

VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

CHAPTER 664

An Act to amend and reenact §§ 2.1-1.6 and 9-6.25:2 of the Code of Virginia and to amend the Code of Virginia by adding in Title 51.1 a chapter numbered 12, consisting of sections numbered 51.1-1200 through 51.1-1211, relating to the creation of the Virginia Volunteer Firefighters' and Rescue Squad Workers' Pension Fund; penalty.

[H 2023]

Approved March 28, 1999

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-1.6 and 9-6.25:2 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 51.1 a chapter numbered 12, consisting of sections numbered 51.1-1200 through 51.1-1211, as follows:

§ 2.1-1.6. State boards.

A. There shall be, in addition to such others as may be established by law, the following permanent collegial bodies affiliated with a state agency within the executive branch:

Accountancy, Board for
Aging, Advisory Board on the
Agriculture and Consumer Services, Board of
Air Pollution, State Advisory Board on
Alcoholic Beverage Control Board, Virginia
Apple Board, Virginia State
Appomattox State Scenic River Advisory Board
Aquaculture Advisory Board
Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects, Board for
Art and Architectural Review Board
Athletic Board, Virginia
Auctioneers Board
Audiology and Speech-Language Pathology, Board of
Aviation Board, Virginia
Barbers, Board for
Branch Pilots, Board for
Bright Flue-Cured Tobacco Board, Virginia
Building Code Technical Review Board, State
Catocin Creek State Scenic River Advisory Board
Cattle Industry Board, Virginia
Cave Board
Cemetery Board
Certified Seed Board, State
Charity Food Assistance Advisory Board
Chesapeake Bay Local Assistance Board
Chickahominy State Scenic River Advisory Board
Child Abuse and Neglect, Advisory Board on
Chippokes Plantation Farm Foundation, Board of Trustees
Clinch Scenic River Advisory Board
Coal Mining Examiners, Board of
Coal Research and Development Advisory Board, Virginia
Coal Surface Mining Reclamation Fund Advisory Board
Conservation and Development of Public Beaches, Board on
Conservation and Recreation, Board of
Contractors, Board for
Corn Board, Virginia
Correctional Education, Board of
Corrections, State Board of
Cosmetology, Board for
Criminal Justice Services Board
Dark-Fired Tobacco Board, Virginia
Deaf and Hard-of-Hearing, Advisory Board for the Department for the
Dentistry, Board of

Design-Build/Construction Management Review Board
 Education, State Board of
 Egg Board, Virginia
 Emergency Medical Services Advisory Board, State
 Farmers Market Board, Virginia
 Fire Services Board, Virginia
 Forestry, Board of
 Funeral Directors and Embalmers, Board of
 Game and Inland Fisheries, Board of
 Geology, Board for
 Goose Creek Scenic River Advisory Board
 Health Planning Board, Virginia
 Health Professions, Board of
 Health, State Board of
 Hearing Aid Specialists, Board for
 Hemophilia Advisory Board
 Historic Resources, Board of
 Housing and Community Development, Board of
 Irish Potato Board, Virginia
 Juvenile Justice, State Board of
 Litter Control and Recycling Fund Advisory Board
 Marine Products Board, Virginia
 Medical Advisory Board, Department of Motor Vehicles
 Medicare and Medicaid, Advisory Board on
 Medicine, Board of
 Mental Health, Mental Retardation and Substance Abuse Services Board, State
 Migrant and Seasonal Farmworkers Board
 Military Affairs, Board of
 Mineral Mining Examiners, Board of
 Minority Business Enterprise, Interdepartmental Board of the Department of
 Networking Users Advisory Board, State
 Neurotrauma Initiative Advisory Board, Commonwealth
 North Meherrin State Scenic River Advisory Board
 Nottoway State Scenic River Advisory Board
 Nursing, Board of
 Nursing Home Administrators, Board of
 Occupational Therapy, Advisory Board on
 Oil and Gas Conservation Board, Virginia
 Opticians, Board for
 Optometry, Board of
 Peanut Board, Virginia
 Personnel Advisory Board
 Pesticide Control Board
 Pharmacy, Board of
 Physical Therapy to the Board of Medicine, Advisory Board on
 Plant Pollination Advisory Board
 Polygraph Examiners Advisory Board
 Pork Industry Board, Virginia
 Poultry Products Board, Virginia
 Private College Advisory Board
 Private Security Services Advisory Board
 Professional and Occupational Regulation, Board for
 Professional Counselors, Board of
 Professional Soil Scientists, Board for
 Psychiatric Advisory Board
 Psychology, Board of
 Public Broadcasting Board, Virginia
 Public Buildings Board, Virginia
 Public Guardian and Conservator Advisory Board
 Radiation Advisory Board
 Real Estate Appraiser Board
 Real Estate Board
 Reciprocity Board, Department of Motor Vehicles
 Recreation Specialists, Board of

