficiaries) under such plans or programs. If there are no active or former employees (or dependents or beneficiaries) due a benefit under any plan or program providing such postemployment benefits other than pensions for which the trust or equivalent arrangement was established, then any remaining assets may revert to the Authority.

D. Postemployment benefits other than pensions shall be defined by the Authority pursuant to applicable accounting standards and law. Such benefits may include, but are not limited to, medical, prescription drug, dental, vision, hearing, life or accident insurance (not provided through a pension plan), long-term care benefits, long-term disability benefits (not covered under a pension plan) provided to individuals who have terminated their service and to the dependents of such individuals, and may be provided by purchasing insurance, by a program of self-insurance, or by a combination of both. However, postemployment benefits other than pensions shall not include defined benefit pension plans for retirees and eligible dependents of retirees, termination benefits or other pension benefits. Such postemployment benefits other than pensions may be provided to the officers and employees or to their dependents, estates, or designated beneficiaries. Any benefits arising from any postemployment benefits other than pension programs shall be clearly defined and strictly construed.

E. Notwithstanding any other provision of law, the moneys and other property comprising the trust or equivalent arrangement established hereunder and the moneys or other properties comprising the retirement program established pursuant to § 51.1-126.4 shall be invested, reinvested and managed by the Authority or the trust company or bank having powers of a trust company within or without the Commonwealth who is selected by the Board to act as a trustee for the fund, with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with the same aims. Such investments shall be diversified so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so. Such investments shall not be limited by Chapter 45 (§ 2.2-4500 et seq.) of Title 2.2.