CODE OF VIRGINIA

Title 51.1

Pensions, Benefits, and Retirement

Title 51.1 - PENSIONS, BENEFITS, AND RETIREMENT

Chapter 1 - VIRGINIA RETIREMENT SYSTEM

Article 1 - GENERAL PROVISIONS

§§ 51.1-100 through 51.1-124. Repealed

Repealed by Acts 1994, cc. 4, 85. For effective dates, see Editor's note.

Article 1.1 - GENERAL PROVISIONS

§ 51.1-124.1. Legislative intent and purposes [Not set out]

(1994, cc. 4, 85.)

§ 51.1-124.2. Virginia Supplemental Retirement System continued as Virginia Retirement System

The Virginia Supplemental Retirement System, a body corporate and a retirement system for teachers, state employees, and employees of participating political subdivisions, shall be continued as the Virginia Retirement System. Wherever the term "Virginia Supplemental Retirement System" appears in the Code of Virginia, it shall mean the Virginia Retirement System.

1952, c. 157, § 51-111.11; 1960, c. 604; 1982, c. 478; 1990, c. 832, § 51.1-100; 1994, cc. 4, 85.

§ 51.1-124.3. Definitions

As used in this chapter, unless the context requires a different meaning:

"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.

"Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, on or after July 1, 1980, except those amounts contributed on behalf of members of the General Assembly who are otherwise retired under the provisions of this chapter, and all interest accruing to these funds. If a member is retired for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), dies in service prior to retirement, or requests a refund of contributions in accordance with § 51.1-161, "accumulated contributions" shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

"Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the Board.

"Average final compensation" means the average annual creditable compensation of a member during his 60 highest consecutive months of creditable service or during the entire period of his creditable service if less than 60 months. However, for any member who (i) is not a person who becomes a member on or after July 1, 2010, and (ii) as of January 1, 2013, has at least 60 months of creditable service, "average final compensation" means the average annual creditable compensation of a member during his 36 highest consecutive months of creditable service. A participant in the hybrid retirement program described in § 51.1-169 shall be considered to be a person who becomes a member on or after July 1, 2010, for the purposes of this definition.

If a member ceased employment prior to July 1, 1974, "average final compensation" means the average annual creditable compensation during the five highest consecutive years of creditable service.

"Beneficiary" means any person entitled to receive benefits under this chapter.

"Board" means the Board of Trustees of the Virginia Retirement System.

"Creditable compensation" means the full compensation payable annually to an employee working full time in his covered position. For any state employee of a public institution of higher education or a teaching hospital affiliated with a public institution of higher education who is (i) compensated on a salaried basis, and (ii) working full time in a covered position pursuant to a contract of employment for a period of at least nine months, creditable compensation means the full compensation payable over the term of any contract entered into between the employee and the employer, without regard to whether or not the term of the contract coincides with the normal scholastic year. However, if the contract is for more than one year, creditable compensation means that compensation paid for the current year of the contract.

Remuneration received by members of the General Assembly not otherwise retired under the provisions of this chapter pursuant to §§ 30-19.11 and 30-19.12 shall be deemed creditable compensation. In addition, for any member of the General Assembly, creditable compensation shall include the full amount of salaries payable to such member for working in covered positions, regardless of whether a contractual salary is reduced and not paid to such member because of service in the General Assembly.

"Creditable service" means prior service as set forth in § 51.1-142.2 plus membership service for which credit is allowable.

"Employee" means any teacher, state employee, officer, or employee of a locality participating in the Retirement System.

"Employer" means the Commonwealth in the case of a state employee, the local public school board in the case of a teacher, or the political subdivision participating in the Retirement System.

"Joint Rules Committee" means those members of the House of Delegates and the Senate designated by the Speaker of the House and the Chairman of the Senate Committee on Rules,

respectively, to meet with each other and to act jointly on behalf of the Committee on Rules for each house.

"Local officer" means the treasurer, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, or sheriff of any county or city, or deputy or employee of any such officer.

"Medical Board" means the board of physicians as provided by this chapter.

"Member" means any person included in the membership of the Retirement System.

"Membership service" means service as an employee rendered while a contributing member of the Retirement System except as provided in this chapter.

"Normal retirement date" means a member's sixty-fifth birthday. However, for any (i) person who becomes a member on or after July 1, 2010, or (ii) member who does not have at least 60 months of creditable service as of January 1, 2013, under this chapter his normal retirement date shall be the date that the member attains his "retirement age" as defined under the Social Security Act (42 U.S.C. § 416 et seq., as now or hereafter amended).

"Person who becomes a member on or after July 1, 2010," means a person who is not a member of a retirement plan administered by the Virginia Retirement System the first time he is hired on or after July 1, 2010, in a covered position. Subsequent separation from such position and subsequent employment in a covered position shall not alter the status of a person who becomes a member on or after July 1, 2010.

"Political subdivision" means any county, city, or town, any political entity, subdivision, branch, or unit of the Commonwealth, or any commission, public authority, or body corporate created by or under an act of the General Assembly specifying the powers, privileges, or authority capable of exercise by the commission, public authority, or body corporate.

"Primary social security benefit" means, with respect to any member, the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the provisions of the federal Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as otherwise specifically provided.

"Prior service" means service rendered prior to becoming a member of the Retirement System.

"Purchase of service contract" means a contract entered into by the member and the Retirement System for the purchase of service credit by the member as provided in § 51.1-142.2.

"Retirement allowance" means the retirement payments to which a member is entitled.

"Retirement plan administered by the Virginia Retirement System" means a retirement plan established under this title administered by the Virginia Retirement System, or by an agency that has been delegated administrative responsibility by the Virginia Retirement System, but such term shall exclude any plan established under Chapter 6 (§ 51.1-600 et seq.) or Chapter 6.1 (§ 58.1-607 et seq.) of this title.

"Retirement System" means the Virginia Retirement System.

"Service" means service as an employee.

"State employee" means any person who is regularly employed full time on a salaried basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or any department, institution, or agency thereof. "State employee" shall include any faculty member, but not including adjunct faculty, of a public institution of higher education (a) who is compensated on a salary basis, (b) whose tenure is not restricted as to temporary or provisional appointment, and (c) who regularly works at least 20 hours but less than 40 hours per week (or works the equivalent of one-half of a full time equivalent position) engaged in the performance of teaching, administrative, or research duties at such institution; such faculty member shall be deemed an eligible employee for purposes of the retirement provisions under §§ 51.1-126, 51.1-126.1, and 51.1-126.3. "State employee" shall also include the Governor, Lieutenant Governor, Attorney General, and members of the General Assembly but shall not include (i) any local officer, (ii) any employee of a political subdivision of the Commonwealth, (iii) individuals employed by the Department for the Blind and Vision Impaired pursuant to § 51.5-72, (iv) any member of the State Police Officers' Retirement System, (v) any member of the Judicial Retirement System, or (vi) any member of the Virginia Law Officers' Retirement System.

"Teacher" means any person who is regularly employed full time on a salaried basis as a professional or clerical employee of a county, city, or other local public school board.

1952, c. 157, §§ 51-111.10, 51-111.31; 1954, cc. 241, 497; 1956, c. 98; 1956, Ex. Sess., c. 64; 1958, c. 367; 1960, cc. 400, 604; 1966, cc. 174, 175; 1970, c. 779; 1971, Ex. Sess., cc. 88, 185; 1972, cc. 568, 708; 1973, cc. 322, 523, 545, 546; 1974, cc. 353, 484; 1975, cc. 296, 597, 611; 1976, cc. 581, 678, 699; 1977, c. 620; 1980, c. 722, § 51-111.10:01; 1982, cc. 467, 478; 1984, c. 430; 1986, c. 474; 1987, c. 392; 1990, c. 832, § 51.1-101; 1992, cc. 811, 826; 1993, c. 895; 1994, cc. 4, 85, 876; 1996, cc. 711, 731; 1999, cc. 929, 974; 2000, c. 911; 2001, cc. 686, 697; 2003, c. 628; 2005, cc. 933, 945; 2007, c. 89; 2010, cc. 737, 738; 2012, cc. 701, 823; 2014, c. 356.

§ 51.1-124.4. Exemption of assets from taxation; exemption of benefits and assets from execution and assignment; trust funds; unclaimed property; eligible rollover distribution

A. The assets of the retirement systems created under this title are hereby exempted from any state, county, or municipal tax. Retirement allowances and other benefits accrued or accruing to any person under this title and the assets of the retirement systems created under this title shall not be subject to execution, attachment, garnishment, or any other process whatsoever, except any process for a debt to any employer who has employed such person, and except for administrative actions pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 or any court process to enforce a child or child and spousal support obligation, nor shall any assignment thereof, other than a voluntary, irrevocable assignment of group life insurance pursuant to § 51.1-510, be

enforceable in any court. However, retirement benefits and assets created under this title which are deemed to be marital property pursuant to Chapter 6 (§ 20-89.1 et seq.) of Title 20 may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to § 20-107.3. The assets of the retirement systems administered by the Board are trust funds and shall be used solely for the benefit of members and beneficiaries and to administer the retirement systems. The Board shall establish procedures whereby persons entitled to property held by the Board, which would be presumed abandoned under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.), may recover it.

B. Notwithstanding any provision of this chapter to the contrary that would otherwise limit a distributee's election, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The terms "eligible rollover distribution," "eligible retirement plan" and "distributee" have the meanings prescribed by § 401(a)(31) of the Internal Revenue Code (including as such section is amended or renumbered, or any successor provision thereto) and the regulations thereunder, as may be amended. Such terms shall include non-spouse designated beneficiaries and inherited individual retirement accounts in accordance with § 402(c)(11) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder applicable to governmental plans. In the event of a mandatory cash-out, as that term is defined under the Internal Revenue Code and the regulations thereunder applicable to governmental plans, greater than $1,000, if the member does not elect to have such distribution paid directly to an eligible retirement plan specified by the member in a direct rollover or to receive the distribution directly in accordance with this section, then the Board shall pay the distribution in a direct rollover to an individual retirement plan designated by the Board in accordance with subsection F of § 51.1-124.30.

C. The provisions of this chapter and Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.) and 3 (§ 51.1-300 et seq.) are intended to meet the requirements of § 401(a) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder applicable to governmental plans.

1952, c. 157, §§ 51-111.15, 51-111.24; 1954, c. 633; 1959, Ex. Sess., c. 47; 1962, c. 50; 1972, c. 151; 1973, c. 523; 1976, c. 545; 1977, c. 620; 1978, c. 841; 1980, cc. 559, 596; 1983, c. 308, § 51-111.26:1; 1984, c. 430; 1986, c. 474; 1989, Sp. Sess., c. 3; 1990, c. 832, § 51.1-102; 1991, c. 433; 1992, cc. 716, 811; 1993, c. 135; 1994, cc. 4, 85, 883; 2003, c. 15; 2006, c. 637; 2015, c. 660.

§ 51.1-124.5. Disclosure of social security account numbers

The Retirement System may require the disclosure of the social security account number of any employee, judge, or other person covered under this title to be used for any purpose relating to the administration of the retirement systems or the implementation of this title.

1977, c. 620, § 51-111.22:2; 1990, c. 832, § 51.1-103; 1994, cc. 4, 85.

§ 51.1-124.6. Benefits to be paid monthly

All benefits payable by the Retirement System shall be paid in equal monthly installments, unless the Board approves another method of payment.

1952, c. 353, § 51-111.71; 1990, c. 832, § 51.1-104; 1994, cc. 4, 85.

§ 51.1-124.7. Distribution of assets upon repeal of system

A. If the General Assembly repeals the provisions of this chapter or terminates its application to any person, the Board shall continue to administer the Retirement System in accordance with the provisions of this chapter for the sole benefit of the then members, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under a joint and last-survivor option who are designated by a member.

B. Upon repeal or termination of the Retirement System, the assets of the Retirement System shall be allocated by the Board in an equitable manner to provide benefits for the persons stated in subsection A of this section in accordance with the provisions of this chapter but based on creditable service and average final compensation as of the date of repeal or termination and in the following order:

1. For the benefit of the then members to the extent of their individual account in the members' contribution account.

2. If any funds remain, then for the benefit of the then beneficiaries and persons already designated by former members who are then beneficiaries under a joint and last-survivor option, to the extent of the then actuarial value of their retirement allowances.

3. If any funds remain, then for the benefit of members, and persons, if any, designated by them under a joint and last-survivor option, to the extent, not provided under subdivision 1 of this subsection, of the then actuarial value of their accrued future retirement allowances. The allocation under this subdivision shall be the basis of the oldest-ages-first method.

The employer is required to contribute the amount necessary to make up any insufficiency of assets needed to provide all benefits payable under subdivisions 1 and 2 of this subsection.

C. The allocation of assets of the Retirement System shall be carried out by the Board as the benefits become due or by the transfer of such assets to any retirement system replacing this Retirement System. The vesting of benefits shall be fully maintained under the new retirement system. Any funds remaining in the assets of this retirement system after all of the vested benefits have been paid shall revert to the general fund.

D. Any allocation of assets shall be final and binding on all persons entitled to benefits.

E. Upon the termination or partial termination of the Retirement System, each affected member shall become fully vested, as of the termination date or partial termination date, in his service retirement allowance to the extent funded, regardless of the length of service or amount of creditable service.

1952, c. 157, § 51-111.16; 1960, c. 604; 1977, c. 620; 1978, c. 841; 1980, cc. 637, 638, 646; 1982, cc. 467, 478; 1990, c. 832, § 51.1-105; 1994, cc. 4, 85; 2014, c. 356.

§ 51.1-124.8. Persons affected by changes in retirement benefits

Unless otherwise specifically stated, legislation which effects a change in the amount of a retirement benefit other than a post-retirement supplement shall be construed to effect only the benefits of those persons who qualify for a retirement allowance on or after the effective date of the legislation.

1952, c. 157, § 51-111.16; 1960, c. 604; 1977, c. 620; 1978, c. 841; 1980, cc. 637, 638, 646; 1982, cc. 467, 478; 1990, c. 832, § 51.1-106; 1994, cc. 4, 85.

§ 51.1-124.9. Changes or errors in records resulting in erroneous payments; employer liability

A.1. If any change or error in records results in any member or beneficiary receiving more or less than he would have been entitled to receive from the Retirement System had the records been correct, the Board shall, subject to the provisions of subsection B, correct the error and as far as practicable adjust the payments so that the actuarial equivalent of the correct benefit shall be paid.

2. If a member has been overpaid through no fault of his and could not reasonably have been expected to detect the error the Board may waive any repayment which it believes would cause hardship.

3. Upon determination that any person has erroneously been included in membership in the Retirement System, accumulated contributions resulting from the erroneous membership shall be refunded.

B. The Board is authorized to recover any overpayments, from an employer found to be responsible for such overpayments, to a member or beneficiary (i) whose average final compensation exceeds the limitation in § 51.1-152, (ii) who receives in-service distributions because the member or beneficiary is rehired by the employer without either a bona fide break in service, as determined by the Board, following retirement, or the break in service required under subdivision B 3 (a) of § 51.1-155, or (iii) who the Board determines was in service as an employee covered for retirement purposes as prohibited by subdivision B 1 of § 51.1-155.

1952, c. 157, § 51-111.67; 1956, c. 690; 1976, c. 541; 1990, c. 832, § 51.1-107; 1994, cc. 4, 85; 2011, c. 747.

§ 51.1-124.10. Falsification of records; penalty

Any person who knowingly makes any false statement or falsifies or permits the falsification of any Retirement System record in any attempt to defraud the Retirement System shall be guilty of a Class 1 misdemeanor.

1952, c. 157, § 51-111.14; 1990, c. 832, § 51.1-108; 1994, cc. 4, 85.

§ 51.1-124.11. Recovery of payments procured by fraud, false statement, etc

Any payment to a member or beneficiary which is later determined by the Board to have been procured on the basis of any false statement or falsification of any Retirement System record knowingly made by or on behalf of the member or beneficiary, or the member's or beneficiary's failure to make any required report of change in disability status, may be recovered from the member or beneficiary by the Board either by way of a credit against future payments due the member or beneficiary, by an action at law against the member or beneficiary, or by deducting any overpayment of benefits from insurance proceeds as provided in § 51.1-510. Prior to making any such determination, the Board shall give the member or beneficiary reasonable prior written notice and an opportunity to be heard in accordance with the provisions of the Administrative Process Act (§ 2.2-4000 et seq.). Any member or beneficiary aggrieved by such determination of the Board shall be entitled to judicial review pursuant to Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

1998, c. 657.

§ 51.1-124.12. Procedure when employer required to withdraw funds

A. As used in this section, unless the context clearly shows otherwise, the following definitions shall apply.

"Replacement employer" means an employer as defined in § 51.1-124.3 who enters into a written agreement with the Retirement System to assume all liabilities for retirement benefits, as provided herein due to a member or beneficiary whose coverage under the Retirement System is affected by the withdrawal of the withdrawing employer, that are attributable to service with and creditable compensation from the withdrawing employer.

"Termination date" means the effective date of a change in an employer's status from an agency or political subdivision of the Commonwealth or the termination of the employer's existence that shall cause an employer participating in the Retirement System to become a withdrawing employer. If such date is in question or if the advance notification required by subsection C is not given, the termination date shall be the date determined by the Board.

"Termination event" means an event that results in an employer which participates in the Retirement System ceasing to be an agency or political subdivision of the Commonwealth.

"Withdrawing employer" means an employer that is required to withdraw from the Retirement System under subsection B.

B. Any employer participating in the Retirement System which ceases to be an agency or political subdivision of the Commonwealth or which permanently ceases operations shall withdraw from the Retirement System as of the termination date. All benefit accrual for members employed by a withdrawing employer shall automatically cease as of the termination date.

C. A withdrawing employer shall provide written notification to the Board of its termination date. Notification shall be in the form of a certified copy of an ordinance or resolution adopted by the

governing body of the employer and shall be provided to the Board at least 90 days prior to the termination date. Upon receipt of notification or upon the Board's determination that a termination event has occurred or will occur within 90 days, the Retirement System shall request its actuary to determine the present value of the Retirement System's liability to each member, retired member, or beneficiary attributable to service with, and creditable compensation from, the withdrawing employer. For members, such calculation shall be determined based on the liability resulting from the present value of a service retirement allowance beginning at his normal retirement date. Such determination shall be based on actuarial principles and assumptions consistent with those used in the most recent actuarial valuation and financial report for the Retirement System. The expenses incurred by the Board for such actuarial determination report shall be the liability of the withdrawing employer.

D. If (i) no qualified retirement plan, as that term is defined in § 401(a) of the Internal Revenue Code, is established by the withdrawing employer, to which the assets and liabilities relating to members employed by such employer are transferred, as described in subsection E, or (ii) if no replacement employer has come forth within 90 days of the termination date, or within such other reasonable time as may be agreed to by the Board, benefits shall be determined as follows:

1. Each member or beneficiary whose coverage under the Retirement System is affected by the withdrawal of the employer shall become fully vested, as of the termination date, in his service retirement allowance attributable to creditable service with the withdrawing employer regardless of employment status or length of service with the withdrawing employer.

2. Each member, retired member or beneficiary shall be entitled to a distribution of the greater of (i) the balance in his member contribution account established pursuant to § 51.1-147 or (ii) the present value of his service retirement allowance attributable to creditable service and compensation with the withdrawing employer to which such member, retired member or beneficiary would have been entitled immediately prior to the termination event (plus additional amounts, if any, which the withdrawing employer may direct pursuant to subdivision 4 of this subsection). Such members, retired members, and beneficiaries may elect to receive such benefit either in the form of (i) a lump sum payment, subject to the eligible rollover distribution rules and withholding requirements of the Internal Revenue Code or (ii) an annuity equal to the service retirement benefit at normal retirement. The annuity shall be purchased from a private insurance company or companies as selected by the Board. The Board shall establish reasonable notice and election periods for the distribution made pursuant to this subsection. The distribution provided for in this subdivision shall be in the form of a lump sum, subject to applicable withholding requirements, upon the failure of a member, retired member or beneficiary to make an election.

3. If the assets held in the members' contribution account established pursuant to § 51.1-147 and in the retirement allowance account established for withdrawing employer pursuant to § 51.1-148 are less than the amount needed to pay the benefits to which all affected members, retired members, and beneficiaries are entitled, the withdrawing employer shall make a contribution to the

retirement allowance account in the amount necessary to make up any insufficiency in assets required to provide all benefits payable under this section. If the withdrawing employer fails to make the required contribution, assets held in the members' contribution account established pursuant to § 51.1-147 and in the retirement allowance account established for the withdrawing employer pursuant to § 51.1-148 shall be distributed to members, retired members and beneficiaries in the manner described in § 51.1-139.

4. Any assets remaining in the retirement account established for the withdrawing employer pursuant to § 51.1-148 after full satisfaction of liabilities to members, retired members and beneficiaries under this section shall be distributed on a pro rata basis (based on contributed funds within the immediately preceding 12 months) to any employers within the meaning of § 51.1-124.3 who, within the 12 months immediately preceding the termination date of the withdrawing employer, directly or indirectly, by appointment of the governing body of the withdrawing employer, controlled the activities of the withdrawing employer and contributed funds or property to the withdrawing employer; provided, however, that if there is no such employer, any remaining assets shall be used to offset expenses incurred by the Retirement System in any manner permitted by the Internal Revenue Code.

5. Upon completion of the distribution of assets held in the members' contribution account established pursuant to § 51.1-147 and in the retirement allowance account established for the withdrawing employer pursuant to § 51.1-148 as provided in the section, the Retirement System shall have no further liability for such accounts.

E. If the withdrawing employer establishes or has established a qualified retirement plan, as that term is defined in § 401(a) of the Internal Revenue Code, which provides (i) for participation by members, retired members and the beneficiaries of members and retired members, (ii) for the transfer to the qualified retirement plan of all contributions and prior service attributable to creditable service with the withdrawing employer, and (iii) member benefits and vesting rights at least equal to those which each member would have been entitled under the Retirement System immediately before the termination of the employer's affiliation with the Retirement System, the Board shall transfer to such qualified retirement plan all balances in the individual accounts of the members' contribution account established pursuant to § 51.1-147 and all balances in the retirement allowance account established for such employer pursuant to § 51.1-148 and attributable to creditable service and compensation with such employer, including all earnings through and including the date of the transfer, less the reasonable expenses incurred by the Retirement System in connection with such transfer. Upon such transfer, all liabilities of the Retirement System for benefits, to the extent accrued as of the date of the transfer with respect to service with such employer shall be assumed by such qualified retirement plan and all liabilities of the Retirement System with respect thereto shall terminate.

F. If the withdrawing employer does not establish a qualified retirement plan, as that term is defined in § 401 (a) of the Internal Revenue Code and as provided for in subsection E, but a

replacement employer has come forth within 90 days of the termination date, or within such other reasonable time as may be agreed to by the Board, the Board shall transfer to the retirement allowance account of such replacement employer, all balances in the retirement allowance account of the withdrawing employer, including all earnings through and including the date of the transfer. The members' contribution account established pursuant to § 51.1-147 attributable to employees of the withdrawing employer shall be credited to member contribution accounts with the replacement employer. Notwithstanding however, if the balance of the retirement allowance account and the member contribution accounts exceed the actuarial present value of all liabilities with respect to employees of the withdrawing employer (after allowance for reimbursement to the Retirement System for reasonable expenses incurred in connection with such transfer), any amount in excess of 105 percent of such present value (including expenses) shall be paid on a pro rata basis (based on contributed funds within the immediately preceding 12 months) to any employers within the meaning of § 51.1-124.3 who within the 12 months immediately preceding the termination date of the withdrawing employer (i) directly or indirectly by appointment of the governing body of the withdrawing employer controlled the activities of the withdrawing employer and (ii) contributed funds or property to the withdrawing employer.

G. If there is no replacement employer, creditable service attributable to employment with a withdrawing employer shall be taken into consideration for purposes of determining whether each employee of the withdrawing employer meets the five or more year requirement to be entitled to a service allowance at normal retirement from the employment of an employer other than the withdrawing employer. If there is no replacement employer, neither creditable service nor creditable compensation attributable to employment with a withdrawing employer shall be taken into account for any other purpose under the Retirement System.

H. Notwithstanding any other provisions of this section or of any other law, if the withdrawing employer is a city which reverts to town status or otherwise loses its status as a city or is a town which loses its status as a town, then the members, retired members, and beneficiaries of the former city or town shall maintain all rights and privileges which they possess at the time of such change in status to current or future benefits from the Retirement System.

1999, c. 284; 2000, c. 344; 2003, c. 267.