Recreational Fishing Advisory Board, Virginia
 Reforestation Board
 Rehabilitation Providers, Advisory Board on
 Rehabilitative Services, Board of
 Respiratory Therapy, Advisory Board on
 Rockfish State Scenic River Advisory Board
 Safety and Health Codes Board
 Seed Potato Board
 Sewage Handling and Disposal Appeal Review Board, State Health Department
 Shenandoah State Scenic River Advisory Board
 Small Business Advisory Board
 Small Business Environmental Compliance Advisory Board
 Small Grains Board, Virginia
 Social Services, Board of
 Social Work, Board of
 Soil and Water Conservation Board, Virginia
 Soybean Board, Virginia
 State Air Pollution Control Board
 Substance Abuse Certification Board
 Surface Mining Review, Board of
 Sweet Potato Board, Virginia
 T & M Vehicle Dealers' Advisory Board
 Teacher Education and Licensure, Advisory Board on
 Transportation Board, Commonwealth
 Transportation Safety, Board of
 Treasury Board, The, Department of the Treasury
 Veterans' Affairs, Board on
 Veterinary Medicine, Board of
 Virginia Board for Asbestos and Lead
 Virginia Coal Mine Safety Board
 Virginia Correctional Enterprises Advisory Board
 Virginia Cotton Board
 Virginia Employment Commission, State Advisory Board for the
 Virginia Geographic Information Network Advisory Board
 Virginia Horse Industry Board
 Virginia Manufactured Housing Board
 Virginia Retirement System, Board of Trustees
 Virginia Schools for the Deaf and the Blind, Advisory Commission on the
 Virginia Sheep Industry Board
 Virginia Veterans Cemetery Board
 Virginia Waste Management Board
 Visually Handicapped, Virginia Board for the
 Voluntary Formulary Board, Virginia
Volunteer Firefighters' and Rescue Squad Workers' Pension Fund Board
 War Memorial Foundation, Virginia, Board of Trustees
 Waste Management Facility Operators, Board for
 Water Resources Research Center Statewide Advisory Board, Virginia
 Waterworks and Wastewater Works Operators, Board for
 Well Review Board, Virginia.

B. Notwithstanding the definition for "board" as provided in § 2.1-1.2, the following entities shall be referred to as boards:

Compensation Board
 State Board of Elections
 State Water Control Board
 Virginia Parole Board
 Virginia Veterans Care Center Board of Trustees.
 § 9-6.25:2. Policy boards, commissions and councils.

There shall be, in addition to such others as may be designated in accordance with § 9-6.25, the following policy boards, commissions and councils:

Apprenticeship Council
 Athletic Board
 Auctioneers Board
 Blue Ridge Regional Education and Training Council
 Board for Accountancy

