

LD5999124

## HOUSE BILL NO. 2543

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Appropriations  
on February 2, 1995)

(Patron Prior to Substitute—Delegate Croshaw)

A BILL to amend and reenact § 2.1-391 of the Code of Virginia and to amend the Code of Virginia by adding in Title 2.1 a chapter numbered 10.5, consisting of sections numbered 2.1-116.20 through 2.1-116.25, relating to the Workforce Transition Act of 1995.

Be it enacted by the General Assembly of Virginia:

1. That § 2.1-391 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Title 2.1 a chapter numbered 10.5, consisting of sections numbered 2.1-116.20 through 2.1-116.25, as follows:

§ 2.1-391. Duties of Department.

The Department shall have the following duties:

1. Development and direction of an integrated policy analysis, planning, and budgeting process within state government.

2. Review and approval of all sub-state district systems boundaries established or proposed for establishment by state agencies.

3. Formulation of an executive budget as required in this chapter. In implementing this provision, the Department of Planning and Budget shall (i) utilize the resources and determine the manner of participation of any executive agency as the Governor may determine necessary to support an efficient and effective budget process notwithstanding any contrary provision of law and (ii) make an appropriate reduction in the maximum employment level of any state agency or institution in the executive branch of government which reports involuntary separations from employment with the Commonwealth due to budget reductions, agency reorganizations, or workforce down-sizings. In the event an agency reduces its workforce through privatization of certain functions, the funds associated with such functions shall remain with the agency.

4. Conduct of policy analysis and program evaluation for the Governor.

5. Continuous review of the activities of state government focusing on budget requirements in the context of the goals and objectives determined by the Governor and the General Assembly and monitoring the progress of agencies in achieving goals and objectives.

6. Operation of a system of budgetary execution to assure that agency activities are conducted within fund limitations provided in the appropriations act and in accordance with gubernatorial and legislative intent.

7. Development and operation of a system of standardized reports of program and financial performance for management.

8. Coordination of statistical data by reviewing, analyzing, monitoring, and evaluating statistical data developed and used by state agencies and by receiving statistical data from outside sources, such as research institutes and the federal government.

9. Assessment of the impact of federal funds on state government by reviewing, analyzing, monitoring, and evaluating the federal budget, as well as solicitations, applications, and awards for federal financial aid programs on behalf of state agencies.

10. Review and verification of the accuracy of agency estimates of receipts from donations, gifts or other nongeneral fund revenue.

## CHAPTER 10.5.

## WORKFORCE TRANSITION ACT OF 1995.

§ 2.1-116.20. Short title; purpose.

This chapter shall be known as the Workforce Transition Act of 1995.

The purpose of this chapter is to provide a transitional severance benefit, under the conditions specified, to eligible state employees who are involuntarily separated from their employment with the Commonwealth. "Involuntary separation" includes, but is not limited to, terminations and layoffs from employment with the Commonwealth due to budget reductions, agency reorganizations, workforce down-sizings, or other causes not related to the job performance of the employee, but shall not include voluntary resignations.

§ 2.1-116.21. Management responsibility to employees of the executive branch of government who are terminated from their employment with the Commonwealth.

A. Prior to terminating any employee in the executive branch of government, the management of the terminating agency shall make every effort to place such employee in any vacant position within the terminating agency for which the employee is qualified. If reemployment within his agency is not

60 possible because there is no available position for which the employee is qualified or the position  
61 offered to the employee requires relocation or a reduction in salary, the name of the employee shall be  
62 forwarded to the Department of Personnel and Training.

63 B. Any preferential employment rights vested in the employee under the Commonwealth's layoff  
64 policy shall not be denied, abridged, or modified in any way by the Department of Personnel and  
65 Training. The Department shall coordinate the preferential hiring of the employee, at the same salary  
66 classification, in any agency or institution of the executive branch of government. The Department shall  
67 also establish a program to assist employees in finding employment outside of state government.

68 C. If, as of the date the employee is placed on leave without pay-layoff, reemployment within his  
69 agency or any agency or institution of the executive branch of government is not possible because there  
70 is no available position for which the employee is qualified or the position offered to the employee  
71 requires relocation or a reduction in salary, then the employee shall be deemed to be involuntarily  
72 separated. If such employee is otherwise eligible, he shall be entitled, under the conditions specified, to  
73 receive the transitional severance benefit conferred by this chapter.

