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## HOUSE BILL NO. 2772

Offered January 18, 2019

A BILL to amend and reenact § 2.2-2905 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 29 of Title 2.2 a section numbered 2.2-2906, relating to certain officers and employees; ability to forswear salary.

Patron—Bell, Robert B.

Referred to Committee on General Laws

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

1. That § 2.2-2905 of the Code of Virginia is amended and reenacted and the Code of Virginia is amended by adding in Chapter 29 of Title 2.2 a section numbered 2.2-2906 as follows:

**§ 2.2-2905. Certain officers and employees exempt from chapter.**

The provisions of this chapter, *except for* § 2.2-2906, shall not apply to:

1. Officers and employees for whom the Constitution specifically directs the manner of selection;
2. Officers and employees of the Supreme Court and the Court of Appeals;
3. Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof is required or not;
4. Officers elected by popular vote or by the General Assembly or either house thereof;
5. Members of boards and commissions however selected;
6. Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
7. Officers and employees of the General Assembly and persons employed to conduct temporary or special inquiries, investigations, or examinations on its behalf;
8. The presidents and teaching and research staffs of state educational institutions;
9. Commissioned officers and enlisted personnel of the National Guard;
10. Student employees at institutions of higher education and patient or inmate help in other state institutions;
11. Upon general or special authorization of the Governor, laborers, temporary employees, and employees compensated on an hourly or daily basis;
12. County, city, town, and district officers, deputies, assistants, and employees;
13. The employees of the Virginia Workers' Compensation Commission;
14. The officers and employees of the Virginia Retirement System;
15. Employees whose positions are identified by the State Council of Higher Education and the boards of the Virginia Museum of Fine Arts, The Science Museum of Virginia, the Jamestown-Yorktown Foundation, the Frontier Culture Museum of Virginia, the Virginia Museum of Natural History, the New College Institute, the Southern Virginia Higher Education Center, and The Library of Virginia, and approved by the Director of the Department of Human Resource Management as requiring specialized and professional training;
16. Employees of the Virginia Lottery;
17. Employees of the Department for the Blind and Vision Impaired's rehabilitative manufacturing and service industries who have a human resources classification of industry worker;
18. Employees of the Virginia Commonwealth University Health System Authority;
19. Employees of the University of Virginia Medical Center. Any changes in compensation plans for such employees shall be subject to the review and approval of the Board of Visitors of the University of Virginia. The University of Virginia shall ensure that its procedures for hiring University of Virginia Medical Center personnel are based on merit and fitness. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
20. In executive branch agencies the employee who has accepted serving in the capacity of chief deputy, or equivalent, and the employee who has accepted serving in the capacity of a confidential assistant for policy or administration. An employee serving in either one of these two positions shall be deemed to serve on an employment-at-will basis. An agency may not exceed two employees who serve in this exempt capacity;
21. Employees of Virginia Correctional Enterprises. Such employees shall remain subject to the provisions of the State Grievance Procedure (§ 2.2-3000 et seq.);
22. Officers and employees of the Virginia Port Authority;
23. Employees of the Virginia College Savings Plan;

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59 24. Directors of state facilities operated by the Department of Behavioral Health and Developmental  
60 Services employed or reemployed by the Commissioner after July 1, 1999, under a contract pursuant to  
61 § 37.2-707. Such employees shall remain subject to the provisions of the State Grievance Procedure  
62 (§ 2.2-3000 et seq.);

63 25. Employees of the Virginia Foundation for Healthy Youth. Such employees shall be treated as  
64 state employees for purposes of participation in the Virginia Retirement System, health insurance, and  
65 all other employee benefits offered by the Commonwealth to its classified employees;

66 26. Employees of the Virginia Indigent Defense Commission;

67 27. Any chief of a campus police department that has been designated by the governing body of a  
68 public institution of higher education as exempt, pursuant to § 23.1-809; and

69 28. The Chief Executive Officer, agents, officers, and employees of the Virginia Alcoholic Beverage  
70 Control Authority.

71 **§ 2.2-2906. Ability of certain officers and employees to forswear salary or rate of pay.**

72 *Any officer or employee described in § 2.2-2905 may forswear all or part of his official salary or*  
73 *rate of pay. Any benefits to which the officer or employee is entitled by virtue of being a state or local*  
74 *employee shall be calculated on the basis of the officer or employee's actual salary or rate of pay and*  
75 *not on the amount or rate in place prior to the officer's or employee's election to forswear all or part of*  
76 *his salary or rate of pay.*