Board for Architects, Professional Engineers, Land Surveyors, Certified Interior Designers and Landscape Architects
Board for Barbers
Board for Contractors
Board for Cosmetology
Board for Geology
Board for Hearing Aid Specialists
Board for Opticians
Board for Professional and Occupational Regulation
Board for Professional Soil Scientists
Board for Waterworks and Wastewater Works Operators
Board of Agriculture and Consumer Services
Board of Audiology and Speech-Language Pathology
Board of Coal Mining Examiners
Board of Conservation and Recreation
Board of Correctional Education
Board of Dentistry
Board of Directors, Virginia Student Assistance Authorities
Board of Funeral Directors and Embalmers
Board of Health Professions
Board of Historic Resources
Board of Housing and Community Development
Board of Licensed Professional Counselors, Marriage and Family Therapists and Substance Abuse Treatment Professionals
Board of Medical Assistance Services
Board of Medicine
Board of Mineral Mining Examiners
Board of Nursing
Board of Nursing Home Administrators
Board of Optometry
Board of Pharmacy
Board of Psychology
Board of Recreation Specialists
Board of Social Services
Board of Social Work
Board of Surface Mining Review
Board of Veterinary Medicine
Board on Conservation and Development of Public Beaches
Cemetery Board
Chesapeake Bay Local Assistance Board
Child Day-Care Council
Commission on Local Government
Commonwealth Transportation Board
Council on Human Rights
Council on Information Management
Criminal Justice Services Board
Design-Build/Construction Management Review Board
Disability Services Council
Farmers Market Board, Virginia
Interdepartmental Council on Rate-setting for Children's Facilities
Library Board, The Library of Virginia
Marine Resources Commission
Milk Commission
Pesticide Control Board
Real Estate Appraiser Board
Real Estate Board
Reciprocity Board, Department of Motor Vehicles
Safety and Health Codes Board
Seed Potato Board
Specialized Transportation Council
State Air Pollution Control Board
State Board of Corrections
State Board of Elections
State Board of Health

State Board of Juvenile Justice
 State Health Department, Sewage Handling and Disposal Appeal Review Board
 State Library Board
 State Mental Health, Mental Retardation and Substance Abuse Services Board
 State Water Control Board
 Substance Abuse Certification Board
 Treasury Board, The, Department of the Treasury
 Virginia Aviation Board
 Virginia Board for Asbestos and Lead
 Virginia Fire Services Board
 Virginia Gas and Oil Board
 Virginia Health Planning Board
 Virginia Manufactured Housing Board
 Virginia Parole Board
 Virginia Public Broadcasting Board
 Virginia Soil and Water Conservation Board
 Virginia Voluntary Formulary Board
 Virginia Waste Management Board
Volunteer Firefighters' and Rescue Squad Workers' Pension Fund Board
 Waste Management Facility Operators, Board for.

CHAPTER 12.

VOLUNTEER FIREFIGHTERS' AND RESCUE SQUAD WORKERS' PENSION FUND.

§ 51.1-1200. Fund established; administration and management; Volunteer Firefighters' and Rescue Squad Workers' Pension Fund Board.

There is hereby created a fund to be known and designated as the "Volunteer Firefighters' and Rescue Squad Workers' Pension Fund" (the Fund). The Fund is established to provide pension allowances to eligible volunteer firefighters and rescue squad workers who elect to become members of the Fund. The Volunteer Firefighters' and Rescue Squad Workers' Pension Fund Board (the Board) shall utilize the assistance of the Virginia Retirement System in establishing, investing, and maintaining the Fund. The Board of Trustees of the Virginia Retirement System shall administer and manage the investment of the Fund as custodian and provide staff to further carry out the provisions of this chapter. The Virginia Retirement System shall invest the Funds in accordance with Article 3.1 (§ 51.1-124.30 et seq.) of Chapter 1 of this title. The Fund shall annually reimburse the Virginia Retirement System for all costs incurred and associated, directly and indirectly, with the administration of this chapter and management and investment of the Fund.

§ 51.1-1201. Volunteer Firefighters' and Rescue Squad Workers' Pension Fund Board.

A. The Volunteer Firefighters' and Rescue Squad Workers' Pension Fund Board is hereby created and is to be composed of seven members. The Director of the Virginia Retirement System shall be a member and act as chairman and the remaining six members shall be appointed by the Governor. The Governor shall appoint three members of the Board from a list provided by the Fire Services Board and three members from a list provided by the State Emergency Medical Services Advisory Board. Such appointees shall be confirmed by the General Assembly. Two of the appointed members shall serve for initial terms of six years, two for initial terms of four years, and two for initial terms of two years; thereafter, the terms shall be six years. No Board member other than the chairman shall serve more than two full consecutive terms.