74 D. The Department of Personnel and Training shall report all involuntary separations in the  
75 executive branch of government to the Department of Planning and Budget, which shall make an  
76 appropriate reduction, pursuant to § 2.1-391, in the terminating agency's maximum employment level in  
77 preparing its executive budget for the next session of the General Assembly.

78 § 2.1-116.22. Eligibility.

79 A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia  
80 Personnel Act (§ 2.1-110 et seq.) or (ii) whose position is exempt from the Virginia Personnel Act  
81 pursuant to subdivision A 2, A 3, A 4 (except those persons specified in subsection D of this section), A  
82 7, A 13 through A 17, or A 19 of § 2.1-116 or (iii) who is employed by the State Corporation  
83 Commission and (a) who, on or after January 1, 1995, is involuntarily separated and (b) for whom  
84 reemployment with the Commonwealth is not possible because there is no available position for which  
85 the employee is qualified or the position offered to the employee requires relocation or a reduction in  
86 salary, shall be eligible, under the conditions specified, for the transitional severance benefit conferred  
87 by this chapter.

88 B. An otherwise eligible employee whose position is contingent upon project grants as defined in the  
89 Catalogue of Federal Domestic Assistance, shall not be eligible for the transitional severance benefit  
90 conferred by this chapter unless the funding source had agreed to assume all financial responsibility  
91 therefor in its written contract with the Commonwealth.

92 C. An otherwise eligible employee who is dismissed due to (i) receipt of at least one annual  
93 performance evaluation and subsequent reevaluation as provided for in applicable policies and  
94 procedures which indicate that the employee "does not meet minimum expectations" or an equivalent  
95 rating, unless a court or administrative officer or panel rules in the employee's favor on an employment  
96 issue related to job performance or (ii) conviction for a felony or a crime involving moral turpitude or  
97 dishonesty, shall not be eligible for the transitional severance benefit conferred by this chapter.

98 D. Members of the Judicial Retirement System (§ 51.1-300 et seq.) and officers elected by popular  
99 vote shall not be eligible for the transitional severance benefit conferred by this chapter.

100 E. Eligibility shall commence on the date of termination.

101 § 2.1-116.23. Transitional severance benefit conferred.

102 A. On his date of termination, an eligible employee with (i) two years' service or less to the  
103 Commonwealth shall be entitled to receive a transitional severance benefit equivalent to two pay periods  
104 or (ii) more than two years of consecutive service to the Commonwealth shall be entitled to receive a  
105 transitional severance benefit equivalent to one pay period for each year of service, not to exceed  
106 eighteen pay periods.

107 B. Transitional severance benefits shall be computed by the terminating agency's payroll department.  
108 Partial years of service shall be rounded up to the next highest year of service. Employees whose pay  
109 cycle is not semi-monthly shall receive a transitional severance benefit equivalent to but not exceeding  
110 the amounts specified in subsection A.

111 C. Transitional severance benefits shall be paid in the same manner as normal salary. In accordance  
112 with § 60.2-229, transitional severance benefits shall be allocated to the date of termination. The right  
113 of any employee who receives a transitional severance benefit to also receive unemployment  
114 compensation pursuant to § 60.2-100 et seq. shall not be denied, abridged, or modified in any way due  
115 to receipt of the transitional severance benefit; however, any employee who is entitled to unemployment  
116 compensation shall have his transitional severance benefit reduced by the amount of such unemployment  
117 compensation. Any offset to a terminated employee's transitional severance benefit due to reductions for  
118 unemployment compensation shall be paid in one lump sum at the time the last transitional severance  
119 benefit payment is made.

120 D. For twelve months after the employee's date of termination, the employee shall continue to be  
121 covered under the (i) health insurance plan created in § 2.1-20.1 for the Commonwealth's employees, if

he participated in such plan prior to his termination date, and (ii) group life insurance plan administered by the Virginia Retirement System pursuant to Chapter 5 (§ 51.1-500 et seq.) of Title 51.1. During such twelve months, the terminating agency shall continue to pay its share of the terminated employee's premiums. Upon expiration of such twelve month period, the terminated employee shall be eligible to purchase continuing health insurance coverage under COBRA.