§ 51.1-124.13. Loss of benefits; certain felony convictions

A. No person shall be entitled to any of the benefits of this title as provided in this section if (i) he is convicted of a felony and (ii) the person's employer determines that the felony arose from misconduct occurring on or after July 1, 2011, in any position in which the person was a member covered for retirement purposes under any retirement system administered by the Board. Prior to making any such determination, the employer shall give the person reasonable prior written notice and provide an opportunity to be heard. The employer's determination may be appealed in a manner consistent with subsection B, and no further proceedings shall follow the decision of the circuit court. The employer's determination shall become final 10 calendar days after the date of

the initial determination if no appeal is filed, or the date of the decision of the circuit court if an appeal is filed. A reversal by the circuit court of the employer's determination shall render the determination null and void.

B. Proceedings for review of the determination of the employer may be made by the member filing a notice of appeal within five workdays of receipt of the determination. Within five workdays thereafter, the employer shall transmit, to the clerk of the circuit court in the jurisdiction where the employer is located, a copy of the record. The court, on motion of the member, may issue a writ of certiorari requiring the employer to transmit the record on or before a certain date. Within 30 days of receipt of such records, the court, sitting without a jury, shall hear the appeal on the record and such additional evidence as may be necessary to resolve any controversy as to the correctness of the record. The court, in its discretion, may receive such other evidence as the ends of justice require. The court may affirm the determination of the employer or may reverse or modify the determination. The decision of the court shall be rendered no later than the fifteenth day from the date of the conclusion of the hearing. The decision of the court shall be final and shall not be appealable. The circuit court hearing shall be at no cost to the Commonwealth or the member.

C. The Board shall implement the relinquishment of benefits under this title as soon as practicable after the employer notifies the Board of its final determination that the member's felony conviction arose from misconduct in any position in which the member was a member in service.

D. If the person is or becomes a member in service after relinquishment of benefits under subsection C, he shall be entitled to the benefits under this title based solely on his service occurring after the relinquishment.

E. Notwithstanding any provision of law to the contrary, any service credit lost from relinquishment of benefits under subsection C shall be ineligible for subsequent purchase.

F. The governing body of any locality served by a constitutional officer shall be considered that officer's employer for purposes of this section.

2011, c. 483; 2012, cc. 56, 349.

§§ 51.1-124.14 through 51.1-124.19. Reserved
Reserved.

Article 2.1 - BOARD OF TRUSTEES, MEDICAL BOARD, AND ADVISORY COMMITTEES

§ 51.1-124.20. Board of Trustees; membership; terms; quorum; compensation and expenses
A. The Board of Trustees of the Virginia Retirement System is established as an independent board in state government and shall consist of nine members as follows: five members appointed by the Governor and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly and four members appointed by the Joint Rules Committee and confirmed by the affirmative vote of a majority of those voting in each house of the General Assembly.

B. Members shall be appointed for five-year terms with such members leaving the Board on a staggered basis as initially provided. Appointments to fill vacancies shall be for the unexpired terms. A vacancy of a legislatively appointed trustee shall be filled by the Joint Rules Committee, and any such appointee shall enter upon and continue in office, subject to confirmation at the next session of the General Assembly. If the General Assembly refuses or fails to confirm his appointment, such person shall not be eligible for reappointment.

C. No member shall be eligible to serve for more than two successive five-year terms. After the expiration of an unexpired term to which appointed, or for an initial staggered appointment of less than five years, a member may serve one additional five-year term.

D. Subject to confirmation by the affirmative vote of a majority of those voting in each house of the General Assembly, the Governor shall designate the chairman of the Board from among the Board members described in subsection A above. A chairman may be reappointed and confirmed for additional two-year terms, not to exceed a total of two. However, the initial chairman's one-year term shall not be counted against the two-term limitation, and such person may serve as chairman for five successive years if appointed and confirmed as aforesaid. The chairman shall (i) preside over meetings of the Board; (ii) communicate on behalf of the Board to outside entities interested in the Retirement System; and (iii) perform additional duties as may be set by resolution of the Board. The Board shall elect one of its members as vice-chairman and appoint a secretary who may or may not be a member of the Board. A majority of the members of the Board shall constitute a quorum. The meetings of the Board shall be held at the call of the chairman or whenever the majority of the members so request.

E. Trustees shall receive an initial stipend of $3,000 for each calendar quarter they may serve and a per diem of $300 for each Board meeting attended not to exceed one meeting per day. Commencing July 1, 1995, the stipend shall be increased annually by a percentage equal to the most recent salary structure adjustment as provided in the general appropriation act. The chairman shall receive an additional $1,500 for each calendar quarter served in such capacity. Government employees, still actively employed by any governmental entity, shall receive a per diem of $300 for each Board meeting attended, not to exceed one meeting per day, but shall receive no stipend for their service. Retired government employees shall be entitled to receive a stipend of $3,000 for each calendar quarter they may serve and a per diem of $300 for each Board meeting attended not to exceed one meeting per day. Each Board member shall be entitled to receive reimbursement for all reasonable and necessary expenses incurred for attending Board meetings as provided in §§ 2.2-2813 and 2.2-2825. Any member of the Board who also serves as an officer, director, or member of the board of any corporation organized by the Virginia Retirement System shall be entitled to receive compensation and expenses pursuant to this subsection in addition to any remuneration to which he is entitled by virtue of his service as an officer, director, or member of the board of any corporation organized by the Virginia Retirement System. Funding for the costs of compensation and expenses of the members shall be provided by the Virginia Retirement System.

F. No elected or appointed official shall serve on the Board of Trustees. Except for the faculty member or employee of a state-supported institution of higher education, none of the gubernatorial appointees shall be an employee of state government.

G. The gubernatorial appointees shall be as follows: two shall have a minimum of five years of experience in the direct management, analysis, supervision, or investment of assets; one shall have at least five years of direct experience in the management and administration of employee benefit plans; one shall be a local employee; and one shall be a faculty member or employee of a state-supported institution of higher education.

H. The legislative appointees shall be as follows: two shall have a minimum of five years of experience in the direct management, analysis, supervision, or investment of assets; and one shall be a state employee and one shall be a teacher, as such terms are defined in § 51.1-124.3.

I. State and local government employees appointed to the Board pursuant to this section shall be members of the Retirement System at the time of their appointment, may be actively employed or retired, and if actively employed, shall be given administrative leave from their employment to attend Board and advisory committee meetings.

J. Members of the Board shall be subject to removal from office only as set forth in Article 7 (§§ 24.2-230 through 24.2-238) of Chapter 2 of Title 24.2. The Circuit Court of the City of Richmond shall have exclusive jurisdiction over all proceedings for such removal.

K. Faculty members of state-supported institutions of higher education shall be eligible to serve on the Board pursuant to this section if they are members of the Retirement System at the time of their confirmation to the Board or become members of the Retirement System within 18 months after their confirmation to the Board.

L. All members of the Board shall be citizens of the Commonwealth.

1952, c. 157, §§ 51-111.18 to 51-111.20; 1956, c. 363; 1958, c. 419; 1970, c. 476; 1971, Ex. Sess., c. 88; 1973, c. 523; 1974, c. 353; 1977, c. 620; 1980, cc. 681, 728; 1989, c. 41; 1990, c. 832, § 51.1-109; 1994, cc. 4, 85; 1995, c. 788; 1997, c. 641; 1998, c. 196; 2004, c. 1000.

§ 51.1-124.21. Application of State and Local Government Conflict of Interests Act

The provisions of the State and Local Government Conflict of Interests Act (§ 2.2-3100 et seq.) shall apply to the members of the Board and the employees of the Virginia Retirement System.

1994, cc. 4, 85.

§ 51.1-124.22. Board to administer Retirement System; powers and duties

A. The Retirement System shall be administered by the Board of Trustees, whose powers and duties include but are not limited to:

1. Appointing a director, who shall not be a member of the Board, to serve as the chief administrative officer of the Retirement System at the pleasure of the Board.

2. Maintaining records of all of its proceedings and making such records available for inspection by the public.

3. Employing an actuary as its technical advisor and employing other persons and incurring expenditures as it deems necessary for the efficient administration of the Retirement System.

4. Causing an actuarial investigation to be made of all the experience under the Retirement System at least once in each four-year period. The Board shall also cause actuarial gain/loss analyses to be made in conjunction with each actuarial valuation of the System. Pursuant to such investigations and analyses, the Board shall periodically revise the actuarial assumptions used in the computation of employer contribution rates.

5. Causing a biennial actuarial valuation to be made of the assets and liabilities of the Retirement System with respect to each employer. Pursuant to the results of such valuations, the Board shall prepare a statement as to the employer contribution rates applicable to each employer.

6. Publishing the results of each actuarial valuation of the assets and liabilities.

7. Publishing annual financial statements of the Retirement System or annual reports in accordance with §§ 51.1-1000 through 51.1-1003.

8. Promulgating regulations and procedures and making determinations necessary to carry out the provisions of this title.

9. Purchasing insurance to insure against losses suffered by the Retirement System if any member of the Board or of any advisory committee breaches the standard of care in § 51.1-124.30.

10. Adopting rules and policies that bring the Retirement System into compliance with any applicable law or regulation of this Commonwealth or the United States.

11. Establishing and administering, for the officers and employees of the Retirement System, (i) a compensation plan which is consistent with the provisions set forth in the general appropriations act for this purpose and (ii) a grievance procedure which is consistent with the provisions of § 2.2-1202.1 and any regulations promulgated pursuant thereto.

12. Investing in real estate to be held as a nonrevenue producing asset and used by the Retirement System for administrative offices.

13. Charging and collecting administrative fees to pay actual costs incurred by the Retirement System in administering and overseeing any retirement plan or service award fund other than the Virginia Retirement System (§ 51.1-124.1 et seq.), the State Police Officers' Retirement System (§ 51.1-200 et seq.), the Virginia Law Officers' Retirement System (§ 51.1-211 et seq.), or the Judicial Retirement System (§ 51.1-300 et seq.), for which it is responsible from the Commonwealth or participating political subdivisions whose employees benefit under such retirement plans. Any fee charged under the authority granted herein shall be for costs incurred directly related to the administration and oversight of the retirement plan or service award fund, as determined by the Board.

Such fee shall be charged to the employer whose employees benefit under the retirement plan and to the service award fund in the case of costs incurred in administering and overseeing service award funds. Overpayments from benefits received under the Virginia Retirement System, the State Police Officers' Retirement System, the Virginia Law Officers' Retirement System, the Judicial Retirement System, the Virginia Sickness and Disability Program under Chapter 11 (§ 51.1-1100 et seq.), the Disability Program for Hybrid Retirement Program Participants under Chapter 11.1 (§ 51.1-1150 et seq.), or Health Insurance Credits for Certain Retirees under Chapter 14 (§ 51.1-1400 et seq.) may be deducted from life insurance benefits payable under Chapter 5 (§ 51.1-500 et seq.).

14. The Board is authorized to charge and collect from participating employers any penalties, interest, compliance fees, or other charges charged to the Retirement System by the Internal Revenue Service or other regulatory body.

B. The Board shall be vested with the powers and duties of the Board of Trustees of the abolished system to the extent necessary for the payment of vested rights and the return of accumulated contributions.

C. The Commonwealth, the Board, employees of the Retirement System, the Investment Advisory Committee of the Retirement System, and any other advisory committee established by the Board shall not incur any liability for any losses suffered by the deferred compensation, the cash match, or the defined contribution retirement plans established or administered under the authority of this title, except as provided in § 51.1-124.30.

1952, c. 157, §§ 51-111.17, 51-111.18, 51-111.21 to 51-111.22:1, 51-111.23, 51-111.68; 1956, c. 363; 1958, c. 419; 1960, c. 400; 1970, c. 476; 1971, Ex. Sess., c. 88; 1973, c. 523; 1974, c. 353; 1975, c. 610; 1977, c. 620; 1980, cc. 681, 728; 1982, c. 478; 1989, c. 41; 1990, c. 832, § 51.1-110; 1994, cc. 4, 85; 1995, c. 307; 1997, c. 711; 1998, c. 176; 2003, cc. 11, 626; 2004, c. 80; 2008, c. 245; 2012, cc. 803, 835; 2014, c. 356.

§ 51.1-124.23. Medical boards

A. The Board may create one or more medical boards composed of physicians or other health care professionals who are not eligible to participate in the Retirement System. Members of the medical boards created pursuant to this section shall serve at the pleasure of the Board. A medical board created pursuant to this section may appoint physicians or other health professionals to supplement the medical board membership as necessary to render medical decisions involving specific medical specialties or to serve as substitutes when members of such medical board cannot serve in their official capacity. Any such appointments made by the medical board shall be immediately communicated to the Board or its designee.

B. The duties of a medical board created pursuant to this section shall include:

1. Reviewing all reports of medical examinations required by this chapter.

2. Investigating all essential health and medical statements and certificates filed in connection with disability retirement.

3. Submitting to the Board a written report of its conclusions and recommendations on all matters referred to it.

C. A medical board created pursuant to this section, its substitutes, and its employees shall not be held personally liable for conclusions, advice, or recommendations made in accordance with the duties of such medical board under the provisions of this title.

D. The Board is authorized to delegate or assign to any person the authority to appoint medical board membership.

1952, c. 157, § 51-111.26; 1980, cc. 680, 728; 1984, c. 430; 1990, c. 832, § 51.1-112; 1994, cc. 4, 85; 1997, c. 78; 2001, c. 39.

§ 51.1-124.24. Chief investment officer; qualifications; duties

A. To assist the Board of Trustees in fulfilling its fiduciary duty as trustee of the funds of the Virginia Retirement System, the Board shall employ a chief investment officer to direct, manage, and administer the investment department. The chief investment officer shall be employed under special contract with the Board, shall report directly to the Board, shall serve at the pleasure of the Board, and may be removed by a majority vote of the Board.

B. To ensure that the Board of Trustees receives competent, professional advice regarding its investment decisions from the chief investment officer, the chief investment officer shall demonstrate (i) an ability to oversee, structure, and evaluate institutional investment portfolios and (ii) extensive experience in any two or more of the following areas: domestic equity or fixed-income securities, international equity or fixed-income securities, cash management, alternative investments, managed futures, or large real estate investments. By resolution of the Board, additional qualifications for the chief investment officer may be set.

C. In addition to such duties as the Board of Trustees may include in its special employment contract with the chief investment officer, he shall have the following duties: (i) coordinating asset allocation for all asset classes and subclasses within each class; (ii) supervising, evaluating, and monitoring the investment portfolio and associated investment activities; (iii) facilitating communication between and among the Board of Trustees, advisory committees, employees, members, beneficiaries, and outside entities interested in the investment programs of the retirement system; (iv) enhancing the Board's ability to make effective, prompt decisions in all matters related to investments and the administration of the investment department; and (v) reporting as requested by the General Assembly.

1994, cc. 4, 85.

§ 51.1-124.25. Existing advisory committees of the Virginia Retirement System abolished

As of March 25, 1994, the existing advisory committees of the Virginia Retirement System are abolished and the members are discharged from any further duties.

1994, cc. 4, 85.

§ 51.1-124.26. Advisory Committees to the Board of Trustees; membership; terms; qualifications; duties

To further assist the Board of Trustees in fulfilling its fiduciary duty as trustee of the funds of the Retirement System, the Board shall appoint an Investment Advisory Committee to provide the Board with sophisticated, objective, and prudent investment advice. The Investment Advisory Committee shall consist of seven to nine members and each member appointment shall require a two-thirds vote of the Board.

A. In addition, the Board of Trustees may appoint such other advisory committees as it deems necessary. Each member appointment shall require a two-thirds vote of the Board.

B. Each advisory committee shall include no more than two Board members and no individual Board member shall serve on more than one advisory committee. Advisory committee members shall serve at the pleasure of the Board and may be removed by a majority vote of the Board.

C. Except for any Board member who serves on an advisory committee, no elected or appointed official shall serve on an advisory committee.

D. Except for any trustee appointed to the Board between February 28, 1994, and July 1, 1995, no former trustee of the Virginia Retirement System or its predecessors in interest shall, during the five-year period after the termination of his service as a Board member, serve on any advisory committee.

E. Except for Board members, members of any advisory committee shall receive an initial stipend of $1,875 for each calendar quarter they may serve and a per diem of $300 for each meeting attended not to exceed one meeting per day. Commencing July 1, 1995, the stipend shall be increased annually by a percentage equal to the most recent salary structure adjustment as provided in the general appropriation act. Government employees shall receive no stipend for their service but shall be entitled to receive a per diem of $300 for each advisory committee meeting attended not to exceed one meeting per day. Each advisory committee member shall be entitled to receive reimbursement for his actual reasonable and necessary expenses incurred for attending committee meetings. Any member of any advisory committee who also serves as an officer, director, or member of the board of any corporation organized by the Virginia Retirement System shall be entitled to receive compensation and expenses pursuant to this subsection in addition to any remuneration to which he is entitled by virtue of his service as an officer, director, or member of the board of any corporation organized by the Virginia Retirement System.

F. Any Board member who serves on an advisory committee shall not receive the quarterly stipend for advisory committee members provided for in subsection E above, but shall receive the per diem

applicable to advisory committee meetings attended in that quarter plus reasonable and necessary expenses incurred.

G. The disclosure requirements of subsection B of § 2.2-3114 of the State and Local Government Conflict of Interests Act shall apply to any member of any advisory committee who is not also a Board member.

H. Members of the Investment Advisory Committee shall demonstrate extensive experience in any one or more of the following areas: domestic or international equity or fixed-income securities, cash management, alternative investments, substantial real estate investments, or managed futures. By resolution of the Board, qualifications for members of any other advisory committee may be set.

The Investment Advisory Committee shall (i) review, evaluate, and monitor investments and investment opportunities, (ii) make appropriate recommendations to the Board about such investments and investment opportunities, and (iii) make recommendations to the Board about overall asset allocation. By resolution of the Board, responsibilities of any other advisory committee may be set.

I. The recommendations of an advisory committee are not binding upon the Board of Trustees.

1994, cc. 4, 85; 1995, c. 788; 1997, c. 641; 1998, c. 196.

§ 51.1-124.27. Employees of the Retirement System

The officers and employees of the Virginia Retirement System shall be exempt from the provisions of § 2.2-1202.1 and of the Virginia Personnel Act (§ 2.2-2900 et seq.). Personnel actions shall be taken without regard to race, sex, color, national origin, religion, age, handicap or political affiliation.

1994, cc. 4, 85; 1997, c. 711; 2012, cc. 803, 835.

§ 51.1-124.28. Legal representation in criminal matters

Upon the acquittal, dismissal of charges, nolle prosequi, or any other final disposition concluding the innocence of any trustee, advisory committee member, officer, or employee of the Retirement System brought before any regulatory body, summoned before any grand jury, investigated by any law-enforcement agency, arrested, indicted, or otherwise prosecuted on any criminal charge arising out of any act committed in the discharge of his official duties which alleges a violation of state or federal securities laws, the Board may reimburse all or part of the cost of employing legal counsel and such other costs as are demonstrated to have been reasonably necessary for his defense. The Board shall provide for the payment of such legal fees and expenses out of funds appropriated for the administration of the Retirement System.

1997, c. 821.

§ 51.1-124.29. Reserved

Reserved.

Article 3.1 - INVESTMENTS

§ 51.1-124.30. Board as trustee of funds; investments; standard of care; liability for losses

A. The Board shall be the trustee of the funds of the Retirement System that it administers and of those resulting from the abolished system. Subject to the provisions of this chapter, the Board shall have full power to invest and reinvest such funds as authorized by law.

B. The Board shall have the power to borrow money in such amounts as may be necessary to discharge current obligations under this chapter whenever in its judgment it would be more advantageous to borrow money than to sell securities held by the Retirement System. Any debt so incurred may be evidenced by notes duly authorized by resolution of the Board, but in no case is the due date of any note or other evidence of debt to be beyond the end of the biennium succeeding the biennium in which the debt is incurred. Securities held by the Retirement System may be hypothecated by the Board as security for the payment of any debt incurred under this section.

C. The Board shall discharge its duties with respect to the Retirement System solely in the interest of the beneficiaries thereof and shall invest the assets of the Retirement System with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Board shall also diversify such investments so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so.

D. No officer, director, or member of the Board or of any advisory committee of the Retirement System or any of its tax exempt subsidiary corporations whose actions are within the standard of care in subsection C above shall be held personally liable for losses suffered by the Retirement System on investments made under the authority of this chapter.

E. In the case of a plan administered by the Board which provides individual accounts permitting an employee or beneficiary to exercise discretion over assets in his account, the Board shall not be liable for any loss resulting from such employee's or beneficiary's (i) exercise of discretion over the assets in his account or (ii) inaction with respect to the assets in his account that results in such assets being placed in a default investment option selected by the Board.

F. In the case of an automatic rollover of a mandatory cash-out, as that term is defined under I.R.C. § 401 (a)(31)(B) of the United States Internal Revenue Code of 1986 (including as such section is amended or renumbered, or any successor provision thereto) and regulations thereunder applicable to governmental plans, the Board shall not be liable for any loss resulting from the Board's selection of an individual retirement plan provider and investment product where the selection is made in accordance with guidelines to be adopted by the Board that are similar to the safe harbor guidelines adopted by the United States Department of Labor for this purpose.

1952, c. 157, § 51-111.24; 1954, c. 633; 1959, Ex. Sess., c. 47; 1962, c. 50; 1972, c. 151; 1973, c. 523; 1976, c. 545; 1977, c. 620; 1978, c. 841; 1980, cc. 559, 596; 1984, c. 430; 1990, c. 832, § 51.1-114; 1994, cc. 4, 85; 1995, c. 788; 2000, c. 396; 2005, c. 729; 2013, c. 463.

§ 51.1-124.31. Pooling of assets for investment

The Board may invest the assets of any retirement system or program it administers on a pooled or consolidated basis. The Board shall maintain a separate accounting of the funds of each of the retirement systems and programs.

Code 1950, §§ 51-140, 51-141, 51-149, 51-166; 1950, p. 885; 1954, c. 139; 1966, c. 628; 1970, c. 779; 1972, c. 151; 1990, c. 832, § 51.1-115; 1994, cc. 4, 85; 2000, c. 911.

§ 51.1-124.32. Exemption from Public Procurement Act

The selection of services related to the management, purchase, or sale of authorized investments, actuarial services, and disability determination services shall be governed by the standard of care in § 51.1-124.30 and shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.).

1982, c. 580, § 51-111.24:2; 1985, c. 490; 1989, c. 399; 1990, c. 832, § 51.1-116; 1991, c. 391; 1994, cc. 4, 85; 2007, c. 65.

§ 51.1-124.33. Deposit of trust funds not an investment; authorized deposits

The Board may authorize the deposit of trust funds in interest-bearing time deposits and certificates of deposit of national banks located within the Commonwealth, of banks organized pursuant to Chapter 8 (§ 6.2-800 et seq.) of Title 6.2, of savings institutions which are under state supervision, and of federal associations located in this Commonwealth and organized under the laws of the United States and under federal supervision and federally insured. Such deposits shall not be considered the investment of trust funds for the purposes of this chapter. Deposit of the funds in demand and time deposits and in certificates of deposit of national banks located within this Commonwealth and of banks organized pursuant to the Virginia Banking Act is hereby authorized, provided that the deposits are secured as provided by law and that no deposit is made for any one period in excess of one year. Deposit of trust funds in savings accounts and certificates of savings institutions which are under state supervision and of federal associations located in this Commonwealth and organized under the laws of the United States and under federal supervision is hereby authorized. Such deposits shall not exceed the amount insured by the Federal Deposit Insurance Corporation or other federal insurance agency, unless deposits in excess of the amount insured are fully collateralized by eligible collateral as defined in § 2.2-4401. No such deposit shall be made for any one period in excess of one year.

1980, c. 596, § 51-111.24:4; 1990, cc. 3, 832, § 51.1-122; 1994, cc. 4, 85.

§ 51.1-124.34. Retention of investments that become ineligible

An investment that conformed with the provisions of this chapter at the time the investment was made may be retained even though the investment ceases to be eligible for purchase under the provisions of this chapter, unless the standard of care in § 51.1-124.30 requires the sale or other disposition of the investment.

1980, c. 596, § 51-111.24:1; 1988, c. 526; 1989, c. 28; 1990, c. 832, § 51.1-123; 1994, cc. 4, 85.

§ 51.1-124.35. Investment provisions exclusive

Investment of trust funds by the Board shall be governed exclusively by this article.

1980, c. 596, § 51-111.24:8; 1990, c. 832, § 51.1-124; 1994, cc. 4, 85.

§ 51.1-124.36. Investment of assets of the Commonwealth Health Research Fund

A. In addition to such other powers as shall be vested in the Board, the Board shall have the full power to invest, reinvest, and manage the assets of the Commonwealth Health Research Fund. The Board shall maintain a separate accounting for the assets of the Commonwealth Health Research Fund.

B. The Board shall invest the assets of the Commonwealth Health Research Fund with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Board shall also diversify such investments so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so.

