

# VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

## CHAPTER 794

*An Act to amend and reenact § 2.1-526.8 of the Code of Virginia, relating to coverage by Risk Management.*

[S 781]

Approved April 6, 1995

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

**1. That § 2.1-526.8 of the Code of Virginia is amended and reenacted as follows:**

§ 2.1-526.8. Insurance plan for public liability.

A. Subject to the approval of the Governor, the Department of General Services through its Division of Risk Management shall establish an insurance plan, which may be purchased insurance, self-insurance or a combination of self-insurance and purchased insurance:

1. To provide protection against liability imposed by law for damages resulting from:

a. Any claim made against any department, agency, institution, board, commission, officer, agent, or employee thereof for acts or omissions of any nature while acting in an authorized governmental or proprietary capacity and in the course and scope of employment or authorization;

b. Any claim made against participants, other than professional counsel, in student disciplinary proceedings at state institutions of higher education for nonmalicious acts or omissions of any nature in the course and scope of participation in such proceedings; or

c. Any claim resulting from an authorized indemnification agreement entered into by a state institution of higher education, which agreements the institutions are hereby authorized to execute if the Governor considers in advance of execution (i) the institution's analysis of the relevant public benefit and risk of liability, (ii) the Division of Risk Management's charge to be assessed the institution for providing insurance or self-insurance coverage for the claims resulting from the indemnification agreement and (iii) the Office of the Attorney General's comments, and the Governor determines that execution is necessary to further the public's best interests, provided the indemnification agreement limits the institution's total liability thereunder to a stated dollar amount and the agreement notifies the contractor that the full faith and credit of the Commonwealth are not pledged or committed to payment of the institution's obligation under the agreement;

2. To further provide protection against tort liability and incidental medical payments arising out of the ownership, maintenance or use of buildings, grounds or properties owned or leased by the Commonwealth or used by state employees or other authorized persons in the course of their employment; and

3. If the Division of Risk Management is informed by the Attorney General's Office that it will not provide a defense due to a conflict or other appropriate reason, to provide for payment of attorneys' fees and expenses incurred in defending such persons and entities concerning any claim which arises from their governmental employment or authorization, which arises from their participation in such student disciplinary proceedings, or which is described in any such indemnification agreement.

B. Any insurance plan established pursuant to this section shall provide for the establishment of a trust fund or contribution to the State Insurance Reserve Trust Fund for the payment of claims covered under such plan. The funds shall be invested as provided in § 2.1-185 and interest shall be added to the fund as earned. The trust fund shall also provide for payment of administrative costs, contractual costs, and other expenses related to the administration of such plan.

C. The insurance plan for public liability shall be submitted to the Governor for approval prior to implementation.

D. The insurance plan established pursuant to this section shall provide protection against professional liability imposed by law for damages resulting from any claim made against a local electoral board, electoral board member or general registrar for acts or omissions of any nature while acting in an authorized governmental or proprietary capacity and in the course and scope of employment or authorization, subject to the limitations of the insurance plan.

E. The insurance plan established pursuant to this section shall provide protection against any claim made against any soil and water conservation district, director, officer, agent or employee thereof, (i) arising out of the ownership, maintenance or use of buildings, grounds or properties owned, leased or maintained by any such district or used by district employees or other authorized persons in the course of their employment, or (ii) arising out of acts or omissions of any nature while acting in an authorized governmental or proprietary capacity and in the course and scope of employment or authorization.

F. The insurance plan established pursuant to this section shall provide protection against professional liability imposed by law for damages resulting from any claim made against a local school board selection commission or local school board selection commission members for acts or omissions of any

nature while acting in an authorized governmental or proprietary capacity and in the course and scope of authorization, subject to the limitations of the insurance plan.

*G. The insurance plan established pursuant to this section shall provide coverage for any matter that involves or could involve an action or proceeding against a judge occurring on or after September 8, 1993, the nature of which is designed to determine whether discipline or other sanction of the judge for malfeasance or misfeasance is appropriate or to otherwise determine the fitness of such judge to hold office or to continue his employment. No coverage nor indemnification shall be made pursuant to this subsection when the Supreme Court of Virginia finds that the judge should be censured or removed from office pursuant to Section 10 of Article VI of the Constitution of Virginia or statutes enacted pursuant thereto.*