E. Transitional severance benefit payments shall cease if a terminated employee is reemployed by any agency or institution of the Commonwealth during the time he is receiving such payments.

F. All transitional severance benefits payable pursuant to this section shall be subject to applicable federal laws and regulations.

§ 2.1-116.24. Retirement program.

A. In lieu of the transitional severance benefit provided in § 2.1-116.23, any otherwise eligible employee who is also (i) a vested member of the Virginia Retirement System or the State Police Officers' Retirement System and (ii) at least fifty years of age, may elect to add five years to either his age or creditable service or a combination of age and creditable service, except that any member of the Virginia Retirement System or the State Police Officers' System who is eligible for unreduced retirement shall add five years to his creditable service and not his age. Deferred retirement under the provisions of § 51.1-153 C shall not be available under this section.

B. In lieu of the (i) transitional severance benefit provided in § 2.1-116.23 and (ii) the retirement program in subsection A, any employee who is otherwise eligible may take immediate retirement pursuant to § 51.1-155.1.

C. The retirement allowance for any employee electing to retire under this section who, by adding five years to his age, is between ages 55 and 65, shall be reduced on the actuarial basis provided in subdivision 2 of § 51.1-155.

§ 2.1-116.25. Costs associated with this chapter; payment.

A. The Virginia Retirement System shall determine the present value of all retirement allowances payable pursuant to § 2.1-116.24 and shall promptly provide such information, or a summary thereof, to the terminating agency, the Comptroller, and the Department of Planning and Budget. Such present-value determinations shall not be included by the Virginia Retirement System in its computation of employer contribution rates pursuant to § 51.1-137.

B. The costs associated with the provisions of this chapter shall be paid first from appropriations available to the terminating agency. If such sums are insufficient, then from the unexpended year-end balances, less mandated uses as set out in the appropriations act, of all other state agencies and institutions in the terminating agency's branch of government (i.e., judicial, legislative, or executive).

C. Costs due and payable to the Virginia Retirement System under the provisions of this chapter shall be paid within twelve months from the effective date of the terminated employee's retirement.

2. That in keeping with the purposes of this act and to induce eligible state employees to voluntarily leave their employment with the Commonwealth, any full-time employee of the Commonwealth (i) whose position is covered by the Virginia Personnel Act (§ 2.1-110 et seq.) or (ii) whose position is exempt from the Virginia Personnel Act pursuant to subdivision A 2, A 3, A 4 (except those persons specified in subsection D of § 2.1-116.22), A 7, A 13 through A 17 or A 19 of § 2.1-116 or (iii) who is employed by the State Corporation Commission, may elect to receive the transitional severance benefit conferred by § 2.1-116.23 of this act, plus an amount, payable to the employee by the terminating agency on the employee's date of termination, equal to the present value of the maximum unemployment compensation the employee would have received pursuant to Title 60.2 (§ 60.2-100 et seq.) of the Code of Virginia, not to exceed \$5000. The additional terms and conditions specified in § 2.1-116.23 shall apply to those eligible state employees making such election and to the transitional severance benefit payable hereunder. Written application of an eligible employee's election to participate in this incentive program shall be made to his employing agency no earlier than April 1, 1995, and no later than June 1, 1995.

3. That in lieu of receiving a transitional severance benefit under the second enactment of this act, but in keeping with the purposes of this act and to induce eligible state employees to voluntarily retire from their employment with the Commonwealth, any full-time employee of the Commonwealth (i) whose position is covered by the Virginia Personnel Act (§ 2.1-110 et seq.) or (ii) whose position is exempt from the Virginia Personnel Act pursuant to subdivision A 2, A 3, A 4 (except those persons specified in subsection D of § 2.1-116.22), A 7, A 13 through A 17, or A 19 of § 2.1-116 and (a) who is a vested member of the Virginia Retirement System and (b) at least fifty years of age, may elect to add up to five years to both his age and creditable service, except that any member of the Virginia Retirement System who is eligible for unreduced retirement shall add five years to this creditable service and not his age. The additional terms and conditions specified in § 2.1-116.24 shall apply to those eligible state employees making such election and to the retirement allowance payable hereunder. Written notification of an eligible employee's election

183 to participate in this retirement incentive program shall be received by the Virginia Retirement  
184 System no earlier than April 1, 1995, and no later than June 1, 1995. This enactment shall be  
185 effective on and after July 1, 1994, for any employee who was not eligible for unreduced  
186 retirement before July 1, 1994.