C. No officer, director, or member of the Board or of any advisory committee of the Retirement System or any of its tax exempt subsidiary corporations whose actions are within the standard of care in subsection B above shall be held personally liable for losses suffered by the Retirement System on investments made under the authority of this section.

D. The provisions of §§ 51.1-124.32, 51.1-124.33, 51.1-124.34, and 51.1-124.35 shall apply to the Board's activities with respect to funds in the Commonwealth Health Research Fund.

E. The Board may assess the Commonwealth Health Research Board a reasonable administrative fee for its services.

1997, cc. 803, 888, 891; 2007, cc. 700, 711.

§ 51.1-124.37. Investment of assets of the Commonwealth's Attorneys Training Fund

A. In addition to such other powers as shall be vested in the Board of the Virginia Retirement System (Board), the Board shall have the full power to invest, reinvest, and manage the assets of the Commonwealth's Attorneys Training Fund (Fund). The Board shall maintain a separate accounting for the assets of the Fund.

B. The Board shall invest the assets of the Fund with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Board shall also diversify such investments so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so.

C. No officer, director, or member of the Board or of any advisory committee of the Virginia Retirement System or any of its tax exempt subsidiary corporations whose actions are within the standard of care set forth in subsection B shall be held personally liable for losses suffered by the Retirement System on investments made under the authority of this section.

D. The provisions of §§ 51.1-124.32, 51.1-124.33, 51.1-124.34, and 51.1-124.35 shall apply to the Board's activities with respect to moneys in the Fund.

E. The Board may assess the Commonwealth's Attorneys' Services Council a reasonable administrative fee for its services.

2015, cc. 212, 226.

§ 51.1-124.38. Investment of assets of the Virginia Research Investment Fund

A. (Effective until October 1, 2016) In addition to such other powers as shall be vested in the Board, the Board shall have the full power to invest, reinvest, and manage those portions of the Virginia Research Investment Fund (the Fund), established pursuant to Chapter 28 (§ 23-304 et seq.) of Title 23, designated by the General Assembly for investment by the Board pursuant to subsection B of § 23-305. The Board shall maintain a separate accounting for the assets of the Fund invested with it. The Board shall make an annual distribution of such invested moneys to the Comptroller pursuant to subsection B of § 23-305.

A. (Effective October 1, 2016) In addition to such other powers as shall be vested in the Board, the Board shall have the full power to invest, reinvest, and manage those portions of the Virginia Research Investment Fund (the Fund), established pursuant to Article 8 (§ 23.1-3130 et seq.) of Chapter 31 of Title 23.1, designated by the General Assembly for investment by the Board pursuant to subsection B of § 23.1-3131. The Board shall maintain a separate accounting for the assets of the Fund invested with it. The Board shall make an annual distribution of such invested moneys to the Comptroller pursuant to subsection B of § 23.1-3131.

B. The Board shall invest the assets of the Fund with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Board shall also diversify such investments so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so.

C. No officer, director, or member of the Board or of any advisory committee of the Retirement System or any of its tax-exempt subsidiary corporations whose actions are within the standard of care set forth in subsection B shall be held personally liable for losses suffered by the Retirement System on investments made under the authority of this section.

D. The provisions of §§ 51.1-124.32, 51.1-124.33, 51.1-124.34, and 51.1-124.35 shall apply to the Board's activities with respect to moneys in the Fund.

E. The Board may assess the Virginia Research Investment Committee a reasonable administrative fee for its services.

2016, c. 775.

§ 51.1-124.39. (Effective July 1, 2017) Investment of assets of the Line of Duty Death and Health Benefits Trust Fund

A. In addition to such other powers as shall be vested in the Board, the Board shall have the full power to invest, reinvest, and manage the assets of the Line of Duty Death and Health Benefits Trust Fund (the Fund) established pursuant to § 9.1-400.1. The Board shall maintain a separate accounting for the assets of the Fund.

B. The Board shall invest the assets of the Fund with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Board shall also diversify such investments so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so.

C. No officer, director, or member of the Board or of any advisory committee of the Retirement System or any of its tax-exempt subsidiary corporations whose actions are within the standard of care in subsection B shall be held personally liable for losses suffered by the Retirement System on investments made under the authority of this section.

D. The provisions of §§ 51.1-124.32 through 51.1-124.35 shall apply to the Board's activities with respect to moneys in the Fund.

E. The Board may assess the Fund a reasonable administrative fee for its services.

2016, c. 677.

Article 4 - MEMBERSHIP IN RETIREMENT SYSTEM

§ 51.1-125. Persons composing membership; persons holding more than one position

A. All persons who become employees after March 1, 1952, shall be members of the retirement system, except for the following persons:

1. Any person who elects not to participate as provided in this chapter, or who elected not to participate in the abolished system.

2. Any person who becomes an employee and who elects to remain a member of a local pension system where such election is allowed by state law.

3. Any member of a local system who through promotion achieves a position bringing him within the definition of a teacher if he elects within sixty days, with the concurrence of his employer, to remain a member of the local system.

B. No person shall hold more than one membership in the retirement system at any one time with respect to any of the benefits provided under this title. Any person employed in more than one position resulting in membership shall elect one position on which his membership shall be based by written notification thereof to the Board.

1952, c. 157, § 51-111.27; 1954, c. 241; 1960, c. 400; 1973, c. 523; 1978, c. 841; 1982, c. 467; 1984, c. 430; 1985, c. 490; 1987, c. 575; 1990, c. 832 .

§ 51.1-126. Employees of institutions of higher education

For purposes of this section, "optional retirement plan" means a retirement plan covering the employee for retirement purposes other than the Virginia Retirement System defined benefit retirement plan established under this chapter or the hybrid retirement program described in § 51.1-169.

A.1. The Board shall maintain an optional retirement plan covering employees engaged in the performance of teaching, administrative, or research duties with an institution of higher education and any institution of higher education is authorized to make contributions to such plan for the benefit of its employees participating in such plan. Except (i) as provided in subsection B for institutions of higher education that have established their own optional retirement plan and (ii) for employees described in subdivision A 2, every employee hired by an institution of higher education on or after July 1, 2003, engaged in the performance of teaching, administrative, or research duties shall make an irrevocable election to participate in either (a) the Virginia Retirement System defined benefit retirement plan established by this chapter until January 1, 2014, and thereafter, the hybrid retirement program described in § 51.1-169 or (b) an optional retirement plan maintained by the Board. Such election shall be exercised no later than 60 days from the time of the employee's entry upon the performance of his duties. If an election is not made within such 60 days, such employee shall be deemed to have elected to participate in the Virginia Retirement System defined benefit retirement plan or the hybrid retirement program described in § 51.1-169, as applicable.

2. Any employee (i) hired on or after July 1, 2003, by an institution of higher education engaged in the performance of teaching, administrative, or research duties; and (ii) who at the time of hiring is in continuous service in the performance of such teaching, administrative, or research duties shall participate in the optional retirement plan maintained by the Board if the most recent retirement plan covering the employee prior to such hiring was an optional retirement plan. If the most recent retirement plan covering the employee prior to such hiring was the Virginia Retirement System defined benefit retirement plan or the hybrid retirement program described in § 51.1-169, such person shall participate in such defined benefit retirement plan or such hybrid retirement program, as applicable, from the time of his entry upon the performance of his duties.

B.1. Any institution of higher education, upon receipt of approval by the Board in writing, may establish and maintain its own optional retirement plan covering its employees who are engaged in the performance of teaching, administrative, or research duties. Upon such approval, such institution is authorized to make contributions to its own optional retirement plan for the benefit of its employees who elect to participate or who are required to participate in such plan as provided in this subsection.

2. Every employee, with the exception of employees described in subdivision B 3, (i) hired on or after July 1, 2003, by an institution of higher education that has established and is maintaining its own optional retirement plan pursuant to this subsection and (ii) engaged in the performance of teaching, administrative, or research duties shall make an irrevocable election to participate in

either: (a) the Virginia Retirement System defined benefit retirement plan established by this chapter until January 1, 2014, and thereafter, the hybrid retirement program described in § 51.1-169, as applicable; or (b) such optional retirement plan of the institution of higher education. Such employee shall not be provided any election to participate in an optional retirement plan maintained by the Board.

The election shall be exercised no later than 60 days from the time of the employee's entry upon the performance of his duties. If an election is not made within such 60 days, such employee shall be deemed to have elected to participate in the Virginia Retirement System defined benefit retirement plan established by this chapter or the hybrid retirement program described in § 51.1-169, as applicable.

3. Any employee (i) hired on or after July 1, 2003, by an institution of higher education engaged in the performance of teaching, administrative, or research duties; and (ii) who at the time of hiring is in continuous service in the performance of such teaching, administrative, or research duties shall participate in the optional retirement plan established by the institution of higher education pursuant to this subsection if the most recent retirement plan covering the employee prior to such hiring was an optional retirement plan. If the most recent retirement plan covering the employee prior to such hiring was the Virginia Retirement System defined benefit retirement plan or the hybrid retirement program described in § 51.1-169, such person shall participate in such defined benefit retirement plan or such hybrid retirement program, as applicable, from the time of his entry upon the performance of his duties.

C. Any employee engaged in the performance of teaching, administrative, or research duties at an institution of higher education who was covered under an optional retirement plan for retirement purposes, other than the optional retirement plan established by such institution pursuant to subdivision B 1, shall, at the time such institution establishes its own optional retirement plan pursuant to subdivision B 1, automatically and immediately begin to participate in the optional retirement plan established pursuant to subdivision B 1, notwithstanding such employee's prior election to participate in a different optional retirement plan.

D.1. Any administrative fee imposed pursuant to subdivision A 13 of § 51.1-124.22 upon any institution of higher education for administering and overseeing the institution's retirement plan established pursuant to subsection A shall be charged for each employee participating in such plan and shall be for costs incurred by the Retirement System that are directly related to the administration and oversight of such plan.

2. Each institution of higher education may charge and collect a reimbursement fee from each employee participating in the institution's retirement plan established pursuant to subsection A. The total amount charged and collected for such fee from all such employees for any year shall not exceed the total of the costs described in subdivision D 1 and charged to the institution for such year.

E.1. No employee of an institution of higher education who is an active member in any plan maintained by the Board or established by an institution of higher education, pursuant to this section, shall also be an active member of the retirement system or beneficiary other than a contingent annuitant.

2. If a member of the optional retirement plan maintained under this section is at any time in service as an employee in a position covered for retirement purposes under the provisions of Chapters 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.), his benefit payments under the optional retirement plan maintained under this section shall be suspended while so employed; provided, however, reemployment shall have no effect on the payment under the optional plan maintained under this section if the benefits are being paid in an annuity form under an annuity contract purchased with the member's account balance.

F.1. The contribution by the Commonwealth on behalf of an employee participating in an optional retirement plan maintained by the Board or on behalf of an employee participating in an optional retirement plan established by his institution of higher education under this section to such employee's retirement plan shall be (i) at least 8.5 percent but not in excess of 8.9 percent of creditable compensation for any person who becomes a member on or after July 1, 2010, and (ii) 10.4 percent of creditable compensation for all other employees. Any institution of higher education that elects a contribution in excess of 8.5 percent of creditable compensation for any employee described in clause (i) shall provide for the same percentage of creditable compensation as contributions for each of its employees described in clause (i) who participates in such optional retirement plan. The portion of the contribution in excess of 8.5 percent of creditable compensation pursuant to clause (i) shall not be funded from the general fund of the state treasury, but shall be paid by the institution of higher education from other funds. In addition, any person who becomes a member on or after July 1, 2010, shall, pursuant to procedures established by the Board, pay member contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code, in an amount equal to five percent of his creditable compensation, to the optional retirement plan maintained by the Board on his behalf or the optional retirement plan established by his institution of higher education on his behalf, as applicable. Each employee making such member contribution shall be deemed to consent and agree to any salary reduction for purposes of the member contribution. Such member contributions shall be in addition to all contributions pursuant to clause (i). An institution of higher education may make an additional contribution for participants who, before January 1, 1991, exercised the election to participate in the plan provided by the institution employing them. Such additional contributions shall be made using funds other than general funds, tuition or fees, up to an additional 2.17 percent of creditable compensation.

2. The governing board of any institution of higher education that establishes its own optional retirement plan pursuant to this section may establish a policy regarding the number of years of service, or portion thereof, that an employee must perform before such employee shall be entitled to receive all contributions made on his behalf by the institution to the optional retirement plan.

If an employee has less than the number of years of service, or portion thereof, established by the governing board at the time he ceases employment, other than by death or involuntary separation due to causes other than job performance or misconduct, as determined by the institution of higher education in its sole discretion, he shall not receive or be entitled to that portion of the contributions that was paid by the institution on his behalf for which he does not have the required service. The institution of higher education may establish a forfeiture account for such employer contributions forgone by the employee and may specify the uses of funds in the forfeiture account. The provisions of this subdivision shall apply only to any person who (i) becomes a participant in the institution of higher education's optional retirement plan on or after July 1, 2014, and (ii) is not an employee described under subdivision B 3. Any future change to a policy established by the governing board of an institution of higher education pursuant to this subdivision regarding the number of years of service required for an employee to receive all contributions made by the institution to the optional retirement plan shall apply only to new employees hired on or after the date of the change.

3. The contribution rates established pursuant to subdivision 1 shall be examined by the Board at least once every six years. The examination shall consider the salary peer group mean contribution as determined by the State Council of Higher Education and the Virginia Retirement System actuary, and, if deemed advisable, recommend a revision to the rate of contribution by the Commonwealth.

G. With respect to any employee who elects pursuant to subsection A or B to participate in the Virginia Retirement System defined benefit retirement plan established by this chapter or the hybrid retirement program described in § 51.1-169, the institution of higher education shall collect and pay all employee and employer contributions to the Virginia Retirement System for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) for such employees.

H. The Virginia Retirement System shall develop policies and procedures for the administration of the optional retirement plan it maintains. To assist the Virginia Retirement System in developing such policies and procedures, the Board may appoint an advisory committee of higher education employees to supply guidance in the process.

I. As a condition of the Board granting approval to an institution of higher education to establish its own optional retirement plan, the institution of higher education shall develop policies and procedures for the administration of such plan and shall submit such policies and procedures to the Board as part of the Board-approval process required under this section. In addition, an institution of higher education that is granted approval by the Board to establish its own optional retirement plan covering employees engaged in the performance of teaching, administrative, or research duties shall not adopt or implement policies and procedures that are substantially different from the policies and procedures approved by the Board in the initial approval process unless the Board, in writing, approves such substantially different policies and procedures.

J. The Board shall establish guidelines for the employee elections referred to in subdivision B 2 and shall review and, if deemed advisable, recommend revisions to the contribution rates as described in subsection F. Except for the duties described in subsection I, the Board shall have no duties and responsibilities with respect to such plans established pursuant to subsection B.

1952, c. 157, § 51-111.28; 1978, c. 841; 1982, c. 467; 1987, c. 215; 1990, c. 832; 1991, cc. 217, 645; 1996, cc. 933, 995; 2000, cc. 722, 723; 2001, c. 691; 2003, cc. 369, 626; 2005, c. 793; 2010, cc. 737, 738; 2012, cc. 701, 823; 2014, cc. 745, 764.

§ 51.1-126.1. Certain employees of teaching hospitals

A. Any teaching hospital affiliated with an institution of higher education, other than the Virginia Commonwealth University Health System Authority or the University of Virginia Medical Center, may establish a retirement plan covering in whole or in part its employees who are health care providers, as determined by the Department of Human Resource Management pursuant to § 2.2-2905, and is authorized to make contributions for the benefit of its employees who elect to participate in such plan or arrangement rather than in the retirement system established by this chapter. Any such alternative retirement plan shall not become effective until July 1, 1991, or any time thereafter, as determined by such teaching hospital. Any health care provider employed by such teaching hospital on or after July 1, 1991, may make an irrevocable election to participate in either the retirement plan established by this chapter or the plan provided by the teaching hospital, in accordance with guidelines established by the Virginia Retirement System. The election herein provided shall, as to any health care provider employed after the alternative retirement plan implementation date, be exercised not later than thirty-one days from the time of entry upon the performance of his duties.

B. No health care provider employed by a teaching hospital who is an active member of a plan established under this section shall also be an active member of the retirement system or a beneficiary other than a contingent annuitant.

C. The contribution by the Commonwealth to any other retirement plan established on behalf of health care providers as provided in subsection A shall be the contribution by the Commonwealth which would be required if the health care provider were a member of the retirement system or eight percent of creditable compensation, whichever is less.

D. If the institution of higher education with which the teaching hospital is affiliated has adopted a retirement plan under § 51.1-126 for its employees who are engaged in the performance of teaching, administrative, or research duties, the plan established under this section shall offer the same investment opportunities as are available to the participants of the plan established under § 51.1-126.

E. The Virginia Retirement System shall develop policies and procedures for the administration of the retirement plan established under this section.

1991, c. 645; 1993, c. 895; 1996, cc. 905, 933, 995, 1046; 2000, cc. 66, 657, 720.

§ 51.1-126.2. Repealed

Repealed by Acts 1998, c. 449.

§ 51.1-126.3. Employees of the University of Virginia Medical Center

A. The University of Virginia Medical Center, hereafter referred to as the Medical Center, may establish one or more retirement plans covering in whole or in part its employees. The Medical Center is authorized to make contributions for the benefit of its employees who are covered by any plan established pursuant to this section. Any such alternative retirement plans for Medical Center employees shall not become effective until such time as the Board of Visitors of the University of Virginia may determine. Except as provided herein, all employees of the Medical Center who are employed by the Medical Center on or after July 1, 2000, shall be participants in a Medical Center retirement plan established pursuant to this section, with a contribution by the Medical Center at a rate to be determined by the University of Virginia Board of Visitors. However, an employee hired by the Medical Center on or after July 1, 2003, who, as of the first day of such employment, is a current member of the Virginia Retirement System defined benefit retirement plan established by this chapter shall elect to either: (i) continue to participate in such defined benefit retirement plan or (ii) choose the plan provided by the Medical Center with a contribution by the Medical Center at a rate to be determined by the University of Virginia Board of Visitors. Such election shall be exercised not later than 60 days from the time of the employee's entry into the performance of his duties for the Medical Center, and the election shall be irrevocable. During such 60-day period, to the time of such election, such employee shall participate in the Virginia Retirement System defined benefit retirement plan established by this chapter. If such election is not made within the time period provided in this subsection, such employee shall be deemed to have elected to participate in the retirement plan established by the Medical Center.

B. With respect to any employee of the Medical Center who elects to continue to participate in the Virginia Retirement System defined benefit retirement plan, the Medical Center shall collect and pay all employee and employer contributions due to the Virginia Retirement System for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of this title for such employees. For Medical Center employees who elect or who are required pursuant to subsection A to become members of the retirement program established by the Medical Center, the Virginia Retirement System or other such authorized plan shall transfer to the retirement plan established by the Medical Center assets equal to the actuarially determined present value of the accrued basic benefit as of the transfer date. For purposes hereof, the basic benefit shall be the benefit accrued under the Virginia Retirement System or other such authorized retirement plan, based on creditable service and average final compensation, as defined in § 51.1-124.3 and determined as of the transfer date. The actuarial present value shall be determined on the same basis, using the same actuarial factors and assumptions used in determining the funding needs of the Virginia Retirement System or other such authorized retirement plan, so that the transfer of assets to the retirement plan established by the Medical Center will have no effect on

the funded status and financial stability of the Virginia Retirement System or other such authorized retirement plan.

C. No employee of the Medical Center who is an active member of any plan established under this section shall also be an active member of the retirement system established by this chapter or a beneficiary of such other plan other than as a contingent annuitant.

D. The University of Virginia Board of Visitors shall adopt guidelines for the implementation of the provisions of this section, including guidelines for the administration of any retirement plan established pursuant to this section. The Board shall have no duties and responsibilities with respect to such plan. The guidelines adopted by the Board of Visitors shall be filed with the Board of Trustees of the Virginia Retirement System.

1996, cc. 933, 995; 2000, c. 723; 2003, c. 369.

§ 51.1-126.4. Employees of the Virginia Port Authority

A. The Virginia Port Authority, hereinafter referred to as the Authority, may establish one or more retirement plans covering in whole or in part its employees. The Authority is authorized to make contributions for the benefit of its employees who elect to participate in such plan or arrangement rather than in any other retirement system established by this chapter. Any such alternative retirement plan shall become effective at such time as determined by the Authority. The Authority shall notify the Virginia Retirement System of the establishment of such plan no later than ninety days prior to the effective date. Any present employee of the Authority may make an irrevocable election to participate in the retirement plan established by this chapter or any plan provided by the Authority. Such election shall be made no later than 180 days after the effective date of the plan provided for in this section on forms supplied by the Virginia Retirement System. Any employee hired on or after the effective date of the plan provided for in this section shall become a participant in that plan, subject to the eligibility criteria of that plan.

B. No employee of the Authority who is an active member of a plan established under this section shall also be an active member of the retirement system established by this chapter or a beneficiary of such other plan other than as a contingent annuitant.

C. The Authority shall develop policies and procedures for the administration of any retirement plan it establishes under this section. A copy of such policies and procedures shall be filed with the Board of Trustees of the Virginia Retirement System.

D. Pursuant to § 62.1-129.1, employees of the Authority shall be eligible to continue their participation in the Virginia Retirement System or may participate in an alternative retirement plan offered pursuant to this section.

1997, c. 232; 2015, c. 660.

§ 51.1-126.5. Defined contribution plan for eligible members

A. As used in this section, unless the context requires otherwise:

"Eligible member" means a member who holds an eligible position.

"Eligible position" means a position designated in subdivision 3, 4, or 20 of § 2.2-2905 or an officer or employee appointed by the Attorney General or Lieutenant Governor to a position designated as a deputy, counsel or director position.

"Participating member" means an eligible member who elects to participate in the plan.

"Plan" means the defined contribution plan established pursuant to this section.

B. The Board shall establish a plan covering any eligible member who elects to participate in the plan. The plan shall be in lieu of the service retirement allowance provided by the retirement system under § 51.1-155. Participating members shall be deemed to be members of the retirement system to the extent consistent with the provisions of this section.

C. Any person who becomes an eligible member after July 1, 1998, shall elect upon accepting an eligible position to participate in either (i) the retirement system or (ii) the plan. Such election shall be made in accordance with guidelines established by the Virginia Retirement System.

D. Upon ceasing to be employed in an eligible position but continuing to be an employee of the Commonwealth, a participating member may elect to:

1. Maintain the accrued contributions and earnings in his defined contribution account; or

2. Use the accrued contributions and earnings in his defined contribution account to purchase service credit in the retirement system as provided in subsection F.

E. After termination of employment, a participating member may withdraw the accrued contributions and earnings from his defined contribution account, subject to applicable state and federal law and regulation.

F. Upon an election under subsection D by a participating member who has ceased to be employed in an eligible position, the accrued contributions and earnings in such electing person's defined contribution account shall be used to purchase service credit in the retirement system at a rate to be established by the Board. Such rate shall cover the actuarial cost of providing the creditable service. If the account is less than the actuarial cost of the total time worked in the eligible position, the employee may use his own funds to purchase the remaining time. In no event shall the amount of service credit purchased in the retirement system exceed the time that was served in an eligible position while participating in the plan. Any amount of accrued contributions and earnings in such electing person's defined contribution account in excess of the amount required to purchase service credit in the retirement system for the time served in an eligible position while participating in the plan shall be forfeited to the Virginia Retirement System.

G. The contribution by the Commonwealth to a participating member's defined contribution account shall be determined by the Board of Trustees of the Virginia Retirement System in consultation with its actuary. Contributions to the defined contribution account and all earnings

thereon shall be credited to an account to be maintained for each participating member. Contributions by the Commonwealth to a participating member's defined contribution account shall be in lieu of contributions to the retirement system required pursuant to § 51.1-145.

H. If a member of the optional retirement plan maintained under this section is at any time in service as an employee in a position covered for retirement purposes under the provisions of this chapter, Chapter 2 (§ 51.1-200 et seq.), Chapter 2.1 (§ 51.1-211 et seq.), or Chapter 3 (§ 51.1-300 et seq.) of this title, his benefit payments under the optional retirement plan maintained under this section shall be suspended while so employed; provided, however, reemployment in such position shall have no effect on the payment under the optional retirement plan maintained under this section if the benefits are being paid in an annuity form under a lifetime annuity contract purchased with the member's account balance.

I. Effective January 1, 2014, any reference to "retirement system" in this section shall mean the hybrid retirement program described in § 51.1-169. The Virginia Retirement System shall (i) develop policies and procedures for the administration of the plan and (ii) provide a program of education and support for participating members.

1998, c. 661; 1999, c. 111; 2001, c. 691; 2002, c. 668; 2004, c. 206; 2006, c. 639; 2012, cc. 701, 823.

