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**SENATE BILL NO. 338**

Offered January 9, 2008

Prefiled January 8, 2008

*A BILL to amend and reenact § 2.2-2901 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 15.2-1508.5 and 15.2-1605.01, relating to use of public funds; payment for membership to professional associations in certain instances prohibited.*

Patron—Cuccinelli

Referred to Committee on Local Government

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

**1. That § 2.2-2901 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-1508.5 and 15.2-1605.01 as follows:**

§ 2.2-2901. Appointments, promotions and tenure based upon merit and fitness.

A. In accordance with the provisions of this chapter all appointments and promotions to and tenure in positions in the service of the Commonwealth shall be based upon merit and fitness, to be ascertained, as far as possible, by the competitive rating of qualifications by the respective appointing authorities.

Persons holding positions in the service of the Commonwealth on July 1, 1952, shall be deemed to be holding their positions as though they had received appointment under the terms of this chapter.

B. Persons who leave the service of the Commonwealth for service in any of the armed forces of the United States shall be entitled to be restored to such positions upon the termination of their service with the armed forces, provided such persons, except for good cause shown, have filed an application for restoration to such positions within 90 calendar days following such termination of military service, accompanied by a certificate attesting that the military duty was satisfactorily performed. Such persons shall thereafter hold such positions as though they had received appointment under the terms of this chapter, except as to any such position which, in the meantime, may have been abolished. Any such former employee returning to, or applying for, employment in the state service, as provided by this section, shall be considered as having at least as favorable a status with reference to this chapter as he would have occupied if his service had been continuous.

C. No establishment of a position or rate of pay, and no change in rate of pay shall become effective except on order of the appointing authority and approval by the Governor. This subsection shall not apply to any position the compensation of which is at a rate of \$1,200 per annum or less.

D. In order to attract and retain professional auditors, accountants and staff members in the service of the Auditor of Public Accounts, the Joint Legislative Audit and Review Commission may establish scales of pay for such positions notwithstanding the provisions of this chapter. Such scales when established and certified to the Department of Human Resource Management and the Comptroller shall be applicable in the stead of the scales established under the personnel plan.

E. The Board of Visitors of public institutions of higher education shall establish policies for the designation of administrative and professional faculty positions at institutions of higher education. Those designations shall be reserved for positions that require a high level of administrative independence, responsibility, and oversight within the organization or specialized expertise within a given field as defined by the Board of Visitors. The authority under this subsection to establish policies for the designation of administrative and professional faculty positions shall be granted only to those institutions that meet the conditions prescribed in subsection B of § 23-38.88.

*F. Notwithstanding any provision to the contrary, no public funds shall be used to pay for the membership of any state employee in a professional association as a condition of employment unless membership in the professional association is required for the state employee to maintain a professional or occupational license, certification, or registration that is directly related to the performance of official duties.*

*§ 15.2-1508.5. Limitation on the use of public funds; professional association membership.*

*No public funds shall be used to pay for membership of any employee of any locality in a professional association as a condition of employment unless membership in the professional association is required for the employee to maintain a professional or occupational license, certification, or registration that is directly related to the performance of official duties.*

*§ 15.2-1605.01. Limitation on the use of public funds; professional association membership.*

*Notwithstanding any provision to the contrary, no state funds shall be expended for the membership of any deputy or employee in a professional association as a condition of employment unless*

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**59** *membership in the professional association is required for the deputy or employee to maintain a*  
**60** *professional or occupational license, certification, or registration that is directly related to the*  
**61** *performance of official duties.*