187 4. That the following employees shall not be eligible for the incentive programs described in the  
188 second and third enactments of this act: (i) members of the Judicial Retirement System (§ 51.1-300  
189 et seq.) or the State Police Officers' Retirement System (§ 51.1-200 et seq.), (ii) "law-enforcement  
190 officers" as defined in § 9-169 and "correctional" and "jail officers" as defined in § 53.1-1, (iii)  
191 presidents and full-time teaching and research faculty, including administrative and professional  
192 faculty, at state educational institutions, (iv) employees whose positions are contingent upon project  
193 grants as defined in the Catalogue of Federal Domestic Assistance, and (v) employees who are  
194 identified by their agencies as serving in key positions. "Key positions" means those positions that  
195 are clearly necessitated by the interests of public health or safety or the performance of critical  
196 governmental functions of the Commonwealth. On or before April 1, 1995, all agencies and entities  
197 of the Commonwealth shall: (i) provide written notice to their employees identifying key positions  
198 and (ii) report key positions to the Department of Planning and Budget, the Department of  
199 Personnel and Training, the Virginia Retirement System, and the Chairmen of the House  
200 Committee on Appropriations and the Senate Committee on Finance. No position identified as a  
201 key position shall be, in any way, abolished, re-assigned, or transferred for one year from the date  
202 of being so identified.

203 5. That any employee of the Commonwealth who applied for retirement under the Virginia  
204 Retirement System (§ 51.1-124.1 et seq.) on or before December 1, 1994, shall not be eligible for  
205 the benefits conferred by this act.

206 6. That in keeping with the purposes of this act and as part of the restructuring plan pursuant to  
207 Item 183 E.1-3 of Chapter 966 of the 1994 Acts of Assembly, the Board of Visitors or the State  
208 Board of Community Colleges, as the case may be, may elect to permit full-time teaching and  
209 research faculty, including administrative and professional faculty, at state educational institutions  
210 to participate in the incentive programs described in the second and third enactments of this act.  
211 Upon the Boards' election, but no earlier than April 1, 1995, and no later than June 30, 1996, an  
212 eligible employee shall make written application to participate in the incentive program described  
213 in the (i) second enactment of this act to his employing agency or (ii) third enactment of this act to  
214 the Virginia Retirement System. Positions and funds associated with any restructuring plan  
215 approved by the Boards shall not be subject to the provisions of § 2.1-391.

216 7. That in keeping with the purposes of this act and as part of the restructuring plan of the  
217 Department of State Police and upon the Governor's approval, members of the State Police  
218 Officers' Retirement System (§ 51.1-200 et seq.) may participate in the incentive program  
219 described in the second and third enactments of this act. Upon the Governor's approval of any  
220 restructuring plan, but no earlier than April 1, 1995, and no later than June 30, 1996, an eligible  
221 employee shall make written application to participate in the incentive program described in the  
222 (i) second enactment of this act to his employing agency or (ii) third enactment of this act to the  
223 Virginia Retirement System. Positions and funds associated with any restructuring plan approved  
224 by the Governor shall not be subject to the provisions of § 2.1-391.

225 8. That in keeping with the purposes of this act, an otherwise eligible employee who, on or after  
226 January 1, 1995, elects to participate in any other incentive program provided by the  
227 Commonwealth, shall be eligible, under the conditions specified, for the benefits conferred by this  
228 act, but in no event shall an employee receive the benefits of more than one such incentive  
229 program.

230 9. That any employee who leaves his employment with the Commonwealth pursuant to this act  
231 shall be paid for his annual and sick leave balances, if any, in accordance with the applicable  
232 administrative policies and procedures in effect on July 1, 1994.

233 10. That any eligible employee who elects to participate in an incentive program described in the  
234 second or third enactments of this act shall not be employed by the Commonwealth in any  
235 capacity for two years after his date of termination.

236 11. That an emergency exists and this act is in force from its passage.