§ 51.1-126.6. Certain employees of public school divisions

A. The Board shall establish a defined contribution plan covering any eligible employee serving in a position designated in § 22.1-60 who elects to participate in the plan.

B. Any school board established pursuant to Article VIII, Section 7 of the Constitution of Virginia and Chapter 5 (§ 22.1-28 et seq.) of Title 22.1 is hereby authorized to make contributions to the optional retirement plan established by the Virginia Retirement System pursuant to this section for the benefit of its eligible employees who elect to participate in such a plan. Any eligible employee of such school board hired on or after the effective date of the plan shall make an irrevocable election to participate in either (i) the retirement system established by this chapter or (ii) the optional retirement plan established by the Virginia Retirement System pursuant to this section. Such election shall be made in accordance with the guidelines established by the Virginia Retirement System.

C. No employee of any school board who is an active member of the retirement plan established under this section shall also be an active member in the Virginia Retirement System or beneficiary thereof other than as a contingent annuitant. Such eligible employee may, however, be covered under any insurance plan established by the Board under this title for which he would have been otherwise eligible.

D. The contribution by the school board to such employee's defined contribution account shall be determined by the Board of Trustees of the Virginia Retirement System in consultation with its actuary. Contributions to the defined contribution account and all earnings thereon shall be

credited to an account to be maintained for each eligible employee who elects to participate. Contributions by the school board to an electing employee's defined contribution account shall be in lieu of contributions to the retirement system required pursuant to § 51.1-145. In addition, any person who becomes a member on or after July 1, 2010, shall, pursuant to procedures established by the Board, pay member contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code, in an amount equal to five percent of his creditable compensation, to the retirement plan established under this section. Each employee making such member contribution shall be deemed to consent and agree to any salary reduction for purposes of the member contribution. Such member contributions shall be in addition to all contributions by the school board to such employee's defined contribution account.

E. If a member of the optional retirement plan maintained under this section is at any time in service as an employee in a position covered for retirement purposes under the provisions of this chapter, Chapter 2 (§ 51.1-200 et seq.), Chapter 2.1 (§ 51.1-211 et seq.), or Chapter 3 (§ 51.1-300 et seq.) of this title, his benefit payments under the optional retirement plan maintained under this section shall be suspended while so employed; provided, however, reemployment in such position shall have no effect on the payment under the optional retirement plan maintained under this section if the benefits are being paid in an annuity form under a lifetime annuity contract purchased with the member's account balance.

F. Effective January 1, 2014, any reference to "retirement system" or "Virginia Retirement System" in this section, as the context requires, shall mean the hybrid retirement program described in § 51.1-169. The Virginia Retirement System shall develop policies and procedures for the administration of such plan in accordance with existing and future federal and state policies, regulations, and statutes governing the administration of such plans.

1998, c. 822; 2000, c. 345; 2001, c. 691; 2002, c. 668; 2006, c. 639; 2012, cc. 701, 823; 2013, c. 463.

§ 51.1-126.7. Employees of the Virginia Outdoors Foundation

A. The Virginia Outdoors Foundation, hereinafter referred to as the Foundation, may establish a retirement plan covering in whole or in part its employees. The Foundation is authorized to make contributions for the benefit of its employees who elect to participate in such plan or arrangement rather than in any other retirement system established by this chapter. Any such alternative retirement plan shall become effective at such times as determined by the Foundation. The Foundation shall notify the Virginia Retirement System of the establishment of such plan no later than ninety days prior to the effective date. Any present employee of the Foundation may make an irrevocable election to participate in the retirement plan established by this chapter or any plan provided by the Foundation. Such election shall be made no later than 180 days after the effective date of the plan provided for in this section on forms supplied by the Virginia Retirement System. Any employee hired on or after the effective date of the plan provided for in this section shall become a participant in that plan, subject to the eligibility criteria of that plan.

B. No employee of the Foundation who is an active member of a plan established under this section shall also be an active member of the retirement system established by this chapter or a beneficiary of such other plan other than as a contingent annuitant.

C. Upon an election by an employee of the Foundation to participate in the retirement plan established by the Foundation, the employee may also elect to transfer his accumulated contribution account, as reduced by the amount of any retirement allowance previously received by him under any of the provisions of this chapter or the abolished system, directly to the retirement plan established by the Foundation as a credit to his account in such plan. This election shall only be permitted if the plan established by the Foundation is a qualified plan under Section 401 (a) of the Internal Revenue Code . If a transfer is elected, no portion of the transferred amount shall be available to the member until benefits under the retirement plan established by the Foundation are otherwise available for distribution. The transfer of the accumulated contributions to such retirement plan shall be treated as a withdrawal of the member's accumulated contributions for purposes of § 51.1-128.

D. The Foundation shall continue to pay the required contributions to the Virginia Retirement System for employees who do not elect to participate in the retirement plan established by the Foundation pursuant to this section.

2001, c. 698.

§ 51.1-126.8. Maximum contributions to optional plans; coordination of limits

A. Notwithstanding any other provision of law, the annual additions to the optional retirement plans described in Article 4 (§ 51.1-125 et seq.) of Chapter 1 of this title shall be reduced, if necessary, to the extent required by § 415 (c) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury pursuant to § 415 (d) of the Internal Revenue Code . If an employee participating in an optional retirement plan is also a participant in another defined contribution plan qualified under §§ 401 (a) or 403 (b) of the Internal Revenue Code and sponsored or maintained by an employer participating in such optional retirement plan, the employer shall apply the combined limit test required by § 415 (c) of the Internal Revenue Code . Whenever a reduction in annual additions is required to comply with the limitations of § 415 (c) of the Internal Revenue Code, the annual additions under such employer's other plan or plans will be reduced before contributions under the optional retirement plan.

B. Any vendor for an optional retirement plan that is a defined contribution plan established by Article 4 of Chapter 1 of Title 51.1 shall (i) request and maintain the records needed, (ii) perform the testing services required to assure compliance with the limitation described in § 415 (c) of the Internal Revenue Code, including testing required where the employer maintains or sponsors another defined contribution plan that must be tested together with the optional retirement plan, and (iii) advise the employer of any contribution that exceeds the applicable limitation. If there is no vendor for these services, the employer shall (a) request and maintain the records needed, (b)

perform the testing services required to assure compliance with the limitation described in § 415 (c) of the Internal Revenue Code, including testing required where the employer maintains or sponsors another defined contribution plan that must be tested together with the optional retirement plan, and (c) reduce any contribution that exceeds the applicable limitation.

2002, c. 435.

§ 51.1-127. Federal Employees' Retirement System

The Virginia Cooperative Extension Service is hereby authorized to make contributions into the Federal Employees' Retirement System for the benefit of its employees who hold federal governmental appointments and who elect to participate in the system. No employee who is an active member of the Federal Employees' Retirement System shall also be an active member or beneficiary other than a contingent annuitant of the retirement system or any retirement plan authorized by this chapter or administered by the Board.

1952, c. 157, § 51-111.28; 1978, c. 841; 1982, c. 467; 1987, c. 215; 1990, c. 832 .

§ 51.1-128. Cessation of membership

Membership in the retirement system shall cease (i) upon the withdrawal of the member's accumulated contributions except as provided in subsection C of § 51.1-153, (ii) upon retirement, (iii) upon death, or (iv) as provided by Board policy for dormant accounts.

An employee shall lose all rights to any benefits under this chapter arising from service rendered prior to the date of cessation of membership.

1952, c. 157, §§ 51-111.29, 51-111.43; 1954, c. 643; 1960, c. 604; 1966, c. 174; 1978, c. 841; 1984, c. 430; 1990, c. 832; 1992, c. 811 .

§ 51.1-129. Limitation on membership

No provision of any other statute which provides that the Commonwealth shall pay the entire or a portion of the cost of retirement benefits for employees, their surviving spouses, or other dependents shall apply to members or beneficiaries of the retirement system, or to their surviving spouses, or other dependents. This provision shall not apply to any benefits extended under any agreement between the Commonwealth and the federal government, or any agency thereof, or any benefits extended under the Government Employees Deferred Compensation Plan Act (§ 51.1-600 et seq.).

1952, c. 157, § 51-111.30; 1976, c. 654; 1990, c. 832 .

Article 5 - PARTICIPATION OF POLITICAL SUBDIVISIONS IN RETIREMENT SYSTEM

§ 51.1-130. Resolution of governing body; approval by Board

A. The governing body of a political subdivision may adopt a resolution requesting that its eligible employees become members of the retirement system. The governing body's resolution shall be

submitted to the Board for approval, and acceptance of the employees in the retirement system shall be at the option of the Board. If the Board approves the resolution, eligible employees may become members of the retirement system. The Board shall not approve the resolution unless the political subdivision has first entered into a plan of agreement, as defined in § 51.1-700, to extend benefits under the Social Security Act to its employees approved under the provisions of § 51.1-705.

B. The governing body of any political subdivision approved for participation in the retirement system pursuant to subsection A may adopt a resolution that provides, on or after October 1, 1994, an additional retirement allowance not to exceed three percent of the applicable service or disability retirement allowances payable under § 51.1-155, 51.1-157, 51.1-206, 51.1-306, or 51.1-308.

1952, c. 157, § 51-111.31; 1954, c. 241; 1958, c. 367; 1960, c. 400; 1973, c. 523; 1974, c. 353; 1975, c. 296; 1976, c. 581; 1977, c. 620; 1990, c. 832; 1994, 1st Sp. Sess., c. 5; 2005, c. 902.

§ 51.1-131. Local pension systems; transfer to retirement system

The members of any annuity fund, benevolent association, or retirement system of any political subdivision, hereafter referred to as a local pension system, may elect to become members of the retirement system by submitting to the Board a petition duly signed by a majority of the members. The Board may approve the participation of such members in the retirement system as though the local pension system was not in operation, and the provisions of this article shall thereupon apply. Existing pensioners or annuitants of the local pension system who are being paid pensions on the effective date of coverage and former employees whose rights are vested may retain their rights under the local pension system and be paid at their existing rates by the retirement system. After the local pension system is discontinued, the rates may be increased by all future percentage increases which are granted to beneficiaries retired under the provisions of this chapter.

If deemed practicable by the Board, any cash and securities credited to the local pension system shall be transferred to the retirement system as of the effective date of coverage. The administrative head of the local pension system shall certify the proportion of the funds of the system that represents the accumulated contributions and the relative shares of the members. If appropriate, the accumulated contributions and shares shall be credited to the individual accounts of the members in the members' contribution account. The operation of the local pension system shall be discontinued as of the effective date of coverage.

If the Board determines that the transfer of funds is not practicable, the Board may enter into an agreement with the employer to coordinate any benefits payable under this chapter with any vested benefits payable under the discontinued local system.

1952, c. 157, § 51-111.34; 1960, c. 604; 1973, c. 523; 1976, c. 654; 1978, c. 841; 1990, c. 832 .

§ 51.1-132. Eligible employees

Officers and employees of the political subdivision who are regularly employed full time on a salaried basis and whose tenure is not restricted as to temporary or provisional appointment may become members of the retirement system. Clerks of the circuit court and deputies shall be included in the coverage group. Officers and employees of an organization other than a public school board that functions solely within the boundaries of a county, city, or town shall be deemed to be officers and employees of the county, city, or town, and not of the organization, unless the cost of the organization's operation is borne by (i) the users of services, (ii) more than one county, city, or town, or (iii) any entity other than a county, city, or town.

A member of a local system who, through election to a position as a constitutional officer, is no longer eligible for membership in the local system, and who, prior to such election, has accumulated within that system more than half the total service credits necessary to become eligible for full normal retirement benefits, may choose, with the concurrence of the local governing body, (i) not to participate in the retirement system established pursuant to this chapter and (ii) to become a member of the local system. In such case, the member shall be deemed, for retirement purposes only, to have ceased employment, and shall be permitted to withdraw his contribution as provided in § 51.1-161.

1952, c. 157, § 51-111.31; 1954, c. 241; 1958, c. 367; 1960, c. 400; 1973, c. 523; 1974, c. 353; 1975, c. 296; 1976, c. 581; 1977, c. 620; 1990, c. 832; 1994, c. 883.

§ 51.1-133. Limitation on membership

Employees who are members of any retirement, pension, or benefit fund partially or wholly supported by public funds shall not be entitled to become members of the retirement system on that part of their compensation covered by the fund except as provided under this article.

1952, c. 157, § 51-111.31; 1954, c. 241; 1958, c. 367; 1960, c. 400; 1973, c. 523; 1974, c. 353; 1975, c. 296; 1976, c. 581; 1977, c. 620; 1990, c. 832 .

§ 51.1-134. Optional membership; creditable service

Membership in the retirement system for eligible employees in service on the date of coverage shall be optional. Any employee who elects to join the retirement system within one calendar year after the date of coverage shall be entitled to credit for service rendered prior to the date of coverage as certified by his employer for service rendered to the employer, his predecessor, the Commonwealth, or in any other capacity approved by the employer and the Board.

1952, c. 157, § 51-111.32; 1960, c. 400; 1974, c. 353; 1990, c. 832 .

§ 51.1-135. Compulsory membership

Membership in the retirement system shall be compulsory for all eligible employees who enter service after the effective date of coverage. For purposes of this section, "membership in the retirement system" includes an eligible employee's participation in the hybrid retirement program pursuant to § 51.1-169.

1952, c. 157, § 51-111.33; 1960, c. 400; 1978, c. 841; 1987, c. 575; 1990, c. 832; 2012, cc. 701, 823.

§ 51.1-136. Submitting information and performing duties prescribed by Board

The chief fiscal officer of the employer and the heads of its departments shall submit information and perform duties prescribed by the Board in order to carry out the provisions of this chapter.

1952, c. 157, § 51-111.35; 1990, c. 832 .

§ 51.1-137. Computation of employer contribution rates; reimbursement by Commonwealth

A. At least once in each two-year period, the actuary of the retirement system shall compute the annual rates of contributions payable by the employer on behalf of employees who are members. The rates shall be determined by an actuarial valuation of the retirement allowances and other benefits which will be payable on behalf of the employees who are members. The contributions shall be payable in lieu of contributions payable on behalf of other members in the system. The expense of making initial and subsequent valuations shall be assessed against and paid by the employer.

B. In the case of contributions payable by the employer on behalf of any local officer, the Commonwealth shall reimburse the employer on the basis on which the Commonwealth pays the salaries of the officer or shares or would share in the excess fees from the office. Payment shall be made from funds appropriated for this purpose.

1952, c. 157, § 51-111.36; 1956, c. 560; 1958, c. 367; 1974, c. 353; 1982, c. 443; 1984, c. 430; 1990, c. 832 .

§ 51.1-137.1. Certain local data to be provided

In addition to the annual actuarial evaluation currently provided to participating localities by the Virginia Retirement System, VRS annually shall provide each participating locality the locality-specific data on which the annual actuarial evaluation is based, and such other information as may be necessary for each locality to determine the specific assumptions that are driving its VRS-related costs, and to understand the retirement costs of different classes of covered employees. The Virginia Retirement System is authorized to assess fees for data collection, reporting, actuarial analysis, and other requested services beyond those required for the annual actuarial valuation provided to each participating employer. Such fees may be collected from funds maintained and invested by the Virginia Retirement System on behalf of each requesting employer.

2007, c. 466.

§ 51.1-138. Benefits

A. Employees who become members under this article and on whose behalf contributions are paid as provided in this article shall be entitled to benefits under the retirement system.

B. By resolution legally adopted and approved by the Board, the employer may elect to provide benefits equivalent to those provided under the State Police Officers' Retirement System, as set

out in Chapter 2 (§ 51.1-200 et seq.) of this title except for § 51.1-209, and except that the employer may elect to establish the retirement allowance pursuant to the allowance provided in clause (i) or (ii) in subsection A of § 51.1-206, in lieu of the benefits that would otherwise be provided hereunder for any employees who are employed in (i) law-enforcement positions comparably hazardous to that of a state police officer, including any sworn law-enforcement officer who has the duty and obligation to enforce the penal and traffic laws of this Commonwealth as directed by his superior officer, if so certified by his appointing authority, (ii) positions as full-time salaried fire fighters, (iii) positions as full-time salaried emergency medical technicians, or (iv) positions as regional jail superintendents and jail officers of regional jail farms, regional jails or jail authorities, as approved by the respective jail board or authority and by the participating political subdivisions of such entities. Sheriffs of political subdivisions and superintendents of regional jails which participate in the retirement system shall receive benefits equivalent to those of state police officers, except for the benefits provided under § 51.1-209, regardless of whether the employer has elected to provide equivalent benefits as set out in this subsection.

C. Each employer providing the benefits of subsection B for its employees prior to July 1, 1990, may elect to provide for the early retirement of employees as set forth in this subsection in lieu of the early retirement and death before retirement provisions of the State Police Officers' Retirement System. Such election must be made to the Board in writing prior to July 1, 1990. Any member in service on or after his fifty-fifth birthday with five or more years of creditable service (i) while earning the benefits permitted by this section, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) of this title may retire upon written notification to the Board setting forth at what time the retirement is to become effective. The effective date shall be after his last day of service but shall not be more than 90 days prior to the filing of such notice. The member shall receive an allowance that shall be determined in the same manner as for retirement at an employee's normal retirement with creditable service and average final compensation being determined as of the date of his actual retirement. If the member has less than 30 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (a) the member's normal retirement date or (b) the first date on or after the member's fifty-fifth birthday on which the member would have completed a total of 30 years of creditable service. Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under this chapter and earning the benefits permitted by this section, Chapter 2 (§ 51.1-200 et seq.), or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not be subject to the vesting requirements of this section, and §§ 51.1-205 and 51.1-216.

Members retiring under the provisions of this subsection shall be entitled to receive post-retirement supplements as provided in § 51.1-166. In computing the amount of any supplement, any

additional allowances being paid under the provisions of subsection B of § 51.1-206 shall be disregarded. In the case of death before retirement, members whose employers elect to provide benefits in accordance with the provisions of this subsection and who have not attained the age of 50 on the date of death shall be assumed to be 50 years of age for the purposes of reducing the benefits on an actuarial equivalent basis.

D. Beginning July 1, 2008, each county and city participating in the Virginia Retirement System shall provide the benefit coverage described in subsection B to each deputy sheriff, regardless of whether the deputy sheriff's salary is funded or reimbursed in whole or in part by the Compensation Board.

E. Notwithstanding the provisions of subsection C, beginning July 1, 2009, the City of Danville shall provide to each deputy sheriff the benefit coverage described in subsection B.

F. Beginning July 1, 2009, each regional jail board and regional jail authority participating in the Virginia Retirement System and each county and city participating in such board or authority shall provide the benefit coverage described in subsection B to each sworn officer of a regional jail, regardless of whether the regional jail officer's salary is funded or reimbursed in whole or in part by the State Compensation Board.

G. Beginning July 1, 2010, any county or city that (i) participates in the Virginia Retirement System pursuant to Chapter 1 (§ 51.1-124.1 et seq.), (ii) has in effect a retirement supplement for deputy sheriffs (in addition to the annual retirement allowance provided under the Virginia Retirement System) that exceeds the allowance set forth in subsection B of § 51.1-206 hereof, and (iii) provides the same level of retirement benefits to all of its deputy sheriffs, may, by resolution legally adopted, elect to provide the benefits coverage under subsection B hereof except for the allowance described in subsection B of § 51.1-206. Notwithstanding any other provision of law, the additional costs of such election shall be borne solely by such county or city.

H. If an employee (i) is in a position covered by the additional benefits under this section for at least five years, (ii) is separated from the position because of a disability that entitles him to the disability retirement benefits pursuant to § 51.1-156, and (iii) accepts a position with the same employer that is not covered by the benefits under this section but whose salary and benefits are not less than those of the position from which he is separated, then, at the sole discretion of the employer, the employee may continue to be covered under the benefits permitted by this section in his new position.

I. The retirement system shall not be liable for the payment of any retirement allowances or other benefits on behalf of a member or beneficiary of a member for which reserves have not been previously created from funds contributed by the employer or the members for such benefits.

1952, c. 157, § 51-111.37; 1970, c. 476; 1972, c. 568; 1974, c. 353; 1975, c. 597; 1976, c. 654; 1977, cc. 326, 620; 1989, c. 484; 1990, c. 832; 1991, c. 719; 1999, c. 596; 2002, c. 466; 2004, c. 83; 2006, cc. 65, 388; 2007, c. 819; 2009, cc. 6, 91, 282; 2010, c. 745; 2012, c. 423.

§ 51.1-139. Procedure when employer in default

An employer's agreement to contribute on behalf of its employees who become members shall be irrevocable. If an employer for any reason becomes financially unable to make the contributions payable on behalf of the members, the employer shall be deemed to be in default and the employees' membership in the Retirement System shall be terminated. As of the date of the default, (i) each member or beneficiary whose coverage under the Retirement System is affected by such default shall become fully vested, (ii) the actuary of the Retirement System shall determine by actuarial valuation the amount of the reserves held on behalf of each then member and each then beneficiary, and (iii) the Retirement System shall credit to each member and each beneficiary the amount of reserve so held. The reserve so credited together with the amount of the accumulated contributions of each member, shall be disbursed in a manner prescribed by the Board consistent with the applicable tax qualification rules of the Internal Revenue Code, whereupon the rights and privileges of the members and beneficiaries shall terminate.

1952, c. 157, § 51-111.38; 1960, c. 604; 1986, c. 474; 1990, c. 832; 2004, c. 207.

Article 6 - CREDITABLE SERVICE

§ 51.1-140. Repealed

Repealed by Acts 2012, c. 696, cl. 2.

§ 51.1-141. Service equivalents

The Board shall determine how much service in any month is the equivalent of a month of service or how much service in any year is the equivalent of a year of service. The Board shall not allow more than one year of service credit for all service rendered in any period of twelve consecutive months.

1952, c. 157, § 51-111.40; 1956, c. 560; 1990, c. 832 .

§§ 51.1-142, 51.1-142.1. Repealed

Repealed by Acts 2001, cc. 686 and 697.

§ 51.1-142.2. (Effective until January 1, 2017) Prior service or membership credit for certain members; service credit for accumulated sick leave

Certain members may purchase credit for service as provided in this section.

A. Except as provided in subdivisions 1 and 2, in order to receive credit for the service made available in subsection B, a member in service shall be required to make a payment for each year, or portion thereof, to be credited at the time of purchase, equal to five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing the service made available in subsection B through a pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five percent of his creditable compensation.

1. A person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013, shall pay an amount equal to a rate approximating the normal cost for the retirement program under which the member is covered, with such rate for each retirement program to be determined by the Board, and reviewed by the Board no less than every six years. However, if the member does not purchase, or enter into a purchase of service contract for the service made available in subsection B within one year from his first date of hire or within one year of the final day of any leave of absence under subdivision B 2, as applicable, then, for each year or portion thereof to be credited at the time of purchase, the member shall pay an amount equal to the actuarial equivalent cost.

2. If a member other than a member described in subdivision 1 does not purchase, or enter into a purchase of service contract for, the service made available in subsection B within three years from his first date of hire or within three years of the final day of any leave of absence under subdivision B 2, as applicable, then, for each year or portion thereof to be credited at the time of purchase, the member shall pay an amount equal to the actuarial equivalent cost.

3. When a member requests credit for a portion of the period, the most recent portion shall be credited. Payment may be made in a lump sum at the time of purchase or by an additional payroll deduction. Any number of additional deductions may be permitted at any time. Should any additional deduction be terminated prior to purchasing the entire period that might otherwise be credited, the member shall be credited with the number of additional full or partial months of service for which full payment is made. If any additional deduction is continued beyond the point at which the entire period has been purchased, the member shall be credited with no more than the entire period that might otherwise have been credited and the excess amount deducted shall be refunded to the member.

Any employer may elect to pay an equivalent amount in lieu of all member contributions required of its employees for the purpose of service credit pursuant to this section. These contributions shall not be considered wages for purposes of Chapter 7 (§ 51.1-700 et seq.), nor shall they be considered to be salary for purposes of this chapter.

B. 1. Any member in service may purchase prior service credit for (i) active duty military service in the armed forces of the United States, provided that the discharge from a period of active duty status with the armed forces was not dishonorable; (ii) creditable service of another state or of a political subdivision or public school system of this or another state, as certified by such state, political subdivision or public school system; (iii) creditable service of a political subdivision of this state not credited to the member under an agreement as provided for in § 51.1-143.1, as certified by such political subdivision; (iv) civilian service of the United States; (v) creditable service at a private institution of higher education if the private institution is merged with a public institution of higher education and graduates of the private institution are then issued new degrees from the public institution; or (vi) any period of time when the member was employed by a par-

ticipating employer and not otherwise eligible to participate in the retirement system because the member was not an employee as defined in § 51.1-124.3.

For purposes of this subsection, "active duty military service" means full-time service of at least 180 consecutive days in the United States Army, Navy, Air Force, Marines, Coast Guard, or reserve components thereof.

