

OPT-OUT RESOLUTION

RESOLUTION

Irrevocable Election Not to Participate in Line of Duty Act Fund

WHEREAS, pursuant to Item 258 of the Appropriations Act, paragraph B, the Virginia General Assembly has established the Line of Duty Act Fund (the "Fund") for the payment of benefits prescribed by and administered under the Line of Duty Act (Va. Code § 9.1-400 et seq.); and

WHEREAS, for purposes of administration of the Fund, a political subdivision with covered employees (including volunteers pursuant to paragraph B2 of Item 258 of the Appropriations Act) may make an irrevocable election on or before July 1, 2012, to be deemed a non-participating employer fully responsible for self-funding all benefits relating to its past and present covered employees under the Line of Duty Act from its own funds; and

WHEREAS, it is the intent of Southampton County to make this irrevocable election to be a non-participating employer with respect to the Fund;

NOW, THEREFORE, IT IS HEREBY RESOLVED that Southampton County hereby elects to be deemed a non-participating employer fully responsible for self-funding all benefits relating to its past and present covered employees under the Line of Duty Act from its own funds; and it is further

RESOLVED that the entities attached herewith on Schedule "A", to the best of the knowledge of Southampton County, constitute the population of its past and present covered employees under the Line of Duty Act; and it is further

RESOLVED that, as a non-participating employer, Southampton County agrees that it will be responsible for, and reimburse the State Comptroller for, all Line of Duty Act benefit payments (relating to existing, pending or prospective claims) approved and made by the State Comptroller on behalf of Southampton County on or after July 1, 2010; and it is further

RESOLVED that, as a non-participating employer, Southampton County agrees that it will reimburse the State Comptroller an amount representing reasonable costs incurred and associated, directly and indirectly, with the administration, management and investment of the Fund; and it is further

RESOLVED that Southampton County shall reimburse the State Comptroller on no more than a monthly basis from documentation provided to it from the State Comptroller.

Adopted in Courtland, Virginia this 27th day of June, 2011.

Michael W. Johnson, Clerk to the Board of Supervisors

SCHEDULE "A"

Southampton County
Line of Duty Act Entities

1. Southampton County Sheriff's Office
2. Boykins Fire and Rescue
3. Branchville Fire Department
4. Capron Fire and Rescue
5. Courtland Fire Department
6. Courtland Rescue Squad
7. Drewryville Fire Department
8. Hunterdale Fire Department
9. Ivor Fire Department
10. Ivor Rescue Squad
11. Newsoms Fire Department
12. Sedley Fire Department

mikejohnson

From: Nancy Helm [nancy@vacoins.org]
Sent: Wednesday, June 08, 2011 5:18 PM
Cc: Chris Carey; Stephanie Heintzleman; Nancy Helm
Subject: LINE OF DUTY ACT FUND OPT OUT RESOLUTION

VACoRP Members:

There have been questions regarding the Resolution issued by the Virginia Retirement System to opt out of the Line of Duty Act Fund (the Fund). As you know, Budget Item 258 of the 2011 Budget Bill shifts payment of LODA claims from the state to a Fund administered by VRS. Effective July 1, 2011 localities and regional jails can opt out of the Fund. Although VACoRP provided a resolution to opt out, VRS has recently informed us that this merely shows intent to opt out and that only the VRS Resolution will be accepted as a "proper" opt out.

There are several issues with the VRS-required Resolution. The Resolution specifically provides for reimbursement to the State Comptroller for all monies expended from the Fund on behalf of your entity in FY 2011, as well as payment of any corresponding administrative fees. This is the Comptroller's interpretation of Item 258 of the 2011 Budget Bill. Under this interpretation, if the Comptroller paid out \$50,000.00 in benefits on behalf of your entity in FY 2011, you would be required to pay the Fund \$50,000.00 plus an administrative fee upon opting out. It is our opinion that this is a misinterpretation of the budget language.

Unfortunately, we have been unsuccessful in resolving this issue with VRS so we are moving forward on behalf of the Pool and its membership with the filing of a lawsuit in this regard. If the Court determines that entities must repay the Fund for payments made in FY 2011, VACoRP is prepared to make this payment on behalf of VACoRP members that opt out.

Since VRS is adamant that only its Resolution is acceptable to opt out of the Fund, we recommend that Members desiring to opt out of the Fund, effective July 1, 2011, adopt the VRS Resolution, a copy of which is attached, prior to July 31. The Resolution effective date must be July 1, 2011 to opt out for FY 2012. Forward the Resolution, along with the attached transmittal letter, to VRS. It is very important that you include this transmittal letter when sending the Resolution to VRS in order to preserve your legal rights. Please note that the Resolution must be received by VRS no later than July 31. It is highly recommended that you send the letter and Resolution Certified Mail-Return Receipt Requested, so there is no question as to the date it was received by VRS.

If you have any questions, please do not hesitate to call me, Stephanie Heintzleman, Director of Member Services, or Chris Carey, Administrator. We look forward to continuing to provide you with outstanding service in FY 2012 and beyond.

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6/22/2011

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