B. The Director of the Virginia Retirement System with the consent of the Board shall immediately declare the office of any member of the Board vacant when he finds that the member is unable to perform the duties of his office or for any reason does not meet the qualifications of this section. The Governor shall appoint a new member, subject to confirmation by the General Assembly, to serve for a full or unexpired term whenever the office of a member becomes or is declared vacant. In any case where a new appointment is made, the person receiving the appointment shall be a (i) volunteer firefighter representative if his predecessor was a volunteer firefighter representative or (ii) volunteer rescue squad representative if his predecessor was a volunteer rescue squad representative.

C. The members of the Board shall serve without compensation; however, the nongovernmental members may be reimbursed for their reasonable expenses incurred in attending meetings of the Board or in acting in an official capacity for the Board.

D. The first Board appointed shall meet as soon as practicable for the purpose of organizing and electing officers. Officers other than the chairman shall be elected for one-year terms. The Board shall adopt a general statement of policy and procedures. The Board shall meet at least quarterly and at such special meetings as the chairman may call. The chairman may call a special meeting at any time and shall call a special meeting when requested by three or more members of the Board. No meeting shall be deemed a regular or special meeting unless a quorum is present.

E. Members of the Board shall be subject to removal from office only as set forth in Article 7 (§ 24.2-230 et seq.) of Chapter 2 of Title 24.2. The Circuit Court of the City of Richmond shall have

exclusive jurisdiction over such removal proceedings.

§ 51.1-1202. Powers and duties of the Board.

The Board shall promulgate such rules and policies as are necessary to carry out its responsibilities as required by this chapter. The Board may contract the administrative services related to the benefits provided for herein and designate authority for the administration of those benefits based on the standards set forth in § 51.1-124.30. The Board or its designee shall (i) request such general fund appropriations as necessary to maintain the Fund, (ii) make determinations of eligibility for membership in the Fund, (iii) approve applications for benefits paid from the Fund, and (iv) exercise all other powers necessary for the administration of this chapter and management of the Fund. Member contributions to the Fund shall be segregated into separate member accounts and be used only to pay benefits to its members. The Board shall adopt rules and policies that bring the Fund into compliance with any applicable law or regulation of this Commonwealth or the United States.

§ 51.1-1203. Definitions.

"Eligible volunteer" means any volunteer rescue squad member or volunteer firefighter who is a member of a bona fide volunteer rescue or emergency medical squad or fire department and who is otherwise eligible pursuant to the criteria established by the Board.

"Member" means an eligible volunteer.

§ 51.1-1204. Application for membership in Fund; quarterly payments by members; matching payments from the general fund; payments credited to separate accounts of members.

Eligible volunteers, and all persons who subsequently become eligible volunteers, may apply to the Board for membership in the Fund. Upon becoming a member of the Fund, each eligible volunteer shall pay thirty dollars per quarter into the Fund. Each quarterly payment made by a member shall be supplemented by such contribution from the general fund of the state treasury for a period not to exceed twenty years as shall be determined by the Board and as may be appropriated by the general appropriations act. The quarterly payments shall be credited to the separate accounts of the members, and the matching contributions shall be credited to the Fund. The member contribution or any additional contribution to the Fund may be made by the individual fire department or rescue squad, local government or any other source provided it is paid for all eligible members. Such accounts shall be kept so that they are available for payment on withdrawal from membership or retirement. No eligible volunteer shall maintain more than one membership in the Fund. In the event an eligible volunteer is in more than one eligible position, he must choose the position upon which his membership will be determined.

§ 51.1-1205. Equivalent benefit.

Any member who has attained the age of sixty and who has served twenty years as an eligible volunteer shall be entitled to a distribution from the Fund equivalent to the contributions that he has made, the appropriate matching contributions made on his behalf, and the earnings on such contributions. The Board may provide alternative methods of distribution in lieu of a lump sum distribution to members entitled to a benefit under this section.