2. Any member (i) granted a leave of absence for educational purposes may purchase service credit for such leave of absence or (ii) granted any unpaid leave of absence due to the birth, adoption, or death of a qualifying child, as defined in § 51.1-500, may purchase up to one year of service credit per occurrence of leave.

C. Any member in service may purchase service credit for creditable service lost from ceasing to be a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated contributions. Notwithstanding any other provision in this section, the cost to purchase such service shall be five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing such service through a pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five percent of his creditable compensation, provided, however, that the applicable cost for a person enrolled in the hybrid retirement program described in § 51.1-169 shall be four percent. If the member purchases or enters into a contract to purchase such service within three years of the date he became eligible to purchase the service, then the service may be purchased in a lump sum at the time of purchase or through an additional payroll deduction. Any purchase of such service made at a time later than such period shall be made in a lump sum at the time of purchase.

D. Any member in service may purchase service credit for accumulated sick leave on his effective date of retirement based upon such sums as the employer may provide as payment for any unused sick leave balances. The cost of service credit purchased under this subsection shall be the actuarial equivalent cost of such service.

E. Any member receiving benefits under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.) may, in a manner prescribed by the Board and prior to the effective date of retirement, purchase service credit for service that is not reported to the retirement system by the member's employer while the member is receiving such benefits. Notwithstanding any other provision in this section, the cost to purchase such service shall be five percent of the member's creditable compensation.

F. In any case where member and employer contributions, as required under this chapter, were not made because of an error in the payroll, personnel, or other classification system of an employer participating in the retirement system, service that has not been credited because of such error may be purchased on the following basis:

1. The most recent three years of service shall be purchased, using applicable member and employer contribution rates and creditable compensation in effect for such period, in a manner and cost prescribed by the Board; and

2. All other years of service the employer shall purchase at an actuarial equivalent cost.

G. The service credit to be credited to a member under this section shall be calculated at the ratio of one year, or portion thereof, of service credit to one year, or portion thereof, of service purchased, except for part-time service purchased under clause (vi) of subdivision B 1 which shall be calculated at the ratio of one month of service credit for each 173 hours of service as certified by the employer and as purchased by the member. Up to a maximum of four years of service credit may be purchased for each of clauses (i) through (vi) of subdivision B 1 and clauses (i) and (ii) of subdivision B 2. In addition, a member in service may purchase service credit for every year or portion thereof for service lost from cessation of membership as described in subsection C.

Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, the service credit made available under this section may not be purchased if, before being purchased or at the time of such purchase pursuant to this section, the service to be purchased is service that is included in the calculation of any retirement allowance received or to be received by the member from this or another retirement system.

H. Any member may receive credit at no cost for service rendered in the armed forces of the United States provided (i) the member was on leave of absence from a covered position, (ii) the discharge from a period of active duty with the armed forces was not dishonorable, (iii) the member has not withdrawn his accumulated contributions, (iv) the member is not disabled or killed while on leave without pay while performing active duty military service in the armed forces of the United States, and (v) the member reenters service in a covered position within one year after discharge from the armed forces. In order to receive such service, the member must complete such forms and other requirements as are required by the Board and the retirement system.

2001, cc. 686, 697; 2003, c. 7; 2005, c. 292; 2006, c. 635; 2007, c. 89; 2008, c. 27; 2009, c. 362; 2010, cc. 737, 738; 2011, cc. 722, 880; 2012, cc. 696, 701, 823; 2014, c. 356; 2015, c. 536.

§ 51.1-142.2. (Effective January 1, 2017) Prior service or membership credit for certain members; service credit for accumulated sick leave

Certain members may purchase credit for service as provided in this section.

A.1. Any member in service may purchase service credit from the following categories of service or leave: (i) leave of absence for educational purposes that was previously approved by the member's employer; (ii) leave of absence for a serious health condition of the member or of an immediate family member, all as defined in the Family and Medical Leave Act of 1993, 29 U.S.C. § 2601 et seq., as amended, and previously certified by the member's employer; (iii) up to one year of service credit per occurrence of leave for any unpaid leave of absence due to the birth, adoption, or death of a qualifying child, as defined in § 51.1-500; (iv) service as a full-time employee of another state,

a public school system of another state, or a political subdivision of the Commonwealth or another state, as certified by such state, public school system, or political subdivision; (v) full-time service of a political subdivision of this state not credited to the member under an agreement as provided for in § 51.1-143.1, as certified by such political subdivision; (vi) civilian service of the United States; (vii) full-time service at a private institution of higher education if the private institution is merged with a public institution of higher education and graduates of the private institution are then issued new degrees from the public institution; or (viii) any period of time when the member was employed part time or in a wage position by a participating employer and not otherwise eligible to participate in the retirement system because the member was not an employee as defined in § 51.1-124.3. However, no member in service shall be allowed to purchase more than a total of four years of service credit pursuant to this subdivision.

2. In addition to the service credit that may be purchased under subdivision 1, any member in service may purchase up to four years of service credit for prior active duty military service in the armed forces of the United States, provided that the discharge from a period of active duty status with the armed forces was not dishonorable.

3. The service credit to be credited to a member under this subsection shall be calculated at the ratio of one year, or portion thereof, of service credit to one year, or portion thereof, of service purchased, except for employment service purchased under clause (viii) of subdivision 1, which shall be calculated at the ratio of one month of service credit for each 173 hours of service as certified by the employer.

For each year or portion thereof to be credited at the time of purchase under this subsection, the member shall pay the approximate normal cost of the retirement plan under which the member is covered at the time of such purchase, as determined by the Board in its sole discretion. If the member does not purchase, or enter into a purchase of service credit contract for, the service made available in this subsection within the first 24 months of the member's active service following his first date of hire or the final day of any applicable leave of absence, as applicable, then, for each year or portion thereof to be credited at the time of purchase, the member shall pay the actuarial equivalent cost. To the extent the member becomes inactive during the 24 months following his first date of hire or the final day of any applicable leave of absence, such periods shall not be included in the 24 months of active service.

Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, as amended, no service credit may be purchased under this section if it is included in the calculation of any retirement allowance received or to be received by the member from this or another retirement system, or if there is a balance in a defined contribution account that serves as a primary retirement account related to such service.

For purposes of this subsection, "active duty military service" means full-time service of at least 180 consecutive days in the United States Army, Navy, Air Force, Marines, Coast Guard, or reserve components thereof.

B. Any member in service may purchase all prior service credit for creditable service lost from ceasing to be a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated contributions. For each year or portion thereof to be credited at the time of purchase under this subsection, the member shall pay the withdrawn amount to be purchased plus interest accrued daily and compounded annually from the date of withdrawal to the date of payment at the assumed rate of return established by the Board for the actuarial valuation of the retirement system that is in effect at the time of the purchase. The Board shall develop guidelines and procedures for administering this subsection.

C. Any member in service may purchase service credit for accumulated sick leave on his effective date of retirement based upon such sums as the employer may provide as payment for any unused sick leave balances. The cost of service credit purchased under this subsection shall be the actuarial equivalent cost of such service.

D. Any member receiving benefits under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.) may, in a manner prescribed by the Board and prior to the effective date of retirement, purchase service that is not reported to the retirement system by the member's employer while the member is receiving such benefits.

For each year or portion thereof to be credited at the time of purchase under this subsection, the member shall pay the approximate normal cost of the retirement plan under which the member is covered, as determined by the Board in its sole discretion. If the member does not purchase, or enter into a purchase of service credit contract for, any service made available in this subsection within the first 24 months of the member's active service following his first date of hire or the final day of any applicable leave of absence, then, for each year or portion thereof to be credited at the time of purchase, the member shall pay the actuarial equivalent cost. To the extent the member becomes inactive during the 24 months following his first date of hire or the final day of any applicable leave of absence, such periods shall not be included in the 24 months of active service.

E. Payment may be made in a lump sum at the time of purchase or by payroll deduction. Any number of additional deductions may be permitted at any time. Should any deduction be terminated before the member purchases the entire period contracted for, the member shall be credited with the number of full or partial months of service for which full payment has been made. If any deduction is continued after the entire period has been purchased, the member shall be credited with no more than the amount of service for which he was eligible and for which he paid, and the excess amount deducted shall be refunded to the member.

F. Any employer may elect to pay an equivalent amount in lieu of all member contributions required of its employees for the purchase of service credit pursuant to this section. These

contributions shall not be considered wages for purposes of Chapter 7 (§ 51.1-700 et seq.), nor shall they be considered salary for purposes of this chapter.

G. In any case where member and employer contributions, as required under this chapter, were not made because of an error in the payroll, personnel, or other classification system of an employer participating in the retirement system, service that has not been credited because of such error may be purchased on the following basis:

1. The most recent three years of service credit shall be purchased, using applicable member and employer contribution rates and creditable compensation in effect for such period, in a manner and at the cost prescribed by the Board; and

2. All other years of service credit shall be purchased by the employer at an actuarial equivalent cost.

H. Any member may receive credit at no cost for service rendered in the armed forces of the United States provided (i) the member was on leave of absence from a covered position, (ii) the discharge from a period of active duty with the armed forces was not dishonorable, (iii) the member has not withdrawn his accumulated contributions, (iv) the member is not disabled or killed while on leave without pay while performing active duty military service in the armed forces of the United States, and (v) the member reenters service in a covered position within one year after discharge from the armed forces. In order to receive such service, the member must complete such forms and other requirements as are required by the Board and the retirement system.

2001, cc. 686, 697; 2003, c. 7; 2005, c. 292; 2006, c. 635; 2007, c. 89; 2008, c. 27; 2009, c. 362; 2010, cc. 737, 738; 2011, cc. 722, 880; 2012, cc. 696, 701, 823; 2014, c. 356; 2015, cc. 508, 536; 2016, cc. 263, 280.

§ 51.1-142.3. (Effective until January 1, 2017) Purchase of additional prior service credit by certain school division superintendents

A. In addition to the four years of prior service credit that may be purchased under clause (ii) of subdivision B 1 of § 51.1-142.2, a school division superintendent appointed by a school board pursuant to § 22.1-60, with at least five years of creditable service in the Retirement System, may purchase up to a maximum of 10 additional years of prior service credit for creditable service of another state or of a political subdivision, or public school system of this or another state, as certified by such state, political subdivision, or public school system. Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, the service credit made available under this section may not be purchased if, before being purchased or at the time of such purchase pursuant to this section, the service to be purchased is service that is included in the calculation of any retirement allowance received or to be received by the member from this or any other retirement system.

The school board that has appointed such school division superintendent may purchase such prior service credit on behalf of the school division superintendent.

B. The cost at the time of purchase for each additional year of service credit (or portion thereof) pursuant to this section, shall be 10 percent of the school division superintendent's creditable compensation or 10 percent of the school division superintendent's average final compensation, whichever is greater, provided that the service credit to be purchased is paid for in one lump-sum payment within one year after the school division superintendent first became eligible to purchase such service credit or by July 1, 2004, whichever is later.

A school division superintendent shall first become eligible to purchase prior service credit under this section as follows:

1. For members in service on June 30, 2003, and July 1, 2003, upon attaining five years of creditable service as a school division superintendent in the Retirement System;

2. For members in service on June 30, 2003, and July 1, 2003, who become a school division superintendent on or after July 1, 2003, upon attaining five years of creditable service as a school division superintendent in the Retirement System; and

3. For members not in service on June 30, 2003, upon the member earning five years of creditable service as a school division superintendent in the Retirement System for service performed after June 30, 2003.

C. In any case in which prior service credit pursuant to this section has been purchased by or on behalf of a school division superintendent, if the school division superintendent, subsequent to the date of such purchase, does not remain in such position with the local school board for at least the number of years purchased: (i) the Retirement System shall reduce the creditable service credited to the school division superintendent by an amount equivalent to the number of years of prior service purchased less the number of years served by the person as a school division superintendent with the local school board subsequent to the date of such purchase. Such reduction in creditable service shall be deemed to be forfeited by the school division superintendent for purposes of this chapter and the contributions representing that forfeited service shall be refunded to the school division superintendent; and (ii) the school division superintendent shall be liable to the local school board for the amount paid by the local school board for purchasing the forfeited prior service credit.

D. If a school division superintendent does not purchase the prior service credit described in subsection A within the timeframe provided in subsection B, such prior service credit may be purchased at the actuarial equivalent cost, provided that in no case shall any person purchase more than 10 years of such prior service credit under this section.

2003, c. 947.

§ 51.1-142.3. (Effective January 1, 2017) Purchase of additional prior service credit by certain school division superintendents

A. In addition to the four years of prior service credit that may be purchased under clause (iv) of subdivision A 1 of § 51.1-142.2, a school division superintendent appointed by a school board pursuant to § 22.1-60, with at least five years of creditable service in the Retirement System, may purchase up to a maximum of 10 additional years of prior service credit for creditable service of another state or of a political subdivision, or public school system of this or another state, as certified by such state, political subdivision, or public school system. Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, the service credit made available under this section may not be purchased if, before being purchased or at the time of such purchase pursuant to this section, the service to be purchased is service that is included in the calculation of any retirement allowance received or to be received by the member from this or any other retirement system.

The school board that has appointed such school division superintendent may purchase such prior service credit on behalf of the school division superintendent.

B. The cost at the time of purchase for each additional year of service credit (or portion thereof) pursuant to this section, shall be 10 percent of the school division superintendent's creditable compensation or 10 percent of the school division superintendent's average final compensation, whichever is greater, provided that the service credit to be purchased is paid for in one lump-sum payment within one year after the school division superintendent first became eligible to purchase such service credit or by July 1, 2004, whichever is later.

A school division superintendent shall first become eligible to purchase prior service credit under this section as follows:

1. For members in service on June 30, 2003, and July 1, 2003, upon attaining five years of creditable service as a school division superintendent in the Retirement System;

2. For members in service on June 30, 2003, and July 1, 2003, who become a school division superintendent on or after July 1, 2003, upon attaining five years of creditable service as a school division superintendent in the Retirement System; and

3. For members not in service on June 30, 2003, upon the member earning five years of creditable service as a school division superintendent in the Retirement System for service performed after June 30, 2003.

C. In any case in which prior service credit pursuant to this section has been purchased by or on behalf of a school division superintendent, if the school division superintendent, subsequent to the date of such purchase, does not remain in such position with the local school board for at least the number of years purchased: (i) the Retirement System shall reduce the creditable service credited to the school division superintendent by an amount equivalent to the number of years of prior service purchased less the number of years served by the person as a school division superintendent with the local school board subsequent to the date of such purchase. Such reduction in creditable service shall be deemed to be forfeited by the school division superintendent for

purposes of this chapter and the contributions representing that forfeited service shall be refunded to the school division superintendent; and (ii) the school division superintendent shall be liable to the local school board for the amount paid by the local school board for purchasing the forfeited prior service credit.

D. If a school division superintendent does not purchase the prior service credit described in subsection A within the timeframe provided in subsection B, such prior service credit may be purchased at the actuarial equivalent cost, provided that in no case shall any person purchase more than 10 years of such prior service credit under this section.

2003, c. 947; 2015, c. 508.

§ 51.1-143. Repealed

Repealed by Acts 2001, cc. 686 and 697.

§ 51.1-143.1. Portability of service credit between the Virginia Retirement System and certain political subdivisions of the Commonwealth

The Virginia Retirement System may enter into an agreement with any political subdivision of the Commonwealth which has a defined benefit plan that is not supplemental to the Retirement System to permit any vested member of the political subdivision's plan, upon entering service in a covered position and filing a written application with the Retirement System, to purchase service credit, of an amount to be determined by the Board of Trustees, in the Retirement System. The purchase shall be accomplished by and upon the transfer of assets to the Retirement System from the political subdivision's plan as provided in the agreement.

1996, cc. 939, 990.

Article 7 - CONTRIBUTIONS

§ 51.1-144. Member contributions

A. Each member shall contribute five percent of his creditable compensation for each pay period for which he receives compensation.

The employer shall deduct the contribution payable by the member. Every employee accepting employment shall be deemed to consent and agree to any deductions from his compensation required by this chapter.

B. In determining the creditable compensation of a member in a payroll period, the Board may consider the rate of compensation payable to the member on the date of entry or removal of his name from the payroll as having been received throughout the month if service for the month is creditable. If service for the month is not creditable, the Board may consider any compensation payable during the month as not being creditable compensation.

C. The minimum compensation provided by law for any member shall be reduced by the deduction required by this section. Except for any benefits provided by this chapter, payment of com-

pensation minus the deductions shall be a full and complete discharge of all claims for services rendered by the member during the period covered by the payment.

D. No deduction shall be made from any member's compensation if the employer's contribution is in default.

E. The Board may modify the method of collecting the contributions of members so that the employer may retain the amounts deducted from members' salaries and have a corresponding amount deducted from state funds otherwise payable to the employer.

F.1. Only as provided in subdivisions 3 and 4 may any employer elect to pay an equivalent amount in lieu of any member contributions required of its employees. Such payments shall be credited to the members' contribution account. These contributions shall not be considered wages for purposes of Chapter 7 (§ 51.1-700 et seq.), nor shall they be considered to be salary for purposes of this chapter.

2. A person who becomes a member on or after July 1, 2010, shall be required to pay member contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code in the amount of five percent of creditable compensation if the person is (i) a member covered by the defined benefit plan established under this chapter, (ii) a member of the State Police Officers' Retirement System under Chapter 2 (§ 51.1-200 et seq.), (iii) a member of the Virginia Law Officers' Retirement System under Chapter 2.1 (§ 51.1-211 et seq.), (iv) a member of the Judicial Retirement System under Chapter 3 (§ 51.1-300 et seq.), or (v) earning the benefits permitted by § 51.1-138.

3. A member who is an employee of a county, city, town, or other local employer other than a local public school board, regardless of whether the member is a person who becomes a member on or after July 1, 2010, shall be required to pay member contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code in the amount of five percent of creditable compensation as follows: (i) any member who commences or recommences employment on or after July 1, 2012, shall be required to contribute five percent of his creditable compensation upon commencing or recommencing employment and (ii) members in service on June 30, 2012, shall be required to contribute five percent of their creditable compensation no later than July 1, 2016. Such member described in subdivision (ii) shall contribute a minimum of an additional one percent of his creditable compensation beginning on each July 1 of 2012, 2013, 2014, 2015, and 2016, or until the member's contribution equals five percent of creditable compensation, but the county, city, town, or other local employer other than a local public school board may elect to require members to contribute more than an additional one percent each year, in whole percentages. In no case shall a member be required to contribute more than five percent of his creditable compensation for each pay period for which he receives compensation. No county, city, town, or other local employer other than a local public school board shall be allowed to elect to pay any amount of member contributions except to pay the difference between five percent and

the employee contribution during the phase-in period described in this subdivision for a member who was in service on June 30, 2012.

4. A member who is an employee of a local public school board, regardless of whether the member is a person who becomes a member on or after July 1, 2010, shall be required to pay member contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code in the amount of five percent of creditable compensation as follows: (i) any member who commences or recommences employment on or after July 1, 2012, shall be required to contribute five percent of his creditable compensation upon commencing or recommencing employment and (ii) members in service on June 30, 2012, shall be required to contribute five percent of their creditable compensation no later than July 1, 2016. Such member described in subdivision (ii) shall contribute a minimum of an additional one percent of his creditable compensation beginning on each July 1 of 2012, 2013, 2014, 2015, and 2016, or until the member's contribution equals five percent of creditable compensation, but the local public school board employer may elect to require members to contribute more than an additional one percent each year, in whole percentages. In no case shall a member be required to contribute more than five percent of his creditable compensation for each pay period for which he receives compensation. No local public school board employer shall be allowed to elect to pay any amount of member contributions except to pay the difference between five percent and the employee contribution during the phase-in period described in this subdivision for a member who was in service on June 30, 2012.

G. The Board may develop procedures to effect the transfer of member contributions paid by employers on or after July 1, 1980, and accrued interest on those contributions, to the member contribution account of the member, if such contributions have been previously deposited into the retirement allowance account of the employer.

1952, c. 157, §§ 51-111.13, 51-111.46; 1956, c. 560; 1960, c. 604; 1966, c. 174; 1972, c. 568; 1974, c. 353; 1976, c. 537; 1980, c. 722, § 51-111.46:1; 1982, c. 467; 1984, c. 430; 1990, c. 832; 1998, c. 660; 2001, cc. 693, 702; 2002, c. 307; 2010, cc. 737, 738; 2012, c. 822; 2013, c. 463.

§ 51.1-145. Employer contributions

A. The total annual employer contribution for each employer, expressed as a percentage of the annual membership payroll, shall be determined in a manner so as to remain relatively level from year to year. Each employer shall contribute an amount equal to the sum of the normal contribution, any accrued liability contribution, and any supplementary contribution. The contribution rates for each employer shall be determined after each valuation and shall remain in effect until a new valuation is made. All contribution rates shall be computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board.

B. The normal employer contribution for any period shall be determined as a percentage, equal to the normal contribution rate, of the total covered compensation of the members employed during the period.

C. The normal contribution rate for any employer shall be determined as the percentage represented by the ratio of (i) the annual normal cost to provide the benefits of the retirement system with respect to members employed by the employer in excess of the members' contributions to (ii) the total annual compensation of the members.

D. The accrued liability contribution for any employer for any period shall be determined as a percentage, equal to the accrued liability contribution rate, of the total compensation of the members during the period.

E. The accrued liability contribution rate for any employer shall be a percentage of the total annual compensation of the members, determined so that a continuation of annual contributions by the employer at the same percentage of total annual compensation over a period of 40 years will be sufficient to amortize the unfunded accrued liability with respect to the employer.

F. The unfunded accrued liability with respect to any employer as of any valuation date shall be determined as the excess of (i) the then present value of the benefits to be provided under the retirement system in the future to members and former members over (ii) the sum of the assets of the retirement system then currently in the members' contribution account and in the employer's retirement allowance account, plus the then present value of the stipulated contributions to be made in the future by the members, plus the then present value of the normal contributions expected to be made in the future by the employer.

G. The supplementary contribution for any employer for any period shall be determined as a percentage, equal to the supplementary contribution rate, of the total compensation of the members employed during the period.

H. Until July 1, 1997, the supplementary contribution rate for any employer shall be determined as the percentage represented by the ratio of (i) the average annual amount of post-retirement supplements, as provided for in this chapter, which is anticipated to become payable during the period to which the rate will be applicable with respect to former members to (ii) the total annual compensation of the members.

I. The Board shall certify to each employer the applicable contribution rate and any changes in the rate.

J. The employer contribution for the year shall be increased to the extent necessary to overcome any insufficiency if the contributions for any employer, when combined with the amount of the retirement allowance account of the employer, are insufficient to provide the benefits payable during the year.

K. The appropriation bill which is submitted to the General Assembly by the Governor prior to each regular session that begins in an even-numbered year shall include the contributions which will become due and payable to the retirement allowance account from the state treasury during the following biennium. The amount of the contributions shall be based on the contribution rates

certified by the Board pursuant to subsection I of this section that are applicable to the Commonwealth as an employer and the anticipated compensation during the biennium of the members of the retirement system on behalf of whom the Commonwealth is the employer.

K1. The General Assembly shall set contribution rates that are at least equal to the following percentage of the contribution rates certified by the Board pursuant to subsection I:

1. For members who are state employees as defined in § 51.1-124.3 and who are participating in a retirement plan established pursuant to Chapter 1 (§ 51.1-124.1 et seq.), (i) 67.02 percent for fiscal years beginning July 1, 2012, and July 1, 2013, (ii) 78.02 percent for fiscal years beginning July 1, 2014, and July 1, 2015, (iii) 89.01 percent for fiscal years beginning July 1, 2016, and July 1, 2017, and (iv) 100 percent for fiscal years beginning on or after July 1, 2018;

2. For members who are teachers as defined in § 51.1-124.3 and who are participating in a retirement plan established pursuant to Chapter 1 (§ 51.1-124.1 et seq.), (i) 69.53 percent for fiscal years beginning July 1, 2012, and July 1, 2013, (ii) 79.69 percent for fiscal years beginning July 1, 2014, and July 1, 2015, (iii) 89.84 percent for fiscal years beginning July 1, 2016, and July 1, 2017, and (iv) 100 percent for fiscal years beginning on or after July 1, 2018;

3. For members participating in a retirement plan established pursuant to Chapter 2 (§ 51.1-200 et seq.), (i) 75.84 percent for fiscal years beginning July 1, 2012, and July 1, 2013, (ii) 83.90 percent for fiscal years beginning July 1, 2014, and July 1, 2015, (iii) 91.95 percent for fiscal years beginning July 1, 2016, and July 1, 2017, and (iv) 100 percent for fiscal years beginning on or after July 1, 2018;

4. For members participating in a retirement plan established pursuant to Chapter 2.1 (§ 51.1-211 et seq.), (i) 75.82 percent for fiscal years beginning July 1, 2012, and July 1, 2013, (ii) 83.88 percent for fiscal years beginning July 1, 2014, and July 1, 2015, (iii) 91.94 percent for fiscal years beginning July 1, 2016, and July 1, 2017, and (iv) 100 percent for fiscal years beginning on or after July 1, 2018; and

5. For members participating in a retirement plan established pursuant to Chapter 3 (§ 51.1-300 et seq.), (i) 83.98 percent for fiscal years beginning July 1, 2012, and July 1, 2013, (ii) 89.32 percent for fiscal years beginning July 1, 2014, and July 1, 2015, (iii) 94.66 percent for fiscal years beginning July 1, 2016, and July 1, 2017, and (iv) 100 percent for fiscal years beginning on or after July 1, 2018.

