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HOUSE BILL NO. 1313

Offered January 11, 2006

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A BILL to amend and reenact Chapter 678 of the Acts of Assembly of 1994, relating to provisions of that Act concerning the retirement of employees transferred from state to local employment.

Patrons—Amundson, Callahan, Caputo, Hull and Sickles; Senator: Ticer

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:**1. That Chapter 678 of the Acts of Assembly of 1994 is amended and reenacted as follows:**

§ 1. Option of certain counties to operate local health department under contract with the State Board of Health. — Notwithstanding any other provision of law to the contrary, the governing body of any county having the urban county executive form of government may enter into a contract with the State Board of Health to provide local health services in that county. The governing body may provide such health services either through a separate local department or through another organizational arrangement as authorized by ~~§ 15.1-765~~ § 15.2-823. The governing body shall not eliminate any service required by law or reduce the level of service below that required by law. In addition, the local governing body shall not eliminate or reduce the level of any service currently delivered in connection with the Virginia Medicaid program.

Any contract executed between the county and the Board shall set forth the rights and responsibilities of the local governing body for the delivery of health services and shall require that the governing body, with the concurrence of the State Health Commissioner, appoint the local health director of health service in accordance with local procedures, who shall be employed full time as an employee of the governing body and shall be responsible for directing all state mandated public health programs. All employees of the local health department operated by the governing body of the county shall be employees of the governing body.

The local governing body shall operate the local health department, pursuant to the terms of the contract, within local appropriations and any state funds which may be made available to it, pursuant to the appropriations act. State funds for the operation of health services and facilities shall continue to be allocated to any county which has elected to provide health services by contract pursuant to this section as if such services were provided in a county without such a contract.

The local governing body shall maintain and submit such financial and statistical records as may be required by the State Board of Health.

The county shall be the sole owner of all equipment and supplies, including all equipment and supplies used by the local health department at the time of execution of the contract, which were or are purchased for providing public health services regardless of the source of the funds for such purchases.

Notwithstanding any other provision of law to the contrary, any person who is transferred from state to local employment in accordance with a contract authorized by this section, and who is a member of the Virginia Retirement System at the time of the transfer, shall continue to be a member of the Virginia Retirement System during the period of local employment. Any such transferred employee shall remain a member of the Virginia Retirement System under the same terms and conditions as would apply if the transferred employee had remained a state employee, so long as the employee is employed with a local health department or returns to state employment. For purposes of any employment of the transferred employee as a state employee after local employment, the membership in the Virginia Retirement System during local employment shall be treated the same as any other membership in the Virginia Retirement System.

For any employee who is transferred to local employment in accordance with a contract authorized by this section, that employee's membership in the Virginia Retirement System during local employment shall be treated the same as any other membership in the Virginia Retirement System. The local governing body shall collect and pay all employee and employer contributions to the Virginia Retirement System for retirement and group life insurance in accordance with the provisions of Chapter 1 of Title 51.1 of the Code of Virginia, as amended.

Any city that is receiving local health services from a county that contracts with the Commonwealth to provide local health services pursuant to this section may continue to receive local health services from that county. State funds for the operation of health services and facilities to any such city shall continue to be allocated as if such services were provided in a county without such a contract. Any existing contracts between any city and any county which contracts with the state pursuant to this section

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59 shall continue unless and until amended by the affected jurisdictions.

60 The power to contract conferred by this provision shall not be deemed to confer any additional
61 authority for any county providing local health services to impose fees for local health services.

62 § 2. Provisions with respect to retirement concerning those employees transferred from state
63 employment to local employment. — A. Notwithstanding any other provision of law to the contrary, and
64 subject to the provisions of § 3 of this Act, any employee transferred from state employment to local
65 employment pursuant to the terms of this Act and the contract required under this Act between the
66 board of supervisors of any such county and the State Board of Health, shall remain a member of the
67 Virginia Retirement System so long as he or she shall remain employed by any such county, regardless
68 of the position or department of county government in which he or she shall be employed, except as
69 provided for by subsection 2 B.

70 B. Notwithstanding any other provision of law to the contrary, and subject to the provisions of § 3 of
71 this Act, at such time as such employee becomes eligible for normal service retirement from the Virginia
72 Retirement System, at his election, he may elect to retire and to receive his normal service retirement
73 allowance from the Virginia Retirement System whether he continues to be employed by any such county
74 or not. In the event that the employee elects to retire under the Virginia Retirement System, the
75 obligation of the board of supervisors of any such county to collect and pay all employee and employer
76 contributions to the Virginia Retirement System on behalf of that employee for retirement and group life
77 insurance in accordance with the provisions of Chapter 1 of Title 51.1 of the Code of Virginia shall
78 cease, whether he continues to be employed by any such county or not. Further, if he continues in the
79 employ of any such county after his retirement, the employee may elect to become a member of the local
80 retirement system, if any, covering such employment, effective as of the date of his normal service
81 retirement under the Virginia Retirement System, if he would otherwise be eligible for membership in
82 such local retirement system under the provisions of the ordinance or resolution of the board of
83 supervisors of such county governing such local retirement system, under the same terms and conditions
84 as other employees covered by such local retirement system.

85 § 3. Waiver of liability. — Any such employee who wishes to receive the benefits and to exercise the
86 rights provided by § 2 shall, as a condition precedent to doing so, execute a release, in a form approved
87 by the Attorney General and the county attorney for such county, releasing and discharging the
88 Commonwealth of Virginia and such county, and their officers, agents, and employees, both jointly and
89 severally, from any and all claims whatsoever, whether previously asserted or not, including, but not
90 limited to, any claims arising under the federal Age Discrimination in Employment Act, the federal
91 Older Workers Benefits Protection Act, and any claim for attorney's fees or costs arising out of, from,
92 or in any way attributable to, his or her transfer from state to local employment under the provisions of
93 this Act and any contract entered into between the board of supervisors of such county and the State
94 Board of Health pursuant to this Act.