

EDUCATION: PUBLIC SCHOOL FUNDS.

1997 Chapter 891 states General Assembly's intent as to use of common stock local school divisions received in Trigon demutualization. No authority for City of Richmond school division to handle shares of stock it received any differently from other school divisions.

The Honorable A. Donald McEachin

Member, House of Delegates

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You inquire regarding how the value of shares of common stock received by the City of Richmond School Board must be reported in the school board's annual financial report and in the division superintendent's annual report to the Department of Education.

You advise that the school board received shares of common stock in Trigon Healthcare, Inc., when Blue Cross and Blue Shield of Virginia, doing business as Trigon Blue Cross Blue Shield ("Trigon"), converted from a mutual company to a stock company ("Demutualization"). You ask specifically whether the school board may recognize the value of such shares on its financial reports in light of the enactment by the 1997 Session of the General Assembly of Chapter 891.¹

The Office of the Attorney General historically has declined to render opinions on accounting questions.² For many years, Attorneys General have concluded that § 2.1-118 of the *Code of Virginia*, the authorizing statute for official opinions of the Attorney General, limits responses to requests for opinions to matters that concern an interpretation of federal or state law, rule or regulation.³ A 1987 opinion concludes that, in rendering official opinions pursuant to § 2.1-118, the Attorney General must decline to answer any request that (1) does not involve a question of law, (2) requires the interpretation of a matter reserved to another entity, (3) involves a matter currently in litigation, and (4) involves a matter of purely local concern or procedure.⁴

Accordingly, I am unable to advise you on accounting issues related to the school board's receipt of the shares of common stock. To the extent that your question involves the school board's right to retain ownership of the shares or its right to retain the proceeds from any sale of the shares, it is my opinion that the school board's interest in the shares is controlled by the clear language of the third enactment clause of Chapter 891.

The Plan of Demutualization provides that "members" would receive shares of common stock of Trigon Healthcare, Inc., based on an actuarial formula. The Plan defines a "member" as an individual, corporation, government or political subdivision thereof that "holds" a policy of insurance of Trigon. The "holder" of a group policy, and thus the recipient of the shares of Trigon Healthcare, Inc., is generally the employer that has entered into the group policy to provide for health care coverage for its employees. The members of Trigon approved the Plan of Demutualization at a meeting held on September 6, 1996, and Virginia localities and school boards holding group policies of insurance with Trigon subsequently received certificates of stock in Trigon Healthcare, Inc.⁵

Section 1 of the third enactment clause of Chapter 891 provides:

The governing body of each locality that receives cash, shares of stock, or both, as a result of the conversion of Blue Cross and Blue Shield of Virginia, doing business as Trigon Blue Cross

Blue Shield (hereafter referred to as "Trigon"), from a mutual insurance company to a stock corporation known as Trigon Healthcare, Inc., by reason of its school division's status as a present or former group policyholder of Trigon shall, by appropriate ordinance or resolution, authorize the treasurer of such locality to create two separate funds upon the books of the locality, as hereinafter described. Upon the enactment or adoption of such ordinance or resolution, the treasurer of the locality shall place all such stock, including any proceeds derived from the sale or other conveyance of any such stock, and cash, into these separate funds.^[6]

This section further details the uses of the funds, which are to offset health insurance premium expenses incurred by or on behalf of the employees of the locality's school division or to finance school construction, renovation or maintenance.⁷ No disbursements are to be made from either fund, except upon specific appropriations by the governing body.⁸

Section 2 of the third enactment clause of Chapter 891 applies in instances in which both nonschool employees and school division employees participated in a group plan issued by Trigon and the locality received undivided shares of stock.⁹ Section 2 provides that § 1 shall apply to the shares received in the proportion that the health insurance premiums paid by or on behalf of school division employees bears to all premiums paid on behalf of all of the locality's employees.¹⁰

Section 3 of the third enactment clause provides:

Nothing in this enactment shall be deemed or construed to authorize a school board or school division to receive, hold or invest funds in its own name and right, nor to expend funds in the absence of a specific appropriation by the governing body of the locality in accordance with applicable law.^[11]

You state that the school board's insurance plan presents a unique situation in that, unlike other school divisions insured with Trigon through their locality's health plan, the City of Richmond School Board is a self-insured entity with Trigon as its administrator. You question whether the General Assembly considered this type of situation when it enacted Chapter 891.

A principle of statutory construction requires that where the language of a statute is clear and unambiguous, effect must be given to its plain and ordinary meaning.¹²

Section 1 of the third enactment clause applies specifically to any school division with a status as a "present or former group policyholder of Trigon."¹³ Section 1 thus covers school divisions that provided health coverage to their employees separately from the locality's health plan and received stock in the Demutualization. Section 2 covers school divisions that insured their employees under the locality's health plan and were included in the determination of the amount of stock distributed to the locality in the Demutualization. In both instances, the stock and the proceeds from the sale of the stock are to be set apart by the local treasurer in the funds described in § 1 and are to be used only for the purposes specified in the act. Moreover, § 3

expressly prohibits a school board or school division from holding or investing in its own name any proceeds from the sale of the stock.

The third enactment clause of Chapter 891 is a complete statement of the legislature's intent as to the use of the common stock that local school divisions received in the Demutualization. I find no language in Chapter 891 indicating that the City of Richmond school division is authorized to handle shares that it received in the Demutualization any differently from other school divisions.

¹See 1997 Va. Acts ch. 891, cl. 3, at 2395, 2402-03.

²See Op. Va. Att'y Gen.: 1992 at 162, 163 n.1; 1990 at 224, 225.

³See Op. Va. Att'y Gen.: 1989 at 293, 298; 1986-1987 at 347, 348.

⁴1987-1988 Op. Va. Att'y Gen. 489, 490, and opinions cited therein.

⁵The information contained in the paragraph to which this footnote is appended may be verified in a two-part member information statement issued by Trigon. See Trigon Blue Cross Blue Shield, Member Information 1 & 2 (Aug. 2, 1996).

⁶1997 Va. Acts, *supra* note 1, at 2402.

⁷*Id.* § 1(A), (B). At its 1998 Session, the General Assembly amended Chapter 891 to permit use of the funds to pay the health insurance premiums of retired school division employees. See 1998 Va. Acts ch. 256, cl. 3, § 1(A), at 380, 382.

⁸1997 Va. Acts, *supra* note 1, § 1(A), (B), at 2402.

⁹*Id.* § 2.

¹⁰*Id.* at 2402-03.

¹¹*Id.* § 3, at 2403; see § 22.1-85 (school board may establish fund from board-appropriated funds to pay medical services provided to its employees); § 22.1-88 (funds available to school board of school division for establishment, support and maintenance of public schools shall consist of state/federal funds appropriated for public school/educational purposes and apportioned to school board; local funds appropriated by local governing body or funds raised by local levy, donations or income therefrom; and other funds set apart for public school purposes); § 22.1-89 (funds appropriated to school board by major classification shall be expended by school board according to classification and with consent of governing body).

¹²See *Ambrogi v. Koontz*, 224 Va. 381, 297 S.E.2d 660 (1982).

¹³1997 Va. Acts, *supra* note 1, § 1, at 2402.