L. In the case of all teachers whose compensation is paid exclusively out of funds derived from local revenues and appropriations from the general fund of the state treasury, the Commonwealth shall contribute to the extent specified in the appropriations act. In the case of any teacher whose compensation is paid out of funds derived in whole or in part from any special fund or from a contributor other than the Commonwealth or a political subdivision thereof, contributions shall be paid out of the special fund or by the other contributor in proportion to that part of the compensation derived therefrom. In the case of all state employees whose compensation is paid

exclusively by the Commonwealth out of the general fund of the state treasury, the Commonwealth shall be the sole contributor, and all contributions shall be paid out of the general fund. In the case of a state employee whose compensation is paid in whole or in part out of any special fund or by any contributor other than the Commonwealth, contributions on behalf of the employee shall be paid out of the special fund or by the other contributor in proportion to that part of the employee's compensation derived therefrom. The governing body of each political subdivision is hereby authorized to make appropriations from the funds of the political subdivision necessary to pay its proportionate share of contributions on behalf of every state employee whose compensation is paid in part by the political subdivision. In the case of each person who has elected to remain a member of a local retirement system, the Commonwealth shall reimburse the local employer an amount equal to the product of the compensation of the person and the employer contribution rate as used to determine the employer contribution for state employees under this section. Each employer shall keep such records and periodically furnish such information as the Board may require and shall inform new employees of their duties and obligations in connection with the retirement system.

M. The employer contribution rate established for each employer may include the cost to administer any defined contribution plan administered by the Virginia Retirement System and available to the employer. The portion of such contribution designated to cover administrative costs of the defined contribution plans shall not be deposited into the trust fund established for the defined benefit plans but shall be separately accounted for and used solely to defray the administrative costs associated with the various defined contributions plans. This provision shall supplement the authority of the Board under §§ 51.1-124.22 and 51.1-602 to charge and collect administrative fees to employers whose employees have available the various defined contribution plans administered by the Virginia Retirement System.

N. (Effective until October 1, 2016) Notwithstanding the foregoing, the total employer contribution for each employer authorized to participate in the hybrid retirement program described in § 51.1-169 for any period, expressed as a percentage of the employer's payroll for such period, shall be established as the contribution rate payable by such employer with respect to its employees enrolled in the defined benefit plan established under this chapter. The employer's contribution shall be first applied to the defined contribution component of the hybrid retirement program described in § 51.1-169, and the remainder shall be deposited in the employer's retirement allowance account. Institutions of higher education shall also pay contributions to the employer's retirement allowance account in amounts representing the difference between the contribution rate payable with respect to employees enrolled in the defined benefit plan under this chapter and the employer contributions paid to any optional retirement plan it offers on behalf of any of its nonfaculty Covered Employees, as described in Article 6 (§ 23-38.114 et seq.) of Chapter 4.10 of Title 23. The employer contribution rate established for each employer may include the annual rate of contribution payable by such employer with respect to employees enrolled in the

optional defined contribution retirement plans established under §§ 51.1-126, 51.1-126.1, 51.1-126.3, and 51.1-126.4.

N. (Effective October 1, 2016) Notwithstanding the foregoing, the total employer contribution for each employer authorized to participate in the hybrid retirement program described in § 51.1-169 for any period, expressed as a percentage of the employer's payroll for such period, shall be established as the contribution rate payable by such employer with respect to its employees enrolled in the defined benefit plan established under this chapter. The employer's contribution shall be first applied to the defined contribution component of the hybrid retirement program described in § 51.1-169, and the remainder shall be deposited in the employer's retirement allowance account. Institutions of higher education shall also pay contributions to the employer's retirement allowance account in amounts representing the difference between the contribution rate payable with respect to employees enrolled in the defined benefit plan under this chapter and the employer contributions paid to any optional retirement plan it offers on behalf of any of its nonfaculty Covered Employees, as described in 23.1-1020 through 23.1-1026. The employer contribution rate established for each employer may include the annual rate of contribution payable by such employer with respect to employees enrolled in the optional defined contribution retirement plans established under §§ 51.1-126, 51.1-126.1, 51.1-126.3, and 51.1-126.4.

O. Employer contributions may be returned to the employer only as determined in accordance with § 401(a) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder applicable to governmental plans.

1952, c. 157, §§ 51-111.12, 51-111.47; 1960, c. 604; 1966, c. 174; 1970, c. 476; 1974, c. 353; 1975, cc. 360, 597, 610, § 51-111.10:2; 1978, cc. 1, 841; 1980, c. 722, § 51-111.47:01; 1981, c. 403; 1982, c. 467; 1985, c. 129; 1986, c. 474; 1990, c. 832; 1991, c. 719; 1996, c. 1030; 2005, c. 161; 2012, cc. 701, 823; 2013, c. 463; 2015, c. 660.

§ 51.1-146. Failure to report or pay contributions or insurance premiums

Every employer shall file all reports and pay all contributions and insurance premiums required by this title or Board regulation. Failure to file reports or pay contributions or insurance premiums by the end of the month in which due may result in a penalty of five percent of the amount due plus interest at the rate of one percent per month until payment is made. The Board may waive all or a part of the penalty and interest if good cause is shown. Delinquent contributions, insurance premiums, penalties, and interest may be recovered by action in a court of competent jurisdiction. At the discretion of the Board, contributions, insurance premiums, penalties and interest may be deducted from the retirement allowance account of the employer or may be deducted by the State Treasurer, upon warrant of the Comptroller, from any nonearmarked moneys distributable to the employer by any department or agency of the Commonwealth.

1980, c. 644, § 51-111.47:1; 1984, c. 430; 1986, c. 474; 1990, c. 832; 1995, c. 307; 1997, c. 273.

Article 8 - ASSETS OF RETIREMENT SYSTEM

§ 51.1-147. Members' contribution account

A. All members' contributions and interest allowances shall be credited to the member's contribution account. Accumulated contributions required to be returned to a member or required to be paid in the event of a member's death before retirement shall be paid from the member's contribution account.

B. At the end of each payroll period, the Comptroller shall transfer to the members' contribution account an amount equal to the aggregate amount of the deductions which would have been made for the preceding payroll period from the salaries of all members from the appropriate fund in the state treasury. The Comptroller shall forward a record of all such transfers to the Board. In all other cases, the employer shall transmit its warrant to the State Treasurer for the payment of an amount equal to the aggregate amount of the deductions made for each payroll period from the salaries of all members paid by the employer for the preceding payroll period. The funds collected by the State Treasurer shall be credited to the members' contribution account. The State Treasurer shall transmit a record of all moneys collected to the Comptroller and the Board.

C. Each individual account of the members' contribution account shall be credited annually with interest at the rate of four percent annually on the accumulated contributions of the member. Interest shall accrue on any contribution beginning at the end of the fiscal year in which the contribution was made. The Board shall have the authority to determine the manner in which the interest is to be credited to the members' contribution account.

D. Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.

1952, c. 157, § 51-111.49; 1966, c. 174; 1970, c. 476; 1976, c. 540; 1982, c. 467; 1986, c. 474; 1990, c. 832 .

§ 51.1-148. Retirement allowance account

A. All employer contributions, all amounts transferred from the members' contribution account, and all income from the invested assets of the retirement system shall be credited to the retirement allowance account. All benefits under the retirement system, other than refunds of members' accumulated contributions, and all administrative expenses of the retirement system, except to the extent that such expenses are otherwise paid, shall be paid from the retirement allowance account. At the discretion of the Board, contributions, penalties, and interest assessments may be deducted from the retirement allowance account of the employer.

B. The amount of the interest allowances provided for in this chapter shall be transferred from the retirement allowance account to the members' contribution account annually.

C. The records of the retirement allowance account shall be maintained so that the portion that is applicable to each respective employer may be ascertained at all times.

1952, c. 157, § 51-111.50; 1956, c. 560; 1978, c. 841; 1980, c. 137; 1984, c. 430; 1990, c. 832 .

§ 51.1-149. Appointment of custodian; payments

The Board is authorized to appoint custodians for the safekeeping and payment of retirement system assets. The selection of these investment services shall be governed exclusively by the fiduciary standard set forth in this chapter.

The Board may request the State Treasurer to issue retirement benefit payments on behalf of the retirement system. At the direction of the Board, retirement payments from the accounts shall be made by the State Treasurer, on warrants of the Comptroller, issued upon vouchers signed by persons designated by the Board. A duly attested copy of a resolution of the Board designating the persons and bearing on its face the specimen signatures of the persons shall be filed with the Comptroller as his authority for issuing warrants upon such vouchers. No voucher shall be drawn unless it has been authorized by Board resolution.

1952, c. 157, § 51-111.51; 1988, c. 809; 1990, c. 832 .

§ 51.1-150. Deposits

For the purpose of meeting disbursements for retirement allowances and other payments, cash, not exceeding ten percent of the total amount in the accounts of the retirement system, may be kept on deposit to the credit of the State Treasurer in one or more banks or trust companies, located in Virginia, organized under the laws of Virginia or of the United States and qualified as state depositories.

1952, c. 157, § 51-111.52; 1990, c. 832 .

§ 51.1-151. Repealed

Repealed by Acts 1997, c. 641.

Article 9 - BENEFITS

§ 51.1-152. Limitations on average final compensation

If an employee receives increases in compensation in the last four years of service which are not related to promotion and which exceed the average increase received by other employees of the same employer holding comparable positions, the excess shall be excluded when computing the average final compensation if the Board finds, after consideration of all circumstances, that the primary purpose of the salary increase was to increase the retirement benefit of the employee. If there are no employees of the same employer holding comparable positions, the increases may be excluded from the average final compensation if they exceed the average percentage increase received by all other employees of the same employer. Creditable compensation assumed to have been received for the purpose of purchasing service shall be excluded from a member's average final compensation.

1952, c. 157, § 51-111.10; 1954, c. 497; 1956, c. 98; 1956, Ex. Sess., c. 64; 1960, c. 604; 1966, cc. 174, 175; 1970, c. 779; 1971, Ex. Sess., cc. 88, 185; 1972, cc. 568, 708; 1973, cc. 322, 523, 545,

546; 1974, cc. 353, 484; 1975, cc. 597, 611; 1976, cc. 678, 699; 1977, c. 620; 1980, c. 722, § 51-111.10:01; 1982, cc. 467, 478; 1984, c. 430; 1986, c. 474; 1987, c. 392; 1990, c. 832 .

§ 51.1-153. Service retirement

A. Normal retirement. -- Any member in service at his normal retirement date with five or more years of creditable service may retire at any time upon written notification to the Board setting forth the date the retirement is to become effective. Any member in service who was denied membership prior to July 1, 1987, as a result of being age 60 or over when first employed may retire at any time after his normal retirement date and the requirement of having five or more years of service shall not apply.

B. Early retirement. -- 1. Any member in service who has attained his fifty-fifth birthday with five or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective.

However, a person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013, under this chapter shall be allowed to retire under this subdivision prior to his normal retirement date only if the person is in service and has attained his sixtieth birthday with five or more years of creditable service, and the benefit for such person shall be calculated in accordance with the provisions of subdivision A 3 of § 51.1-155.

2. Subject to the provisions of subdivision 3, any state employee, teacher, or employee of a political subdivision who is a member of the retirement system may retire prior to his normal retirement date after attaining age 50 and 30 years of creditable service, upon written notification to the Board setting forth the date the retirement is to become effective. The benefit for such member shall be calculated in accordance with the provisions of subdivision A 1 of § 51.1-155.

3. A person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013, as a state employee, teacher, or employee of a political subdivision may retire prior to his normal retirement date after the sum of his age and years of creditable service equals 90, upon written notification to the Board setting forth the date the retirement is to become effective. The benefit for such member shall be calculated in accordance with the provisions of subdivision A 1 of § 51.1-155.

4. Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to the Board that, for purposes of subdivisions B 1 and B 3 and subsection D, and subdivision A 3 of § 51.1-155, any person who is an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or who is employed as a firefighter, or law-enforcement officer as those terms are defined in § 15.2-1512.2 (i) shall not be considered a person who becomes a member on or after July 1, 2010, and (ii) shall be deemed to have at least 60 months of creditable service as of January 1, 2013. Such resolution shall be irrevocable.

C. Deferred retirement for members terminating service. -- Any member who terminates service after five or more years of creditable service, regardless of termination date, may retire under the provisions of subsection A, B, or D if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply.

D. 50/10 retirement. -- Any member in service on or after January 1, 1994, who has attained his fiftieth birthday with 10 or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective. A person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013, shall not be allowed to retire pursuant to this subsection.

E. Effective date of retirement. -- The effective date of retirement shall be after the last day of service of the member, but shall not be more than 90 days prior to the filing of the notice of retirement.

F. Notification on behalf of member. -- If the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification on his behalf.

1952, c. 157, § 51-111.53; 1966, c. 174; 1970, c. 476; 1976, c. 429; 1977, c. 620; 1982, c. 427; 1986, c. 474; 1988, c. 222; 1990, c. 832; 1995, cc. 152, 692, 811; 1996, cc. 768, 997; 1999, cc. 111, 567, 568, 569, 591, 592, 598, 599; 2000, cc. 66, 657, 911; 2010, cc. 737, 738; 2011, c. 483; 2012, cc. 701, 811, 823; 2013, cc. 456, 666; 2015, cc. 502, 503.

§ 51.1-154. Compulsory service retirement

Any employer, subsequent to the employee's normal retirement date, may provide for compulsory service retirement upon a determination that age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or that an employee is incapable of performing his duties in a safe and efficient manner. Any such determination shall be made by the employer.

1952, c. 157, § 51-111.54; 1954, c. 460; 1956, c. 458; 1958, c. 356; 1959, Ex. Sess., c. 59; 1966, c. 147; 1968, c. 177; 1970, c. 476; 1971, Ex. Sess., c. 185; 1972, c. 26; 1974, c. 353; 1975, c. 611; 1980, c. 595; 1982, c. 406; 1984, c. 430; 1987, c. 571; 1990, c. 832 .

§ 51.1-155. Service retirement allowance

A. Retirement allowance. -- A member shall receive an annual retirement allowance, payable for life, as follows:

1. Normal retirement. -- The allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of his creditable service. Notwithstanding the foregoing, for a member who (i) is a person who becomes a member on or after July 1, 2010, or (ii) does not have at least

60 months of creditable service as of January 1, 2013, the allowance shall equal the sum of (a) 1.65 percent of his average final compensation multiplied by the amount of his creditable service performed or purchased on or after January 1, 2013, and (b) 1.70 percent of his average final compensation multiplied by the amount of all other creditable service.

2. Early retirement; applicable to teachers, state employees, and certain others. -- The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has less than 30 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable service. The provisions of this subdivision shall apply to teachers and state employees. These provisions shall also apply to employees of any political subdivision that participates in the retirement system if the political subdivision makes the election provided in subdivision 3.

3. Early retirement; applicable to employees of certain political subdivisions, any person who becomes a member on or after July 1, 2010, and any member who does not have at least 60 months of creditable service as of January 1, 2013. -- The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of his age at retirement plus his creditable service at retirement is less than 90, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the sum of his then attained age plus his then creditable service would have been equal to 90 or more had he remained in service until such date. If the member has less than 30 years of creditable service, the retirement allowance shall be reduced for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of at least 30 years of creditable service and his then creditable service plus his then attained age would have been equal to 90 or more.

The provisions of this subdivision shall apply to the employees of any political subdivision that participates in the retirement system and any other employees as provided by law. The participating political subdivision may, however, elect to provide its employees with the early retirement allowance set forth in subdivision 2. No such election shall be made for a person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

Notwithstanding the foregoing, a political subdivision by legally adopted resolution may declare to the Board that, for purposes of this subdivision, subdivisions B 1 and B 3 and subsection D of §

51.1-153, any person who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or is employed as a firefighter or law-enforcement officer as those terms are defined in § 15.2-1512.2 (i) shall not be considered a person who becomes a member on or after July 1, 2010, and (ii) shall be deemed to have at least 60 months of creditable service as of January 1, 2013. Such resolution shall be irrevocable.

4. Additional allowance. -- In addition to the allowance payable under subdivisions 1, 2, and 3, a member shall receive an additional allowance which shall be the actuarial equivalent, for his attained age at the time of retirement, of the excess of his accumulated contributions transferred from the abolished system to the retirement system, including interest credited at the rate of two percent compounded annually since the transfer to the date of retirement, over the annual amounts equal to four percent of his annual creditable compensation at the date of abolishment for a period equal to his period of membership in the abolished system.

5. 50/10 retirement. -- The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. Beneficiary serving in position covered by this title.

1. Except as provided in subdivisions 2 and 3, if a beneficiary of a service retirement allowance under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed. Any member who retires and later returns to covered employment shall not be entitled to select a different retirement option for a subsequent retirement.

2. Active members of the General Assembly who are eligible to receive a retirement allowance under this title, excluding their service as a member of the General Assembly, shall be eligible to receive a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly. Such members of the General Assembly shall continue to be reported as any other members of the retirement system. Upon ceasing to serve in the General Assembly, members of the General Assembly receiving a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly shall have their retirement allowance recomputed prospectively to include their service as a member of the General Assembly. Active members of the General Assembly shall be prohibited from receiving a service retirement allowance under this title based solely on their service as a member of the General Assembly.

3. (Expires July 1, 2020) Any person receiving a service retirement allowance under this chapter, who is hired as a local school board instructional or administrative employee required to be

licensed by the Board of Education, may elect to continue to receive the retirement allowance during such employment, under the following conditions:

(a) The person has been receiving such retirement allowance for a certain period of time preceding his employment as provided by law;

(b) The person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local school division within the Commonwealth; and

(c) At the time the person is employed, the position to which he is assigned is among those identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant to subdivision 9 of § 22.1-79.

If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.

1952, c. 157, § 51-111.55; 1956, c. 560; 1960, cc. 138, 604; 1962, c. 417; 1964, c. 223; 1966, c. 174; 1970, c. 476; 1972, cc. 118, 568; 1973, c. 523; 1974, c. 353; 1976, c. 538; 1977, c. 620; 1978, c. 841; 1980, c. 722, § 51-111.55:1; 1982, c. 467; 1984, c. 430; 1987, cc. 13, 14; 1988, c. 224; 1990, c. 832; 1991, c. 719; 1992, c. 826; 1994, 1st Sp. Sess., c. 5; 1995, cc. 152, 692, 811; 1998, cc. 407, 674, 746; 1999, c. 111; 2001, cc. 689, 700; 2002, cc. 778, 781; 2003, c. 211; 2004, c. 563; 2005, cc. 605, 606, 793; 2006, c. 513; 2010, cc. 737, 738; 2012, cc. 701, 811, 823; 2013, cc. 456, 666; 2015, cc. 502, 503.

§ 51.1-155.1. Exceptions from general early retirement provisions for certain state employees and constitutional officers

A. The provisions of this subsection apply to any member of the retirement system (i) whose position is described by subdivision 1 (except a member of the Judicial Retirement System (§ 51.1-300 et seq.)), 2 (except a member of the Judicial Retirement System (§ 51.1-300 et seq.)), 3, 4 (except an officer elected by popular vote), 7, 13, 14, 15, 16, 17, or 20 of § 2.2-2905; (ii) who is an agency head appointed by a state board, state commission, or state council; or (iii) who is a school division superintendent appointed by a school board pursuant to § 22.1-60, and (a) who is involuntarily separated from state service and (b) who has 20 or more years of creditable service at the date of separation. Such member may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155 upon attaining age 50, provided, however, that if (1) the member is a person who becomes a member on or after July 1, 2010, (2) the member does not have at least 60 months of creditable service as of January 1, 2013, or (3) the member is enrolled in the hybrid retirement program described in § 51.1-169, then the member may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155 upon attaining age 60.

B. The provisions of this subsection apply to any member of the retirement system who (i) serves as chief executive officer of an interstate commission pursuant to Virginia's participation in such commission; (ii) is involuntarily separated from service; and (iii) has 20 or more years of creditable service at the date of separation. Such member may retire without the reduction in retirement allowance required by subdivision A 2 of § 51.1-155 upon attaining age 50, provided, however, that if (a) the member is a person who becomes a member on or after July 1, 2010, (b) the member does not have at least 60 months of creditable service as of January 1, 2013, or (c) the member is enrolled in the hybrid retirement program described in § 51.1-169, then the member may retire without the reduction in retirement allowance required by subdivision A 2 of § 51.1-155 upon attaining age 60.

C. The provisions of this subsection apply to any member of the retirement system who (i) serves as a constitutional officer, (ii) is involuntarily separated from service because his office is lawfully abolished, and (iii) has 20 or more years of creditable service at the date of separation. Such member may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155, upon attaining age 50, provided, however, that if (a) the member is a person who becomes a member on or after July 1, 2010, (b) the member does not have at least 60 months of creditable service as of January 1, 2013, or (c) the member is enrolled in the hybrid retirement program described in § 51.1-169, then the member may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155 upon attaining age 60.

D. For the purposes of this section, except for subsection C, "involuntary separation" means any dismissal, requested resignation, or failure to obtain reappointment, except in case of a conviction for a felony or crime involving moral turpitude or dishonesty.

E. Any state employee who retires under the provisions of this section on or after January 1, 1994, shall be eligible to participate in the state health insurance program as provided in § 2.2-2818 and receive group life insurance benefits as provided in § 51.1-505.

1994, c. 785; 1995, cc. 152, 692, 721, 811; 1996, cc. 662, 924; 1997, c. 711; 1998, c. 746; 2000, c. 911; 2003, c. 220; 2011, cc. 250, 880; 2014, c. 356.

§ 51.1-155.2. Exceptions from general early retirement provisions for certain local government officials

A. The provisions of this section apply to any member of the retirement system who (i) is appointed county administrator pursuant to § 15.2-406 or 15.2-1540, urban county executive pursuant to § 15.2-804, county executive pursuant to § 15.2-509, county manager pursuant to § 15.2-609 or 15.2-702, county administrator or city or town manager pursuant to Chapter 15 (§ 15.2-1500 et seq.) of Title 15.2 or county, city or town attorney pursuant to § 15.2-1542; (ii) is involuntarily separated from service; and (iii) has 20 or more years of creditable service at the date of separation. Such member may retire without the reduction in retirement allowance required by subdivisions A 2 and A 3 of § 51.1-155 upon attaining age 50, provided, however, that if (a) the

member is a person who becomes a member on or after July 1, 2010, (b) the member does not have at least 60 months of creditable service as of January 1, 2013, or (c) the member is enrolled in the hybrid retirement program described in § 51.1-169, then the member may retire without the reduction in retirement allowance required by subdivisions A 2 and A 3 of § 51.1-155 upon attaining age 60.

B. For the purposes of this section, "involuntary separation" means any dismissal, requested resignation, or failure to obtain reappointment, except in case of a conviction for a felony or crime involving moral turpitude or dishonesty.

C. The cost of this provision shall be borne by the locality.

1995, c. 721; 1996, cc. 662, 924; 1998, c. 676; 2000, cc. 343, 911; 2008, c. 537; 2011, c. 880; 2014, c. 356.

§ 51.1-156. Disability retirement

A. Any member in service or within ninety days after termination of service who has not withdrawn his accumulated contributions as provided for in § 51.1-128 may retire for disability not compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.) upon written notification to the Board setting forth the date the retirement is to become effective.

B. Any member in service or within ninety days after termination of service may retire for disability from a cause compensable under the Virginia Workers' Compensation Act upon written notification to the Board setting forth the date the retirement is to become effective.

C. If no compensation is finally awarded under the Virginia Workers' Compensation Act, due to legal proceedings or otherwise resulting in settlement from the persons causing the disability, the Virginia Workers' Compensation Commission shall determine whether the member's disability is from a cause compensable under the Virginia Workers' Compensation Act.

D. The effective date of retirement shall be after the member's last day of service but shall not be more than ninety days prior to the filing of the notice of retirement. The Board may waive the ninety-day requirement upon a showing of good cause.

