

VIRGINIA ACTS OF ASSEMBLY -- 1994 SESSION

CHAPTER 883

An Act to amend and reenact §§ 51.1-124.4, 51.1-132, and 51.1-510 of the Code of Virginia, relating to the assignment of group life insurance benefits provided by the Virginia Retirement System and the membership of constitutional officers in the Virginia Retirement System.

[H 310]

Approved April 20, 1994

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-124.4, 51.1-132, and 51.1-510 of the Code of Virginia are amended and reenacted as follows:

§ 51.1-124.4. Exemption of assets from taxation; exemption of benefits and assets from execution and assignment; trust funds; unclaimed property.

A. The assets of the retirement systems created under this title are hereby exempted from any state, county, or municipal tax. Retirement allowances and other benefits accrued or accruing to any person under this title and the assets of the retirement systems created under this title shall not be subject to execution, attachment, garnishment, or any other process whatsoever, except any process for a debt to any employer who has employed such person, and except for administrative actions pursuant to Chapter 13 (§ 63.1-249 et seq.) of Title 63.1 or any court process to enforce a child or child and spousal support obligation, nor shall any assignment thereof, *other than a voluntary, irrevocable assignment of group life insurance pursuant to § 51.1-510*, be enforceable in any court. However, retirement benefits and assets created under this title which are deemed to be marital property pursuant to Chapter 6 (§ 20-89.1 et seq.) of Title 20 may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to § 20-107.3. The assets of the retirement systems administered by the Board are trust funds and shall be used solely for the benefit of members and beneficiaries and to administer the retirement systems. The Board shall establish procedures whereby persons entitled to property held by the Board, which would be presumed abandoned under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.), may recover it.

B. Notwithstanding the provisions of subsection A, any employee who elects to participate in a retirement plan as provided in § 51.1-126 or § 51.1-126.1 may direct the Retirement System to transfer the member's accumulated contributions to that plan. Any employee who terminates employment may direct the Retirement System to transfer the member's accumulated contributions to any qualified pension or other qualified retirement plan or to an individual retirement account. The Retirement System shall transfer the member's accumulated contributions to the qualified pension or other qualified retirement plan or individual retirement account as directed.

§ 51.1-132. Eligible employees.

Officers and employees of the political subdivision who are regularly employed full time on a salaried basis and whose tenure is not restricted as to temporary or provisional appointment may become members of the retirement system. Clerks of the circuit court and deputies shall be included in the coverage group. Officers and employees of an organization other than a public school board that functions solely within the boundaries of a county, city, or town shall be deemed to be officers and employees of the county, city, or town, and not of the organization, unless the cost of the organization's operation is borne by (i) the users of services, (ii) more than one county, city, or town, or (iii) any entity other than a county, city, or town.

A member of a local system who, through election to a position as a constitutional officer, is no longer eligible for membership in the local system, and who, prior to such election, has accumulated within that system more than half the total service credits necessary to become eligible for full normal retirement benefits, may choose, with the concurrence of the local governing body, (i) not to participate in the retirement system established pursuant to this chapter and (ii) to become a member of the local system. In such case, the member shall be deemed, for retirement purposes only, to have ceased employment, and shall be permitted to withdraw his contribution as provided in § 51.1-161.

§ 51.1-510. Insurance exempt from process.

The insurance provided for in this chapter, including any optional insurance, and all proceeds therefrom shall be exempt from levy, garnishment, and other legal process. *However, the insured may make a voluntary, irrevocable assignment of his group life insurance and any individual conversion policy that may be issued upon termination of his group life insurance by executing an assignment on a form prepared by the Board of Trustees of the Virginia Retirement System.*