

01-088

PENSIONS, BENEFITS AND RETIREMENT: HEALTH INSURANCE CREDITS FOR CERTAIN RETIREES.

COUNTIES, CITIES AND TOWNS: LOCAL CONSTITUTIONAL OFFICERS, ETC.

Locality, which contributes to its retirees' health insurance, may take into account state credit paid toward health insurance of retiree of local constitutional officer.

The Honorable Glenn M. Weatherholtz
Member, House of Delegates
October 30, 2001

You ask whether a locality, which makes contributions to the health insurance of its retirees, may take into account a state credit paid toward the health insurance of a retiree of a local constitutional officer.

You advise that a constituent retired, prior to his sixty-fifth birthday, from the Rockingham County sheriff's office, with twenty-nine years of service. The retiree receives a monthly credit toward his health insurance coverage in the amount of \$43.50 from the Virginia Retirement System and \$72.50 from the county.

You advise further that Rockingham County has amended its policy regarding its contributions to the health insurance of employees who retire before age sixty-five, to equal the amount paid to state retirees. You believe that your constituent's county-paid credit of \$72.50 will be increased by \$43.50 to \$116. You indicate further that you have been told that your constituent will not be entitled to the \$43.50 credit paid by the Virginia Retirement System.¹

A letter to your constituent from the Rockingham County administrator's office restates the county's past practice of providing health insurance credits to county employees, including constitutional officers, in the amount of \$2.50 per month for each year of service. Prior to the amendment, constitutional officers received an additional state credit of \$1.50, for a combined credit of \$4. The retired constituent thus appears to have been receiving a local credit of \$72.50 and a state credit of \$43.50, per month for 29 years of service.

The county administrator's office advises that the county's contribution has been increased to \$4, thus ensuring that all county employees, including constitutional officers, receive the same benefit from all sources. The administrator's office notes that, since constitutional officers receive a state credit of \$1.50, the local contribution for such officers and their employees shall remain at \$2.50.² Consequently, constitutional officers and their employees receive a total credit of \$4 from all sources. Based on the above, you are concerned that your constituent will not be eligible to receive the \$43.50 credit paid by the Virginia Retirement System if the county increases its contribution.

Section 51.1-1400(A) of the *Code of Virginia* provides a credit toward the cost of health insurance coverage for retired state employees in the amount of \$4 per month for every year of service. Section 51.1-1403(A) provides a similar credit for retired constitutional officers and their employees³ in the amount of \$1.50 per month for each year of service. The Commonwealth pays for these credits.⁴

In addition, § 51.1-1403(B) authorizes localities that participate in the Virginia Retirement System to provide an additional credit to constitutional officers and their employees of \$1 per month for each year of service. While local participation in the Virginia Retirement System is optional, some localities elect to establish their own program for retiree health insurance credits to provide a higher level of benefits. Because the county administrator's office relates that Rockingham County is paying more than \$1 per month for each year of service, I shall assume, for the purposes of this opinion, that the county has established its own retirement program.

The primary goal of statutory interpretation is to ascertain and give effect to the intent of the legislature.⁵ The purpose underlying a statute's enactment is particularly significant in construing it.⁶ Moreover, statutes should not be interpreted in ways that produce absurd or irrational consequences.⁷ Instead, they should be harmonized with other existing statutes where possible to produce a consistently logical result that gives effect to the legislative intent.⁸

Section 15.2-1605.1 authorizes counties to "supplement the compensation" of constitutional officers, and § 51.1-1403 authorizes localities to provide health insurance credits to retired constitutional officers and their employees. A locality that elects to participate in the Virginia Retirement System may provide an additional health insurance credit of \$1 for retired constitutional officers,⁹ and \$1.50 for retired local government employees.¹⁰

The Court of Appeals of Virginia has noted that, "[w]here a statute is unambiguous, the plain meaning is to be accepted without resort to the rules of statutory interpretation."¹¹ Because the General Assembly expressly requires that localities participating in the Virginia Retirement System health insurance credit plan provide different benefits to retired constitutional officers and to retired local government employees, it is clear that localities may also contribute different amounts under their local plans. Consequently, I must conclude that a locality, which makes contributions to its retirees' health insurance, may, if it so chooses, take into account the state credit paid toward the health insurance of a retiree of a local constitutional officer.

¹Your constituent, in fact, will continue to receive a \$43.50 credit from the Commonwealth, regardless of the amount the county pays toward the health insurance coverage for its constitutional officers and employees.

²I shall assume that the county administrator's office has correctly interpreted the locality's plan. In instances when a request requires an interpretation of a local ordinance, the Attorney General traditionally has declined to respond in order to avoid becoming involved in matters purely of local concern and over which the local governing body has control. Op. Va. Att'y Gen.: 1995 at 240, 241; 1986-1987 at 347, 348; 1976-1977 at 17, 17.

³Section 51.1-1403(A) uses the term "local officer," which includes the "sheriff of any county ..., or deputy or employee of any such officer." Va. Code Ann. § 51.1-124.3 (Michie Supp. 2001).

⁴Va. Code Ann. § 51.1-1403(A) (Michie Supp. 2001).

⁵Vollin v. Arlington Co. Electoral Bd., 216 Va. 674, 679, 222 S.E.2d 793, 797 (1976).

⁶VEPCO v. Prince William Co., 226 Va. 382, 388, 309 S.E.2d 308, 311 (1983).

⁷McFadden v. McNorton, 193 Va. 455, 461, 69 S.E.2d 445, 449 (1952); see Op. Va. Att'y Gen.: 1993 at 192, 196; 1991 at 5, 7; 1986-1987 at 307, 308.

⁸2A Norman J. Singer, Sutherland Statutory Construction § 46.05 (5th ed. 1992 & Supp. 1999); 1993 Op. Va. Att'y Gen., *supra*.

⁹Section 51.1-1403(B).

¹⁰Va. Code Ann. § 51.1-1402(A) (Michie Supp. 2001).

¹¹Last v. Virginia State Bd. of Medicine, 14 Va. App. 906, 910, 421 S.E.2d 201, 205 (1992).

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