E. After a medical examination of the member or after reviewing pertinent medical records, the Medical Board shall certify that (i) the member is and has been continuously since the effective date of retirement if prior to filing of the notification, mentally or physically incapacitated for the further performance of duty, (ii) the incapacity is likely to be permanent, and (iii) the member should be retired. A member shall not be retired for disability for any condition which existed at the time of becoming a member unless medical evidence, convincing to the Board, supports the fact that the pre-existing condition has worsened substantially.

F. In the event the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification on his behalf.

G. Any member who has been on leave of absence without pay for a period exceeding twenty-four months shall not be entitled to retire under the provisions of this section. This subsection shall not apply to any member who is disabled while on leave without pay while performing active duty military service in the armed forces of the United States.

H. For good cause shown, the Board may waive the ninety-day notification periods set forth in subsections A and B. For purposes of this section, good cause shall exist and the Board shall waive such ninety-day notification periods if (i) the member would otherwise qualify for disability retirement but for failing to comply with the requirements of subsection A or B and (ii) the Medical Board, acting solely in its own discretion after reviewing objective medical evidence of the disability and its cause, certifies that: (a) the disability and its cause existed on the date the member's employment was terminated, (b) the member had no knowledge of the existence of the disability and its cause at any time within ninety days after the date the member's employment was terminated, and (c) the member could not, with reasonable inquiry, have ascertained the existence of the disability and its cause within ninety days after the date the member's employment was terminated.

1952, c. 157, § 51-111.56; 1960, c. 604; 1964, c. 186; 1966, c. 174; 1973, c. 523; 1982, c. 427; 1986, c. 474; 1988, c. 724; 1990, c. 832; 1992, c. 811; 1995, c. 307; 2009, c. 362.

§ 51.1-157. Disability retirement allowance

A. Allowance payable on retirement. -- Upon retirement for disability, a member who has five or more years of creditable service shall receive an annual retirement allowance during his lifetime and continued disability equal to 1.70 percent of his average final compensation multiplied by the smaller of (i) twice the amount of his creditable service or (ii) the amount of creditable service he would have completed at age 60 if he had remained in service to that age. Notwithstanding the foregoing, for a member who (a) is a person who becomes a member on or after July 1, 2010, or (b) does not have at least 60 months of creditable service as of January 1, 2013, the allowance shall equal 1.65 percent of his average final compensation multiplied by the smaller of (1) twice the amount of his creditable service or (2) the amount of creditable service he would have completed at age 60 if he had remained in service to that age. If a member has already attained age 60, the amount of creditable service at his date of retirement shall be used.

For retirements between October 1, 1994, and December 31, 1998, any employee or local officer who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to three percent of the disability retirement allowance payable under this section; provided that, for purposes of this additional retirement allowance, the term employee shall include only those employees of political subdivisions that have adopted a resolution providing for such an allowance under subsection B of § 51.1-130. Average final compensation attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

B. Workers' compensation guarantee. -- If a member retires for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the annual retirement allowance shall equal 66 and two-thirds percent of the member's average final compensation if the member does not qualify for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal 50 percent of his average final compensation. A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection A or under the provisions of this subsection.

C. Reduction of allowance. -- Any allowance payable to a member who retires for disability from a cause compensable under the Virginia Workers' Compensation Act shall be reduced by the amount of any payments under the provisions of the Act in effect on the date of retirement of the member and the excess of the allowance shall be paid to the member. When the time for compensation payments under the Act has elapsed, the member shall receive the full amount of the allowance payable during his lifetime and continued disability. If the member's payments under the Virginia Workers' Compensation Act are adjusted or terminated for refusal to work or to comply with the requirements of § 65.2-603, his allowance shall be computed as if he were receiving the compensation to which he would otherwise be entitled.

D. Special retirement allowance guarantee. -- Any member retired from a cause which is not compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement allowance during his lifetime and continued disability which equals 50 percent of the member's average final compensation if the member does not qualify for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for primary social security benefits under the provisions of the Social Security Act in effect on the date of retirement, the allowance payable from the retirement system shall equal 33 and one-third percent of his average final compensation.

E. Determination of retirement allowance. -- For the purposes of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

1952, c. 157, § 51-111.57; 1956, cc. 560, 652; 1960, c. 604; 1962, c. 245; 1964, c. 186; 1966, c. 174; 1970, c. 476; 1971, Ex. Sess., c. 88; 1972, c. 568; 1973, c. 523; 1974, c. 353; 1976, c. 541; 1980, c. 722, § 51-111.57:1; 1982, c. 467; 1986, c. 474; 1990, c. 832; 1993, c. 895; 1994, 1st Sp. Sess., c. 5; 1998, c. 674; 2012, cc. 701, 823.

§ 51.1-158. Reduction of benefits for acceptance of lump-sum settlement under Workers' Compensation Act

The retirement allowance (i) of any member retiring for disability from a cause compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.) or (ii) of any surviving spouse, minor child, or parent, eligible to receive a benefit as a result of the death of a member from a cause compensable under the Virginia Workers' Compensation Act, who elects to receive a lump-sum settlement in lieu of periodic payments for disability or death compensable under the Virginia Workers' Compensation Act shall be adjusted by an amount determined by dividing the workers' compensation benefit which such person would have received had the lump-sum settlement not been consummated, into the settlement actually accepted by the member, surviving spouse, child, or parent.

1980, c. 645, § 51-111.59:1; 1982, c. 467; 1986, c. 474; 1990, c. 832 .

§ 51.1-159. Medical examinations of persons retired for disability

A. Once each year following retirement, the Board may require a former member who retired for disability and who has not attained his normal retirement age to undergo a medical examination by the Medical Board or a physician or physicians designated by the Medical Board. If the former member refuses to submit to the required medical examination, his retirement allowance shall be discontinued until he complies. If he does not comply within six months of the date of the request, all of his rights to any further disability retirement allowance shall cease, subject to the provisions of § 51.1-160.

B. If the Medical Board determines that a beneficiary is not disabled after reviewing the findings of any of the medical examinations provided for in this section, all rights to any further disability allowance shall cease, subject to the provisions of § 51.1-160.

1952, c. 157, § 51-111.61; 1984, c. 430; 1990, c. 832; 1998, c. 657.

§ 51.1-160. Cessation of disability retirement allowance

A. If a beneficiary of a disability retirement allowance returns to service prior to his normal retirement date, his disability retirement allowance shall cease and he shall become a member of the retirement system and shall thereafter contribute. Any prior service on the basis of which his disability retirement allowance was computed shall be restored and, in addition, he shall be credited with all of his previous membership service including the period of disability retirement.

B. The balance of any contributions of the beneficiary in excess of the disability retirement allowance received by him shall be transferred from the retirement allowance account to the members' contribution account.

C. If disability benefits are terminated as set forth in subsection B of § 51.1-159, a beneficiary may (i) receive a refund of any accumulated contributions in excess of the disability retirement allowance received by him, in which case all rights to any further benefits payable under this chapter shall cease, (ii) return to service, in which case the provisions of subsections A and B of this section shall apply, or (iii) receive a deferred service allowance upon attaining the early retirement

age if the total of the prior membership service and the period of disability retirement meet the creditable service requirements for deferred retirement for members terminating service.

D. The retirement system shall have no responsibility for the reemployment of a beneficiary in a covered position.

1952, c. 157, § 51-111.63; 1960, c. 604; 1974, c. 353; 1984, c. 430; 1990, c. 832 .

§ 51.1-161. Withdrawal of contributions before retirement

A.1. Any member who has five or more years of creditable service, who ceases to be an employee, other than by death or retirement, may receive a refund of his accumulated contributions reduced by the amount of any retirement allowance previously received by him under any of the provisions of Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) or the abolished system.

2. Any member who has less than five years of creditable service, who ceases to be an employee other than by death or involuntary separation due to causes other than job performance or misconduct, as determined by the employer in its sole discretion, shall have such refund reduced by that portion of his accumulated contributions that were paid by his employer on his behalf on or after July 1, 2010. Such reduction shall be transferred to the retirement allowance account of each employer who paid such contributions on a pro rata basis.

B. Accumulated contributions shall be refunded to a member upon retirement for disability only from a cause that is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.) or to his designated beneficiary upon the death of the member from a cause that is compensable under the Virginia Workers' Compensation Act.

C. If a member becomes covered by an optional retirement plan established under § 51.1-126, 51.1-126.3, 51.1-126.5, or 51.1-126.6, the member may elect to have the balance of his accumulated contributions, as determined under subsection A, transferred directly to such optional retirement plan as a credit to his account in such plan. No portion of the transferred amount shall be available to the member until benefits under the optional retirement plan are otherwise available for distribution. An election to transfer the accumulated contributions to an optional retirement plan shall be treated as a withdrawal of the member's accumulated contributions for purposes of § 51.1-128, except that the member's creditable service shall be taken into account for purposes of Chapter 14 (§ 51.1-1400 et seq.).

1952, c. 157, § 51-111.58; 1960, c. 604; 1970, c. 476; 1986, c. 474; 1988, c. 809; 1990, c. 832; 2001, c. 691; 2006, c. 403; 2010, c. 758; 2012, c. 696.

§ 51.1-162. Death before retirement

A. If a member dies before retirement, and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to a surviving relative according to the order of precedence set forth in this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this

chapter or the abolished system. Each member shall designate who is to receive a refund of accumulated contributions credited to his account in the event of the death of the member prior to retirement. The designation must be made in a manner prescribed by the Board.

If no designation has been made, or the death of the designated person occurs prior to the death of the member and another designation has not been made, the proceeds shall be paid to the persons surviving at the death of the member in the following order of precedence:

First, to the spouse of the member;

Second, if no surviving spouse, to the children of the member and descendants of deceased children, per stirpes;

Third, if none of the above, to the parents of the member;

Fourth, if none of the above, to the duly appointed executor or administrator of the estate of the member;

Fifth, if none of the above, to other next of kin of the member entitled under the laws of the domicile of the member at the time of his death.

B. To the extent required by § 401(a)(37) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder applicable to governmental plans, if a member dies in service, including a member performing active duty military service in the armed forces of the United States, and if no benefits are payable under subsection C of this section, a retirement allowance shall be paid to the person or persons designated as provided in subsection A of this section if the person is the member's (i) surviving spouse, (ii) minor child, or (iii) parent(s). If no designation has been made, or if the death of the designated person occurs prior to the death of the member and another designation has not been made, a retirement allowance shall be paid in the following order of precedence to the member's (a) surviving spouse, (b) minor children, or (c) parent(s). The retirement allowance shall be paid to the first person qualifying in the orders of precedence set out in this subsection. If more than one minor child survives the deceased member, the allowance shall be divided among them in a manner determined by the Board. If more than one parent survives the deceased member, the allowance shall be divided among them in a manner determined by the Board. The retirement allowance shall be continued during the lifetime of the person or in the case of a minor child until the child dies or attains the age of majority, whichever occurs first. The retirement allowance shall equal the decreased retirement allowance that would have been payable under the joint and survivor option so that the same amount would be continued to such person after the member's death. If the member dies prior to his fifty-fifth birthday, then, for purposes of this subsection, the member shall be presumed to be age 55 on his date of death. However, if the member dies in service prior to his sixtieth birthday and is (1) a person who becomes a member on or after July 1, 2010, (2) a member who does not have at least 60 months of creditable service as of January 1, 2013, or (3) a member of the hybrid retirement program described in § 51.1-169, then, for purposes of this subsection, the member shall be

presumed to be age 60 on his date of death. When determining the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subdivision A 4 of § 51.1-155 shall not apply. If the person elects in writing, the amount of the member's accumulated contributions or lump sum payment shall be paid to him exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter.

C. If a member dies in service from a cause compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), a retirement allowance shall be paid to the member's surviving spouse. If no compensation is finally awarded under the Virginia Workers' Compensation Act due to legal proceedings or otherwise resulting in settlement from the persons causing such death, the Virginia Workers' Compensation Commission shall determine whether the member's death was from a cause compensable under the Virginia Workers' Compensation Act. If the member leaves no surviving spouse or the surviving spouse dies, any minor children of the deceased member shall be paid an allowance until the children die or attain the age of majority, whichever occurs first. If more than one minor child survives the deceased member, the allowance shall be divided in a manner determined by the Board. If the deceased member leaves neither surviving spouse nor minor child, the allowance, divided in a manner determined by the Board, shall be paid to the member's parents during their lives.

The retirement allowance payable hereunder to a qualifying survivor shall be the annual amount which when added to the compensation payable under the Virginia Workers' Compensation Act for the death of the member equals 50 percent of the member's average final compensation if the survivor does not qualify for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member. If the survivor qualifies for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member, the allowance payable from the retirement system when added to the compensation payable under the Virginia Workers' Compensation Act shall equal thirty-three and one-third percent of the member's average final compensation.

Any beneficiary entitled to the entire amount of a retirement allowance under the provisions of this subsection as a result of the death of a member shall be entitled to waive his rights to the allowance by written notification to the Board within ninety days after the death of the member in order to make available a retirement allowance under the provisions of subsection B of this section.

1960, c. 604, § 51-111.58:1; 1962, c. 438; 1966, c. 174; 1970, c. 476; 1972, c. 568; 1973, c. 523; 1974, c. 353; 1977, c. 620; 1986, c. 474; 1988, cc. 531, 540; 1990, c. 832; 1998, c. 407; 1999, cc. 111, 510; 2001, c. 683; 2002, c. 313; 2009, cc. 22, 362; 2011, c. 880; 2014, c. 356; 2015, c. 660.

§ 51.1-163. Death after retirement

If a member dies after the effective date of retirement, any excess of his accumulated contributions as of the effective date of his retirement, over the total retirement allowances received by him, shall be paid in the same manner as provided in subsection A of § 51.1-162, subsection A of § 51.1-207, or subsection A of § 51.1-218, in accordance with the retirement plan covering such member, unless the retirement allowance is then being paid in accordance with any of the optional benefits provided for in § 51.1-165 or § 51.1-165.01. Accumulated contributions as of the effective date of retirement shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

1952, c. 157, § 51-111.59; 1960, c. 604; 1990, c. 832; 1991, c. 302; 1995, c. 307; 2001, cc. 679, 699.

§ 51.1-164. Repealed

Repealed by Acts 2010, c. 269, cl. 2.

§ 51.1-165. Optional benefits

A. Any member not taking 50/10 retirement as provided in § 51.1-153 or 51.1-216, in accordance with the retirement plan covering such member, may elect to have his retirement allowance payable under one of the options set forth in this subsection and receive the actuarial equivalent of the retirement allowance otherwise payable to him. The election of an optional benefit shall be subject to the approval of the Board.

1. Straight life option. -- A member may elect to receive an increased retirement allowance in lieu of any death benefits.

2. Joint and last-survivor option. -- A member may elect to receive a decreased retirement allowance during his lifetime in order that a fraction of such retirement allowance be continued to a contingent annuitant at the death of the member. The amount to be received by the contingent annuitant, in accordance with such election by the member, shall not exceed 100 percent of the amount to be received by the member during his lifetime nor shall it be less than 10 percent of such amount. In case of such an election, death benefits that might otherwise be provided shall not be payable upon the death of the member unless death of the member occurs prior to the effective date of retirement as set forth in subsection C of this section. This option may be elected if the contingent annuitant is the spouse of the member. If the contingent annuitant is not the spouse of the member, this option may be elected only if the actuarial present value of the payments expected to be made to the member is greater than one-half of the actuarial present value of the total payments expected to be made to the member and contingent annuitant.

3. Level income option. -- If a member retires from service prior to his retirement age, as such term is defined under the Social Security Act (42 U.S.C. § 416 et seq., as now or hereafter amended), he may elect to receive an increased retirement allowance beginning on the member's effective date of retirement and continuing until the member reaches age 62 or any whole age up to his normal retirement age, as such term is defined under the Social Security Act (42 U.S.C. §

416 et seq., as now or hereafter amended) and a decreased retirement allowance thereafter, thereby providing a more nearly level retirement allowance when such decreased retirement allowance is added to his anticipated primary benefits under the federal Social Security Act. In determining the amount of such retirement allowance under this option before the electing retiree reaches his retirement age, as such term is defined under the Social Security Act (42 U.S.C. § 416 et seq., as now or hereafter amended), the Board may use an estimate of the member's anticipated social security benefit for computing the amount of such retirement allowance. Any member electing to receive such an allowance shall not be entitled to a joint and last survivor benefit. The amount of the increased retirement allowance shall be determined actuarially, but the election of this option shall not result in more than a 50 percent reduction in the member's benefit as provided in § 51.1-155, 51.1-206, 51.1-217, or 51.1-306.

B. Any member taking 50/10 retirement as provided in § 51.1-153 or 51.1-216, in accordance with the retirement plan covering such member, may elect to have his retirement allowance payable under the option set forth in this subsection and receive the actuarial equivalent of the retirement allowance otherwise payable to him. The election of this optional benefit shall be subject to the approval of the Board.

50/10 retirement joint and last-survivor option. -- A member may elect to receive a decreased retirement allowance during his lifetime and have the retirement allowance continued after his death to a contingent annuitant during the lifetime of such person. The retirement allowance pursuant to this option shall be determined as provided in subdivision A 5 of § 51.1-155 or subsection A of § 51.1-217, in accordance with the retirement plan covering such member, except (i) the present value of future retirement benefits shall be calculated based on the life expectancies of both the member and the contingent annuitant and (ii) the actuarially computed present value of the payments expected to be made under this option shall be actuarially equivalent to the actuarially computed present value of the payments expected to be made to the member as determined pursuant to subdivision A 5 of § 51.1-155 or subsection A of § 51.1-217, in accordance with the retirement plan covering such member.

C.1. The election of any one of the options stated in this section shall be null and void if the member dies prior to the Board receiving written notification of the member's effective date of retirement. The election of a joint and last-survivor option shall be null and void if the contingent annuitant dies before the member's retirement. Except as provided in subdivision 2 of this subsection, in all cases where the death of the member occurs prior to the effective date of retirement but after the Board has received written notification of the member's effective date of retirement, benefits shall be paid in accordance with the provisions of § 51.1-163 and the requirement that the member be in service shall not apply. For purposes of this subdivision, retirement shall be deemed to commence on the effective date of a member's service retirement or disability.

2. If (i) the death of the member occurs prior to the effective date of retirement but after the Board has received written notification of the member's effective date of retirement; (ii) the member died

while in service; (iii) at the time of the member's death the election for payment of the member's retirement allowance was a joint and last-survivor optional retirement benefit; and (iv) the member named his spouse, minor child, or parent as the contingent annuitant under the joint and last-survivor optional benefit, then benefits shall be paid in accordance with the provisions of § 51.1-163. However, if such contingent annuitant or annuitants are the same person or persons who would receive a monthly benefit under subsection B of § 51.1-162 and the monthly benefit under such subsection would be greater than the benefit provided in accordance with the provisions of § 51.1-163, then retirement benefits shall be paid in accordance with the provisions of subsection B of § 51.1-162.

For purposes of this subdivision, retirement shall be deemed to commence on the effective date of a member's service retirement or disability.

D. A member who has elected any of the options stated in this section may revoke such an election by written notification to the Board any time prior to the later of the effective date of retirement or the date of written notification to the Board of retirement of the member.

E. A retired member who has elected a joint and last-survivor option may, in a manner prescribed by the Board, revoke such election and elect to receive from time of notification either the retirement allowance to which he would have been entitled had no option been elected initially or an allowance actuarially equivalent thereto under a joint and last-survivor option with a different contingent annuitant, if (i) the original contingent annuitant has died, (ii) a final decree of divorce of the retired member from the original contingent annuitant has been entered, or (iii) the written consent of the original contingent annuitant, together with evidence satisfactory to the Board of the good health of the original contingent annuitant, is submitted with the notification. If the provisions of this subsection are invoked by a retired member on the basis of the member's having been divorced from his contingent annuitant and the marriage had been of a duration of 20 years or more, the provisions of this subsection shall not be applicable until the death or remarriage of the former spouse unless such spouse consents in writing to the revocation of the option prior to death or remarriage.

If such an election is made as a result of the death or divorce of the contingent annuitant, the benefit payable to the retired member may be adjusted retroactively for a period of not more than 60 days from the date the Board first receives notification of the desire of the retired member to make such a change.

F. Subject to the provisions of subsection E of this section, any member who retires on or after July 1, 1986, and returns to covered employment shall not be entitled to select a different optional benefit upon making application for retirement a second or subsequent time.

1952, c. 157, § 51-111.60; 1956, c. 560; 1966, c. 174; 1970, c. 476; 1974, c. 353; 1975, c. 597; 1976, cc. 511, 542; 1978, c. 841; 1980, cc. 85, 642, 646; 1982, c. 581; 1986, c. 474; 1990, c. 832;

1992, cc. 518, 548, 811; 1993, c. 548; 1995, cc. 152, 307, 692, 811; 1998, c. 676; 1999, c. 111; 2001, cc. 679, 699; 2003, c. 263; 2005, cc. 146, 162.

§ 51.1-165.01. Partial lump-sum option for payment of retirement allowance

A. For purposes of this section:

"Normal retirement" means normal retirement as described in §§ 51.1-153, 51.1-205, 51.1-216 or § 51.1-305, in accordance with the retirement plan covering the member.

B. The following members are eligible to receive a portion of their retirement allowance paid in a lump-sum distribution upon retirement as provided in this section:

1. Any retiring member who (i) has satisfied the requirements for normal retirement after January 1, 2004, or has been credited with at least three years of creditable service for service performed after the date he was first eligible for an unreduced service retirement allowance and (ii) was in service for at least three full years after January 1, 2001, is eligible to elect one of the partial lump-sum options described in either subdivision C 1, C 2, or C 3.

2. Any retiring member who (i) has been credited with at least two years of creditable service for service performed after the date he was first eligible for an unreduced service retirement allowance and (ii) was in service for at least two full years after January 1, 2001, is eligible to elect one of the partial lump-sum options described in either subdivision C 1 or C 2.

3. Any retiring member who (i) has been credited with at least one year of creditable service for service performed after the date he was first eligible for an unreduced service retirement allowance and (ii) was in service for at least one full year after January 1, 2001, is eligible to elect the partial lump-sum option described in subdivision C 1.

For purposes of this subsection, service of an employee of a locality participating in the Retirement System shall mean service for which retirement credit is granted under this chapter.

C. An eligible retiring member may make a one-time election to receive a portion of his retirement allowance paid in a lump-sum distribution upon his retirement. The monthly amount of the service retirement allowance otherwise payable to such member making the election shall be reduced on an actuarially equivalent basis to reflect the payment of such lump-sum distribution. Any optional payment of the retirement allowance, pursuant to § 51.1-165, shall also be based upon such reduced retirement allowance. The computation and payment of any service retirement allowance that is reduced on an actuarially equivalent basis to reflect the payment of a lump-sum distribution shall also reflect the provisions of subsection B of § 51.1-168 applicable to the total retirement benefit including the lump-sum distribution. An eligible retiring member may elect one of the following partial lump-sum options pursuant to the limitations provided in subsection B:

1. A lump-sum distribution shall be paid to such member upon his retirement equal to twelve times the monthly amount of his service retirement allowance as determined in subsection A of §

51.1-155, subsection A of § 51.1-206, subsection A of § 51.1-217, or subsection A of § 51.1-306, in accordance with the retirement plan covering such member but without regard to the limitation set forth in subsection B of § 51.1-168.

2. A lump-sum distribution shall be paid to such member upon his retirement equal to twenty-four times the monthly amount of his service retirement allowance as determined in subsection A of § 51.1-155, subsection A of § 51.1-206, subsection A of § 51.1-217, or subsection A of § 51.1-306, in accordance with the retirement plan covering such member but without regard to the limitation set forth in subsection B of § 51.1-168.

3. A lump-sum distribution shall be paid to such member upon his retirement equal to thirty-six times the monthly amount of his service retirement allowance as determined in subsection A of § 51.1-155, subsection A of § 51.1-206, subsection A of § 51.1-217, or subsection A of § 51.1-306, in accordance with the retirement plan covering such member but without regard to the limitation set forth in subsection B of § 51.1-168.

D. The lump-sum distribution, if elected by the eligible retiring member, shall be paid at the same time that the first monthly annuity payment is paid to such member.

E. Before an eligible retiring member may make an election to receive a lump-sum distribution, such member shall have been provided from the Retirement System the amount by which his monthly retirement allowance shall be reduced under each of the partial lump-sum options provided in subsection C, as available to such member. No eligible retiring member shall be allowed to make an election for a lump-sum distribution pursuant to this section more than once in his lifetime.

F. The election of any one of the options stated in this section shall be void if the member dies prior to the Board receiving written notification of the member's effective date of retirement. If the death of the member occurs prior to the effective date of retirement but after the Board has received written notification of the member's effective date of retirement, benefits shall be paid in accordance with the provisions of § 51.1-163 and the requirement that the member be in service shall not apply.

2001, cc. 679, 699; 2002, c. 404.

