



# Special Report: Severance Benefits for State Employees

Commission Briefing  
June 12, 2006



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## Study Mandate

- At the October 2005 meeting, the JLARC Commission directed staff to review the provision of severance payments to State employees
  
- Issues addressed
  - Workforce Transition Act of 1995 (WTA)
  - Employment contracts
  - Revisions to Virginia's severance policy



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## Three Methods for Providing Severance

- Workforce Transition Act
  - WTA establishes Commonwealth's severance policy for involuntarily separated State employees
  - Provides financial benefit to lessen economic impact of job loss due to agency downsizing or budget reduction
  - Transitional severance payment
  - Enhanced retirement benefit
- Discretion of Governor or Attorney General
- Separation provision in employment contract



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## Findings

- WTA transitional severance payments rarely exceed allowable amounts
- Non-WTA severance payments to persons appointed by the Governor, boards, or commissions were less, on average, than would have been allowed under WTA payments
- WTA enhanced retirement benefits appropriately provided in almost all cases

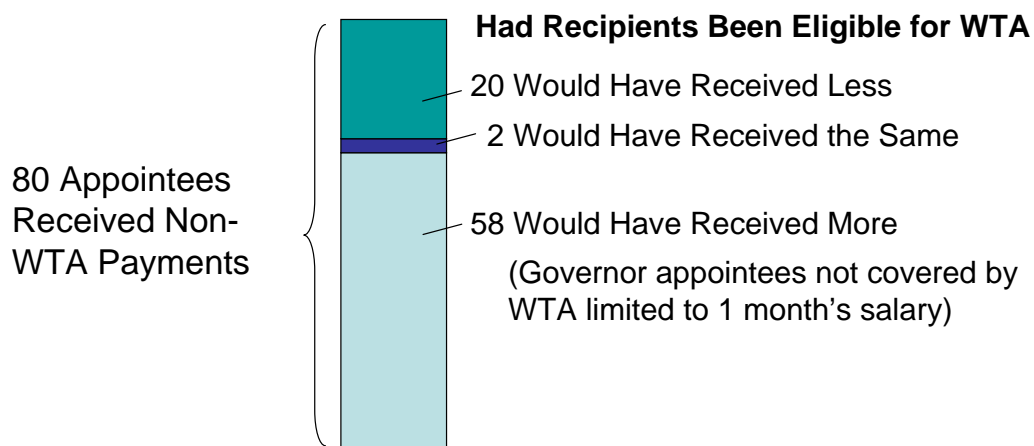


## WTA Severance Payments Rarely Exceed Allowable Amounts

- Average payment was \$8,593 (Jan. 2002-April 2006)
- 596 payments made by 49 State agencies
- 48 payments exceeded WTA limit; average overpayment was \$1,636



## Average Non-WTA Payment Was \$7,247\*



\* Not included in average:

SCHEV director received \$264,202 in 2003  
VRS director received \$263,122 in 2005



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## Provision of Enhanced Retirement Benefit Appears Appropriate

- 269 State employees received enhanced retirement benefit
- Agencies providing benefit
  - Gave to eligible employees
  - Calculated and paid correct amounts
- Concerns regarding eligibility of DGIF director for benefit
  - State Internal Auditor documented inappropriate purchases
  - Director resigned
  - Benefit cost agency \$101,000



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## Findings

- Few employment contracts executed since 2002
- Most employment contracts provide for severance benefits that exceed WTA limits
- More than half included separation provisions for up to 1 year or more of salary



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## Few Employment Contracts Have Been Used

- Since January 2002, 12 State entities executed 23 employment contracts, of which 13 are active
- Agreements often executed by board or commission to fill executive position
- Pursuant to *Code of Virginia*
  - Chief investment officer of VRS
  - Chief information officer of VITA
  - State hospital or training facility directors have option between contract or classified position



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## Benefits Provided Pursuant to Contracts

- Separation provisions range from no benefit to almost 2 years of salary
- 8 active employment contracts include separation provisions of up to 1 year of salary or more
- 5 employment contracts provided benefits for reasons other than termination without cause



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## Case Study: State Librarian Could Receive More than 12 Months Salary

*The contract between the State Librarian and the Library of Virginia Board states that if terminated without cause, the librarian's salary will continue to be paid until the term of the contract expires. The contract also provides the librarian with two weeks of salary for every year of employment completed, up to 26 weeks, if separated for any reason other than cause, including resignation or retirement.*



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## Case Study: One Appointee With Contract Received 21 Months of Salary

*SCHEV and a former director entered into an amended employment contract in July 2003, terminating the director's employment due to her decision to retire. The existing contract between the parties provided for one year's salary for separation without cause. As part of the amended agreement, the Council decided to pay the remaining 21 months of the director's term, worth more than \$264,000.*



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## Findings

- Some State positions still not covered
- Status of positions appointed by certain boards and commissions is ambiguous



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## 2006 General Assembly Revised Virginia's Severance Policy

- SB 364 apparently was intended to subject positions to eligibility criteria and benefit restrictions
  - Gubernatorial appointees (not including board or commission appointees)
  - Senior positions appointed by certain boards and commissions
- HB 476 requires
  - Written certification that all appointees understand they are covered by and limited to WTA
  - Severance benefits must be publicly announced prior to departure



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## Not All Positions Are Subject to WTA Limitations

- Positions still not subject to WTA
  - Director of Virginia Office for Protection and Advocacy
  - Director of Virginia College Savings Plan
- Positions exempt from WTA not subject to restrictions



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## Ambiguities in WTA Leave Status of Some Positions Unclear

- Some appointed positions not addressed by WTA
- Positions appointed by boards and commissions referenced in 2006 legislation
  - Office of Attorney General and Legislative Services staff maintain positions are subject to WTA restrictions
  - Counsel for Virginia Housing Development Authority and Virginia Port Authority maintain authorities are still exempt



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## Exemption from WTA Limitations May Be Appropriate for Some State Positions

- Certain positions require competitive, nationwide search
- Severance package might help recruit most qualified candidate
- General Assembly could establish a maximum value



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## Recommendation

- The General Assembly may wish to repeal and reenact the Workforce Transition Act to clarify which positions are covered by and excluded from the Act
- The General Assembly may wish to consider whether certain positions should be exempted from the Workforce Transition Act so that the appointing authorities will have the flexibility to offer greater separation benefits in order to attract qualified candidates



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## Key Findings

- WTA payments rarely exceeded allowable amounts
- 12 State entities executed 23 employment contracts since January 2002, and 12 provide for up to a year or more of salary upon separation
- Some positions are still not covered by WTA, and legal opinion is divided as to whether WTA applies to senior positions appointed by certain boards and commissions
- General Assembly may wish to consider repealing and reenacting WTA to clarify which positions are included and which are exempt from the Act's provisions



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