

# VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

## CHAPTER 48

*An Act to amend and reenact § 2.1-116 as it is currently effective and as it may become effective and § 58.1-4024 of the Code of Virginia, relating to exemption from the Virginia Personnel Act.*

[H 306]

Approved March 7, 1994

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

**1. That § 2.1-116 as it is currently effective and as it may become effective and § 58.1-4024 of the Code of Virginia are amended and reenacted as follows:**

- § 2.1-116. Certain officers and employees exempt from chapter.
- A. The provisions of this chapter shall not apply to:
1. Officers and employees for whom the Constitution specifically directs the manner of selection;
  2. Officers and employees of the Supreme Court and the Court of Appeals;
  3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
  4. Officers elected by popular vote or by the General Assembly or either house thereof;
  5. Members of boards and commissions however selected;
  6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
  7. Officers and employees of the General Assembly and persons employed to conduct temporary or special inquiries, investigations, or examinations on its behalf;
  8. The presidents, and teaching and research staffs of state educational institutions;
  9. Commissioned officers and enlisted personnel of the national guard and the naval militia;
  10. Student employees in institutions of learning, and patient or inmate help in other state institutions;
  11. Upon general or special authorization of the Governor, laborers, temporary employees and employees compensated on an hourly or daily basis;
  12. County, city, town and district officers, deputies, assistants and employees;
  13. The employees of the Virginia Workers' Compensation Commission;
  14. The following officers and employees of the Virginia Retirement System: retirement system chief investment officer, retirement system investment officer, retirement system assistant investment officer and investment financial analyst;
  15. Employees whose positions are identified by the State Council of Higher Education and the boards of the Virginia Museum of Fine Arts, the Science Museum of Virginia, the Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History and the Virginia State Library and Archives, and approved by the Director of the Department of Personnel and Training as requiring specialized and professional training;
  16. The following officers and employees of executive branch agencies: those who report directly to the agency head; additionally, those at the level immediately below those who report directly to the agency head and are at a salary grade of sixteen or higher. However, in agencies with fewer than fifty employees, only the immediate advisor or advisors or deputy or deputies of the agency head shall be exempt. In implementing this exemption, personnel actions shall be taken without regard to race, sex, color, national origin, religion, age, handicap or political affiliation. Recruitment and selection of individuals covered by this exemption shall be handled in a manner consistent with policies applicable to classified positions. Notwithstanding the above, all superintendents and wardens in the Department of Corrections shall be exempt from this chapter. Additionally, all persons responsible for the internal audit and personnel and employee relations functions for each agency shall be included in this chapter. Each Governor's Secretary shall have a final authority in determining on an ongoing basis the officers and employees exempted by this subdivision and pursuant to its provisions. Such officers or employees shall thereafter serve at the pleasure and will of their appointing authority. The Department of Personnel and Training shall advise and assist each Governor's Secretary in making these determinations and shall be responsible for maintaining an ongoing and up-to-date list of the affected positions;
  17. ~~The sales and marketing~~ Employees of the State Lottery Department;
  18. Production workers for the Virginia Industries for the Blind Sheltered Workshop programs; and
  19. Employees of the Medical College of Virginia Hospitals and the University of Virginia Medical Center who are determined by the Department of Personnel and Training to be health care providers; however, any changes in compensation plans for such employees shall be subject to the review and approval of the Secretary of Education. Such employees shall remain subject to the provisions of § 2.1-114.5:1.

B. The dismissal of any employee referred to in subdivision A 16 of this section pursuant to this chapter shall not affect the retirement benefits, and annual and sick leave benefits accrued to such employee at the time of his dismissal, nor shall any such employee be subject to any diminution of any other employee benefits by virtue of the provisions of this chapter.

§ 2.1-116. (Delayed effective date) Certain officers and employees exempt from chapter.

The provisions of this chapter shall not apply to:

1. Officers and employees for whom the Constitution specifically directs the manner of selection;
2. Officers and employees of the Supreme Court and the Court of Appeals;
3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
4. Officers elected by popular vote or by the General Assembly or either house thereof;
5. Members of boards and commissions however selected;
6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
7. Officers and employees of the General Assembly and persons employed to conduct temporary or special inquiries, investigations, or examinations on its behalf;
8. The presidents, and teaching and research staffs of state educational institutions;
9. Commissioned officers and enlisted personnel of the national guard and the naval militia;
10. Student employees in institutions of learning, and patient or inmate help in other state institutions;
11. Upon general or special authorization of the Governor, laborers, temporary employees and employees compensated on an hourly or daily basis;
12. County, city, town and district officers, deputies, assistants and employees;
13. The employees of the Virginia Workers' Compensation Commission;
14. The following officers and employees of the Virginia Retirement System: retirement system chief investment officer, retirement system investment officer, retirement system assistant investment officer and investment financial analyst;
15. Employees whose positions are identified by the State Council of Higher Education and the boards of the Virginia Museum of Fine Arts, the Science Museum of Virginia, the Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History and the Virginia State Library and Archives, and approved by the Director of the Department of Personnel and Training as requiring specialized and professional training;
16. ~~The sales and marketing~~ Employees of the State Lottery Department; and
17. Production workers for the Virginia Industries for the Blind Sheltered Workshop programs.

§ 58.1-4024. Employees of the Department.

Employees ~~hired by~~ *of* the Department ~~who perform sales and marketing responsibilities~~ shall be exempt from the provisions of the Virginia Personnel Act, Chapter 10 (§ 2.1-110 et seq.) of Title 2.1. Personnel actions ~~under this exemption~~ shall be taken without regard to race, sex, color, national origin, religion, age, handicap or political affiliation. ~~Recruitment and selection of individuals covered by this exemption shall be handled in a manner consistent with policies applicable to classified positions.~~