

Virginia Retirement System 2009 Fiscal Impact Statement

1. Bill Number: HB 1632

House of Origin X Introduced Substitute Engrossed

Second House In Committee Substitute Enrolled

2. Patron: Kilgore and Jones, S. C.

3. Committee: Appropriations

4. Title: Virginia Retirement System; membership.

5. Summary: Adds to the membership of the Virginia Retirement System all full-time employees of the Virginia Municipal League and the Virginia Association of Counties.

6. Fiscal Impact Estimates:

6a. Expenditure Impact: VML and VACO would be responsible for the costs associated with the application fee for an Internal Revenue Service Private Letter Ruling and associated attorneys' fees, which would be approximately \$17,000.

7. Budget Amendment Necessary: No

8. Fiscal Implications: There is no fiscal impact

9. Specific Agency or Political Subdivisions Affected: VRS

10. Technical Amendment Necessary: Yes. An enactment clause should be drafted to include the requirement that the bill would not become effective until such time as a favorable Private Letter Ruling from the IRS is obtained.

11. Other Comments: Although the *Code* identifies these organizations as instrumentalities, it does not qualify them for the purpose of inclusion as employers in a governmental pension plan. Moreover, VML and VACO do not fit in the definition of "political subdivision" under *Code* § 51.1-124.3, since they do not appear to have been created by or under an act of the General Assembly specifying the powers, privileges, or authority capable of exercise by each of the organizations. If they are not political subdivisions as that term is defined in the statute, the organizations cannot be "employers" as defined in the same statute. Simply redefining "employee" in *Code* § 51.1-124.3 does not transform these organizations into employers for purposes of VRS coverage. Further, if these entities are allowed to participate, it should not be accomplished by altering the definition of "employee" in Title 51.1. Doing so would only serve to introduce ambiguity into the employer/membership relationship. If such groups were to be added, it would be advisable to have such groups enter at the employer level, either by altering the definition of "employer" or "political subdivision" in the VRS title.

Any inclusion of these entities as VRS employers should be conditioned upon receipt of a favorable private letter ruling from IRS to ensure inclusion of these entities will not put the VRS plan qualification in jeopardy.

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