

LD3654605

SENATE BILL NO. 959

Offered January 23, 1995

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.

Patrons—Holland, R.J., Andrews, Benedetti, Chichester, Colgan, Cross, Lambert, Schewel, Stosch and Walker

Referred to the Committee on Finance

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.

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

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60 terminating agency for which the employee is qualified. If reemployment within his agency is not
61 possible because there is no available position for which the employee is qualified or the position
62 offered to the employee requires relocation or a reduction in salary, the name of the employee shall be
63 forwarded to the Department of Personnel and Training.

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

69 C. If, as of the employee's termination date, reemployment within his agency or any agency or
70 institution of the executive branch of government is not possible because there is no available position
71 for which the employee is qualified or the position offered to the employee requires relocation or a
72 reduction in salary, then the employee shall be deemed to be involuntarily separated. If such employee
73 is otherwise eligible, he shall be entitled, under the conditions specified, to receive the transitional
74 severance benefit conferred by this chapter.

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

79 § 2.1-116.22. Eligibility.

80 A. Any full-time employee of the Commonwealth (i) whose position is covered by the Virginia
81 Personnel Act (§ 2.1-110 et seq.) or (ii) whose position is exempt from the Virginia Personnel Act
82 pursuant to subdivision A 2, A 3, A 4 (except those persons specified in paragraph D of this section), A
83 7, A 13, A 14, A 15, A 16, A 17, or A 19 of § 2.1-116 and (a) who, on or after January 1, 1995, is
84 involuntarily separated and (b) for whom reemployment with the Commonwealth is not possible because
85 there is no available position for which the employee is qualified or the position offered to the employee
86 requires relocation or a reduction in salary, shall be eligible, under the conditions specified, for the
87 transitional severance benefit conferred 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 two consecutive
93 annual performance evaluations indicating that the employee "does not meet minimum expectations" or
94 equivalent rating, unless a court or administrative officer or panel rules in the employee's favor on an
95 employment issue related to job performance or (ii) conviction for a felony or a crime involving moral
96 turpitude or dishonesty, shall not be eligible for the transitional severance benefit conferred by this
97 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 service to the Commonwealth shall be entitled to receive a transitional
105 severance benefit equivalent to one pay period for each year of service, not to exceed eighteen pay
106 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 normal 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 section § 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 paragraph D of § 2.1-116.22), A 7, A 13, A 14, A 15, A 16, A 17, or A 19 of § 2.1-116, 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 paragraph D of § 2.1-116.22), A 7, A 13, A 14, A 15, A 16, 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 normal 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

183 employee's election to participate in this retirement incentive program shall be received by the
184 Virginia Retirement System no earlier than April 1, 1995, and no later than June 1, 1995.

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

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

203 6. That in keeping with the purposes of this act, an otherwise eligible employee who, on or after
204 January 1, 1995, elects to participate in any other incentive plan provided by the Commonwealth,
205 shall be eligible, under the conditions specified, for the benefits conferred by this act, but in no
206 event shall an employee receive the benefits of more than one such incentive plan.

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