The distributions provided shall be in addition to all other pensions or benefits under any other statutes of the Commonwealth or the United States.

§ 51.1-1206. Other distributions.

The Board shall direct payment in lump sums from the Fund:

1. To any eligible volunteer firefighter or eligible volunteer rescue squad worker upon attaining age sixty who, for any reason, is not qualified to receive the monthly retirement pension and who was enrolled as a member of the Fund, an amount equal to the amount paid into the Fund by him plus accrued interest thereon. This provision shall not be construed to preclude any eligible volunteer firefighter or eligible volunteer rescue squad worker from completing the requisite number of years of active service, after attaining the age of sixty, necessary to entitle him to the distribution provided for in § 51.1-1205.

2. If an eligible volunteer firefighter or eligible volunteer rescue squad worker dies before attaining the age at which a pension is payable to him under the provisions of this chapter, to his spouse; if there is no spouse, to his children; if there are no children, then to his heirs-at-law as may be determined by the Board; or to his estate, if it is administered and there are no heirs, an amount equal to the amount paid into the Fund by the volunteer and the accrued interest on that amount.

3. To any firefighter or rescue squad worker withdrawing from the Fund, upon proper application, all moneys he contributed to the Fund without accumulated earnings on the payments after the time they were made, less an administrative fee equal to the lesser of the amount the individual contributed to the Fund or twenty-five dollars.

§ 51.1-1207. Determination of prior creditable service; information furnished by applicants for membership.

Any member with eligible service prior to the effective date of this provision may purchase up to five years of such service upon certification of his fire department or rescue squad. Such purchase shall be prorated at the rate of one month for every two months of eligible service. The cost of such service shall be ten dollars per month for every month purchased. All eligible service must be purchased within

180 days of the effective date of this provision. Notwithstanding any other provisions of this chapter, the Board may grant qualified prior service credits to an eligible volunteer firefighter or eligible rescue squad worker, under such terms and conditions that the Board may adopt, if the Board determines that such volunteer has been denied such prior service credit through no fault of his own.

§ 51.1-1208. Length of service not affected by serving in more than one department or squad; transfer from one department or squad to another.

An eligible volunteer firefighter's or eligible volunteer rescue squad worker's length of service shall not be affected by the fact that he may have served with more than one department or squad, and upon transfer from one department or squad to another, notice of the fact shall be given to the Board.

§ 51.1-1209. Effect of member not maintaining eligibility and being six months delinquent in making monthly payments.

A. Any member who does not maintain his eligibility as a member and who becomes six months delinquent in making the required quarterly payments by the date as determined by the Board, shall forfeit his membership in the Fund. Upon forfeiting his membership and becoming delinquent, such membership shall be reinstated only upon written request to the Board, and such reinstatement shall be at the sole discretion of the Board.

B. Any member who ceases to maintain his eligibility while in good standing, but notifies the Board of his intention to resume eligibility shall be reinstated upon written request to the Board.

§ 51.1-1210. Administrative fee for rejoining the Fund.

Any individual who had been a member of the Fund and who applies to rejoin the Fund shall not be entitled to membership until he has paid an administrative fee of twenty-five dollars. The fee shall be in addition to any other charges or payments required by the Board to rejoin the Fund based upon the Fund's loss of earnings resulting from the member's withdrawal. The Board shall elect to waive the twenty-five-dollar fee for members reinstated pursuant to subdivision B in § 51.1-1209.

§ 51.1-1211. Falsification of records; penalty.

Any person who knowingly makes any false statement or falsifies or permits the falsification of any record related to eligibility for membership in the Fund in any attempt to defraud the Fund shall be guilty of a Class 1 misdemeanor.

2. That the provisions of this act shall be effective on the last to occur of (i) July 1, 2000, or (ii) the first day of the third month following the date that the Virginia Retirement System obtains a ruling of the Internal Revenue Service that affirmatively states that the defined contribution plan established by this act shall be treated as a qualified plan for federal income tax purposes.