§ 51.1-165.1. Acknowledgment by spouse of member

Any application for retirement benefits under this chapter or Chapter 2 (§ 51.1-200 et seq.) or Chapter 3 (§ 51.1-300 et seq.) of this title shall include a statement made by the spouse, if any, of the applicant, acknowledging (i) that the spouse has read the provisions of payment options and (ii) the selection of the basic benefit or any other benefit selected. Payments to a retired member who fails to have executed properly a statement of acknowledgment, and the provisions for obtaining such statement, shall be governed by procedures adopted by the Board.

1996, c. 709; 2009, c. 22.

§ 51.1-166. Post-retirement supplements generally

A. In addition to the allowances payable under this title, post-retirement supplements shall be payable to the recipients of such allowances. Supplements shall be subject to the same conditions of payment as are allowances.

B. The amounts of the post-retirement supplements shall be determined as percentages of the allowances supplemented hereby. The percentages shall be determined annually by reference to the increase in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor. The percentages shall be based on monthly averages and shall be the difference between (i) the average for the calendar year just ended and (ii) the average for the most recent calendar year used in the determination of the post-retirement supplements currently being paid. The annual increase, if any, in the CPI-U shall be considered only to the extent of the first two percent plus one-half of the next two percent of any additional increase, or a maximum increase in the post-retirement supplement of three percent in any given year. However, for anyone who (a) is not a person who becomes a member on or after July 1, 2010, and (b) has at least 60 months of creditable service as of January 1, 2013, the applicable annual increase, if any, in the CPI-U shall be considered only to the extent of the first three percent plus one-half of the next four percent of any additional increase, or a maximum increase in the post-retirement supplement of five percent in any given year. If the difference in the percentages determined above is zero or less, the post-retirement supplements shall either not commence or shall continue unchanged until such time as an annual determination results in a difference in the percentages that are greater than zero. A participant in the hybrid retirement program described in § 51.1-169 shall be considered to be a person who becomes a member on or after July 1, 2010, for the purposes of this section.

Contribution rates for all employers shall include an amount equal to 100 percent of the total annual amount necessary to fund all post-retirement supplements. All contribution rates shall be computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board.

C. There shall be no change in the amount of any post-retirement supplement between determination dates except as necessary to reflect changes in the amount of the allowance being supplemented. The post-retirement supplement shall remain a constant percentage of the respective allowance being supplemented. No new post-retirement supplement shall be commenced except as of a determination date. The post-retirement supplement determined as of any determination dates shall become effective at the beginning of the fiscal year and shall be in lieu of any post-retirement supplements previously payable, which shall thereupon be terminated.

D.1. Any recipient of an allowance which initially commenced on or prior to January 1, 1990, shall be entitled to post-retirement supplements effective July 1, 1991.

2. A person who is the recipient of an allowance pursuant to § 2.2-3204, subsection Q of Item 469 of Chapter 890 of the Acts of Assembly of 2011, or § 51.1-155.1, 51.1-155.2, 51.1-157, 51.1-162,

51.1-207, 51.1-218, 51.1-308, 51.1-1117, 51.1-1128, 51.1-1161, or 51.1-1169 must receive that allowance for one full calendar year before being entitled to post-retirement supplements.

3. Any person who, as of January 1, 2013, (i) is the recipient of an allowance under this title or (ii) would otherwise be eligible for an unreduced allowance under the applicable chapter within five years, including a person described in clause (ii) who commences an unreduced allowance on or after January 1, 2013, must receive that allowance for one full calendar year before being entitled to post-retirement supplements.

4. Any other person who has less than 20 years of creditable service must receive that allowance for one full calendar year after the date he would otherwise have been eligible for an unreduced allowance under the applicable chapter before being entitled to post-retirement supplements.

1970, c. 476, § 51-111.60:1; 1977, c. 620; 1980, c. 163; 1982, c. 467; 1987, cc. 13, 14; 1990, c. 832; 1991, c. 719; 1996, c. 1030; 2010, cc. 737, 738, 752; 2012, cc. 701, 823; 2013, c. 463; 2014, c. 356.

§ 51.1-167. Retirement allowance to be reduced in certain cases

In the case of any state employee whose compensation is not paid exclusively out of the state treasury and in the case of any teacher whose compensation is paid out of any fund not derived from local revenues or state appropriations, if any contributor other than the Commonwealth is in default in the payment of any required contribution, the total retirement allowance to which the employee would have been entitled but for the default shall be reduced by the amount of the retirement allowance provided by the defaulted contribution.

1952, c. 157, § 51-111.65; 1974, c. 353; 1982, c. 467; 1990, c. 832 .

§ 51.1-168. Limits on creditable compensation; maximum benefits; mandatory payment of allowance

A. Notwithstanding any other provision of law, creditable compensation used for computing any benefit or employee contribution under or to the Retirement System shall not exceed $200,000 (as adjusted in $5,000 increments from time to time by the adjustment factor described in I.R.C. § 415 (d) on the basis of a base period of the calendar quarter beginning July 1, 2001). In determining average final compensation for periods beginning on or after July 1, 2001, the limit on creditable compensation applied to compensation attributable to periods prior to July 1, 2001, shall be $200,000. Notwithstanding the foregoing, compensation for any employee who became a member of the Retirement System (i) prior to the ninetieth day after the opening date of the 1996 Session of the General Assembly, on whose behalf employee or employer contributions are made into the Retirement System, and for whom annual compensation is used for computing any benefit, shall not exceed the limit on compensation as adjusted by the Commissioner of the Internal Revenue Service pursuant to the transition provisions applicable to eligible participants under state and local governmental plans under I.R.C. § 401 (a)(17) as amended in 1993 and as contained in § 13212 (d)(3) of the Omnibus Budget Reconciliation Act of 1993 (P. L. 103-66).

B. Notwithstanding any other provision of law, the annual benefit under the Retirement System of a member and any related death or other benefit shall, if necessary, be reduced to the extent required by § 415 (b) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury pursuant to § 415 (d) of the Internal Revenue Code. Any adjustment pursuant to § 415 (d) of the Internal Revenue Code shall apply to all members including those who have died, retired, or otherwise terminated service with a nonforfeitable right to a retirement allowance before the effective date of such adjustment. If an employee participating in the Retirement System is also a participant in another defined benefit plan sponsored or maintained by an employer participating in the Retirement System and subject to the limitations under § 415 of the Internal Revenue Code, such employer shall apply the combined limit test required by § 415 (b) of the Internal Revenue Code to all such plans, to the extent required by § 415 of the Internal Revenue Code. Whenever a reduction in annual benefits is required to meet the annual benefit limit required by § 415 (b) of the Internal Revenue Code, the annual benefits under such employer's other plan or plans will be reduced before benefits under the Retirement System.

C. Any vendor for a defined benefit plan sponsored or maintained by an employer that participates in the Retirement System shall (i) request and maintain the records needed, (ii) perform the testing services required to assure compliance with the limitations described in § 415 (b) of the Internal Revenue Code, including testing required where the employer maintains or sponsors another plan that must be tested together with the Retirement System, and (iii) advise the employer of any annual benefit that exceeds the applicable limitation. If there is no vendor for these services, the employer shall (a) request and maintain the records needed, (b) perform the testing services required to assure compliance with the limitations described in § 415 (b) of the Internal Revenue Code, including testing required where the employer maintains or sponsors another plan that must be tested together with the Retirement System, and (c) reduce any annual benefit that exceeds the applicable limitation.

D. On and after January 1, 1989, the retirement allowance of a member who has terminated employment shall begin no later than the later of (i) April 1 of the calendar year following the calendar year that the member attains seventy and one-half years of age or (ii) April 1 of the calendar year following the calendar year in which the member terminates employment. If the member fails, following reasonable notification, to elect a form of payment by such required beginning date, the retirement allowance shall be paid as a single life annuity and the spousal acknowledgement otherwise required by § 51.1-165.1 shall not be required. Notwithstanding any other provisions of law, § 401(a)(9) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder applicable to governmental plans are incorporated by reference.

1990, c. 832; 1995, c. 307; 1998, c. 389; 2000, c. 502; 2002, c. 435; 2005, c. 728; 2015, c. 660.

§ 51.1-169. Hybrid retirement program

A. For purposes of this section, "hybrid retirement program" or "program" means a hybrid retirement program covering any employee in a position covered for retirement purposes under the

provisions of Chapter 1 (§ 51.1-124.1 et seq.) for retirement purposes other than the Virginia Retirement System defined benefit retirement plan established under Chapter 1 (§ 51.1-124.1 et seq.). Persons who are participants in, or eligible to be participants in, the retirement plans under the provisions of Chapter 2 (§ 51.1-200 et seq.), Chapter 2.1 (§ 51.1-211 et seq.), the optional retirement plans established under §§ 51.1-126.1, 51.1-126.3, 51.1-126.4, and 51.1-126.7, or a person eligible to earn the benefits permitted by § 51.1-138 shall not be eligible to participate in the hybrid retirement program. Any person who meets the definition of "emergency medical services personnel" in § 32.1-111.1 or is employed as a firefighter, or law-enforcement officer as those terms are defined in § 15.2-1512.2 and whose employing political subdivision has legally adopted an irrevocable resolution as described in subdivision B 4 of § 51.1-153 and subdivision A 3 of § 51.1-155 shall not be eligible to participate in the hybrid retirement program. No member of the Judicial Retirement System under Chapter 3 (§ 51.1-300 et seq.) shall be eligible to participate in the hybrid retirement program described in § 51.1-169 except members appointed to an original term on or after January 1, 2014.

The Board shall maintain the hybrid retirement program established by this section, and any employer is authorized to make contributions under such program for the benefit of its employees participating in such program. Every person who is otherwise eligible to participate in the program but is not a member of a retirement plan administered by the Virginia Retirement System the first time he is hired or rehired on or after January 1, 2014, in a covered position, shall participate in the hybrid retirement program established by this section.

A person who participates in the otherwise applicable defined benefit retirement plan established by this title and administered by the Virginia Retirement System under this chapter may make an irrevocable election to participate in the hybrid retirement program maintained under this section. Such election shall be exercised no later than April 30, 2014. If an election is not made by April 30, 2014, such employee shall be deemed to have elected not to participate in the hybrid retirement program and shall continue to participate in his current retirement plan.

B. Except as otherwise provided in subsection G:

1. The employer shall make contributions to the defined benefit component of the program in accordance with § 51.1-145.

2. The employer shall make a mandatory contribution to the defined contribution component of the program on behalf of an employee participating in the program in the amount of one percent of creditable compensation, which shall be made to the appropriate cash match plan established for the employee under § 51.1-608. In addition, the employer shall make a matching contribution on behalf of the employee based on the employee's voluntary contributions under the defined contribution component of the program to the deferred compensation plan established under § 51.1-602, up to a maximum of 2.5 percent of creditable compensation for the payroll period, as follows: (i) 100 percent of the first one percent of creditable compensation contributed by the employee to

the defined contribution component of the program under subdivision C 2 for the payroll period, and (ii) 50 percent of the next three percent of creditable compensation contributed by the employee to the defined contribution component of the program under subdivision C 2 for the payroll period. The matching contribution by the employer shall be made to the appropriate cash match plan established for the employee under § 51.1-608.

3. The total amount contributed by the employer under subdivision 2 shall vest to the employee's benefit according to the following schedule:

a. Upon completion of two years of active participation, 50 percent.

b. Upon completion of three years of active participation, 75 percent.

c. Upon completion of four years of active participation, 100 percent.

For purposes of this subdivision, "active participation" includes creditable service, as defined in § 51.1-124.3, in any retirement plan established by this title and administered by the Retirement System.

If an employee ceases to be a member prior to achieving 100 percent vesting, contributions made by an employer on behalf of the employee under subdivision 2 that are not vested shall be forfeited. The Board may establish a forfeiture account and may specify the uses of the forfeiture account.

4. An employee may direct the investment of contributions made by an employer under subdivision B 2.

5. No loans or hardship distributions shall be available from contributions made by an employer under subdivision B 2.

C. Except as otherwise provided in subsection G:

1. An employee participating in the hybrid retirement program maintained under this section shall, pursuant to procedures established by the Board, make mandatory contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code (i) to the defined benefit component of the program in the amount of four percent of creditable compensation in lieu of the amount described in subsection A of § 51.1-144 and (ii) to the defined contribution component of the program in the amount of one percent of creditable compensation, which shall be made to the appropriate cash match plan established for the employee under § 51.1-608.

2. An employee participating in the hybrid retirement program may also make voluntary contributions to the defined contribution component of the program of up to four percent of creditable compensation or the limit on elective deferrals pursuant to § 457(b) of the Internal Revenue Code, whichever is less. The contribution by the employee shall be made to the appropriate deferred compensation plan established by the employee under § 51.1-602.

3. If an employee's voluntary contributions under subdivision C 2 are less than four percent of creditable compensation, the contribution will increase by one-half of one percent, beginning on January 1, 2017, and every three years thereafter, until the employee's voluntary contributions under subdivision C 2 reach four percent of creditable compensation. The increase will be effective beginning with the first pay period that begins in such calendar year unless the employee elects not to increase the voluntary contribution in a manner prescribed by the Board.

4. No loans or hardship distributions shall be available from contributions made by an employee under this subsection.

5. Disclosure of all services, fees, restrictions, and surrender penalties associated with employee voluntary contributions under subdivision C 2 shall be provided by the Board on an annual basis to an employee who does not make the election provided in subdivision G 1.

D.1. The amount of the service retirement allowance under the defined benefit component of the program shall be governed by § 51.1-155 for all creditable service credited prior to the effective date of the member's participation in the program. For all other creditable service, the allowance shall equal one percent of a member's average final compensation multiplied by the amount of his creditable service while in the program. For judges who are participating in the hybrid retirement program, creditable service shall be determined as provided in § 51.1-303 and service retirement eligibility shall be determined as provided in § 51.1-305.

2. No member shall retire for disability under the defined benefit component of the program, provided, however, that judges who are participating in the hybrid retirement program may retire for disability under §§ 51.1-307 and 51.1-308.

3. Except as provided in subdivision 1, any employee participating in the hybrid retirement program maintained under this section shall be considered to be a person who becomes a member on or after July 1, 2010.

4. In all other respects, administration of the defined benefit component of the program shall be governed by the provisions of Chapter 1 (§ 51.1-124.1 et seq.).

E. With respect to any employee who elects, pursuant to subsection A, to participate in the otherwise applicable defined benefit retirement plan established by this title and administered by the Virginia Retirement System, the employer shall collect and pay all employee and employer contributions to the Virginia Retirement System for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) for such employee.

F.1. The Board shall develop policies and procedures for administering the hybrid retirement program it maintains, including the establishment of guidelines for employee elections and deferrals under the program.

2. No employee who is an active member in the hybrid retirement program maintained under this section shall also be an active member of any other optional retirement plan maintained under the provisions of Chapter 1 (§ 51.1-124.1 et seq.).

3. If a member of the hybrid retirement program maintained under this section is at any time in service as an employee in a position covered for retirement purposes under the provisions of Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.), his benefit payments under the hybrid retirement program maintained under this section shall be suspended while so employed; provided, however, reemployment shall have no effect on a payment under the defined contribution component of the program if the benefit is being paid in an annuity form under an annuity contract purchased with the member's account balance.

4. Any administrative fee imposed pursuant to subdivision A 13 of § 51.1-124.22 on any employer for administering and overseeing the hybrid retirement program maintained under this section shall be charged for each employee participating in such program and shall be for costs incurred by the Virginia Retirement System that are directly related to the administration and oversight of such program. Notwithstanding the foregoing, the Board is authorized to collect all or a portion of such fee directly from the employee.

5. The creditable compensation for any employee on whose behalf employee or employer contributions are made into the hybrid retirement program shall not exceed the limit on compensation as adjusted by the Commissioner of the Internal Revenue Service pursuant to the transition provisions applicable to eligible participants under state and local governmental plans under § 401(a)(17) of the Internal Revenue Code as amended in 1993 and as contained in § 13212 (d)(3) of the Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66).

6. The Board may contract with private corporations or institutions, subject to the standards set forth in § 51.1-124.30, to provide investment products as well as any other goods and services related to the administration of the hybrid retirement program, except as provided in subsection G. The Virginia Retirement System is hereby authorized to perform related services, including but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, and asset purchase, control, and safekeeping.

G. 1. Any political subdivision of the Commonwealth that has established a plan pursuant to § 403 (b) of the Internal Revenue Code of 1986, as amended (a "403(b) plan"), may, at its option, elect to allow its employees the option to direct that voluntary contributions to the defined contribution component of the program under subdivision C 2 be made to such 403(b) plan and the corresponding employer matching contributions under subdivision B 2 be made to such 403(b) plan or the appropriate local cash match plan established under § 51.1-610. All such voluntary contributions by an employee to such 403(b) plan shall be made on a pretax basis. Any such political subdivision of the Commonwealth that so directs shall develop policies and procedures for administering such contributions, subject to and in accordance with applicable federal law and

regulations. The policies and procedures shall provide for the administration of vesting provisions as provided in subdivision B 3, the establishment of and uses for a forfeiture account as provided in subdivision B 3, and automatic contribution escalation provisions as provided in subdivision C 3, all with regard to employee voluntary contributions and corresponding employer matching contributions.

In all other respects, the political subdivision shall be subject to the provisions of the hybrid retirement program described in this section.

2. The governing body of any political subdivision of the Commonwealth electing to allow its employees to use its 403(b) plan or a local cash match plan as described in subdivision 1 shall adopt a resolution on or before November 1, 2015, and submit such resolution to the Board to notify the Board of its election, which shall be effective January 1, 2016, and shall remain effective for 12 months. Thereafter, the governing body of any political subdivision of the Commonwealth may make or change its election for its employees no more often than annually by adopting a resolution on or before November 1 of each year notifying the Board of a new or changed election, which shall become effective on January 1.

3. A person who participates in the hybrid retirement program maintained under this section may make an election to participate in the 403(b) plan established by his employer under subdivision G 1. Such election shall be exercised no later than November 30, 2015, and shall be effective January 1, 2016. If an election is not made by November 30, 2015, such employee shall be deemed to have elected not to participate in the 403(b) plan established by his employer under subdivision G 1. Thereafter, such employee may make or change his election on or before November 30 of each year by notifying his employer of a new or changed election, which shall become effective the following January 1. If an election is not made or changed by November 30, such employee shall be deemed to have elected not to change the prior year's election.

4. In the case of a 403(b) plan or local cash match plan administered by a political subdivision of the Commonwealth that provides individual accounts permitting an employee or beneficiary to exercise discretion over assets in his account, the political subdivision shall not be liable for any loss resulting from such employee's or beneficiary's (i) investment of voluntary contributions in the political subdivision's 403(b) plan or matching contributions in the political subdivision's 403(b) plan or local cash match plan, (ii) exercise of discretion over the assets in any of his accounts, or (iii) inaction with respect to the assets in any of his accounts that results in such assets being placed in a default investment option selected by the political subdivision, provided that the investment options for the affected individual account and the particular default investment option for such individual account are selected in accordance with subsection A of § 51.1-803, applied mutatis mutandis. Under no circumstances shall the Commonwealth, the Board, employees of the Retirement System, the Investment Advisory Committee of the Retirement System, or any other advisory committee established by the Board bear any liability with respect to any plan or individual account described in this subsection.

5. The provisions of this subsection shall not apply to any political subdivision of the Commonwealth that has entered into an agreement with the Retirement System pursuant to § 51.1-603.1 or 51.1-611 except with regard to a 403(b) plan.

6. Disclosure of all services, fees, restrictions, and surrender penalties associated with employee voluntary contributions under subsection G shall be provided by the political subdivision of the Commonwealth on an annual basis to an employee who makes the election provided in subdivision G 1. Such employee shall also be provided with a side-by-side comparison of the long-term effects of generic expense ratios on his investments.

7. The Board shall not be responsible for administration of or recordkeeping related to voluntary contributions to the defined contribution component of the program made to a 403(b) plan or the corresponding employer matching contributions made to a 403(b) plan or the appropriate local cash match plan established under § 51.1-610 that are authorized by subdivision G 1.

8. The Board shall develop policies and procedures for administering the provisions of this subsection.

2012, cc. 701, 823; 2013, cc. 456, 666; 2014, c. 356; 2015, cc. 502, 503, 538, 539, 660; 2016, cc. 263, 280.

Chapter 2 - STATE POLICE OFFICERS' RETIREMENT SYSTEM

§ 51.1-200. State Police Officers' Retirement System continued; administration; application of provisions of Virginia Retirement System

The State Police Officers' Retirement System is continued and shall be administered by the Board of Trustees of the Virginia Retirement System. Except as otherwise provided, the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of this title shall apply to and govern the operation of the State Police Officers' Retirement System.

Code 1950, §§ 51-128, 51-140, 51-143; 1950, pp. 883, 885; 1954, c. 139; 1966, c. 628; 1990, c. 832 .

§ 51.1-201. Definitions

As used in this chapter, unless the context requires a different meaning:

"Employee" means a state police officer.

"Member" means any person included in the membership of the retirement system as provided in this chapter.

"Normal retirement date" means a member's sixtieth birthday.

"Retirement system" means the State Police Officers' Retirement System.

1966, c. 628, § 51-144; 1972, c. 568; 1973, c. 523; 1974, c. 353; 1975, c. 597; 1984, c. 430; 1990, c. 832 .

§ 51.1-202. Membership in retirement system

Membership in the retirement system shall be compulsory for all state police officers.

Code 1950, §§ 51-130, 51-136.2, § 51-145; 1950, p. 883; 1954, c. 139; 1966, c. 628; 1990, c. 832 .

§ 51.1-203. Creditable service

A. Service qualifying for credit under the provisions of the Virginia Retirement System shall be included as creditable service for the purposes of this chapter, provided the requirements set forth in Chapter 1 (§ 51.1-124.1 et seq.) of this title for crediting service have been complied with and any payment required is credited in the member's contribution account.

B. If a member ceases to be employed as a state police officer, has not received a refund of the accumulated contributions credited to his member's contribution account, and accepts employment in a position covered by the Virginia Retirement System or the Judicial Retirement System, he shall be entitled to credit for his previous creditable service under this chapter. His accumulated contributions shall be transferred and credited to his member's contribution account in the appropriate retirement system. Future retirement rights shall be as set forth under the provisions of the appropriate retirement system.

Code 1950, §§ 51-131, 51-133, 51-134, 51-146; 1950, p. 884; 1954, c. 139; 1956, c. 562; 1960, c. 559; 1962, c. 585; 1966, c. 628; 1968, c. 648; 1970, c. 657; 1974, c. 353; 1976, c. 540, § 51-111.41:4; 1977, c. 620; 1978, c. 841; 1980, c. 89; 1982, c. 467; 1984, c. 430; 1986, c. 474; 1988, c. 809; 1990, c. 832; 2001, cc. 686, 697.

§ 51.1-204. Contributions by Commonwealth

The Commonwealth shall contribute an amount equal to the sum of the normal contribution, any accrued liability contribution, and any supplementary contribution. The amount shall be determined and paid as provided in Chapter 1 (§ 51.1-124.1 et seq.) of this title.

Code 1950, §§ 51-138, 51-140, 51-148; 1950, p. 885; 1954, c. 139; 1966, c. 628; 1970, c. 657; 1982, c. 467; 1990, c. 832 .

§ 51.1-205. Service retirement generally

A. Normal retirement. -- Any member in service at his normal retirement date with five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.), or (iii) while earning the benefits permitted by § 51.1-138 may retire upon written notification to the Board, setting forth the date the retirement is to become effective. Any member, except one appointed by the Governor or elected by the people, or a regional jail or jail farm superintendent, who attains 70 years of age shall be retired within 60 days of attaining age 70. Any employer, subsequent to the employee's normal retirement date, may provide for compulsory service retirement upon a determination that age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or that the employee is incapable of performing his duties in a safe and efficient manner. Any such determination shall be made by the employer.

Effective December 31, 2003, any member in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.), this chapter, or Chapter 2.1 (§ 51.1-211 et seq.) shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-216.

B. Early retirement. -- Any member in service who has attained his fiftieth birthday with five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.), or (iii) while earning the benefits permitted by § 51.1-138 may retire upon written notification to the Board setting forth the date the retirement is to become effective.

Effective December 31, 2003, any member in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.), this chapter, or Chapter 2.1 (§ 51.1-211 et seq.) shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-216.

C. Deferred retirement for members terminating service. -- Any member who terminates service after five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.), or (iii) while earning the benefits permitted by § 51.1-138, may retire under the provisions of subsection A, B, or D if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service (a) as a member in the retirement system established by this chapter, (b) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.), or (c) while earning the benefits permitted by § 51.1-138, regardless of termination date, for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply.

Effective December 31, 2003, any member in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.), this chapter, or Chapter 2.1 (§ 51.1-211 et seq.) shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-216.

D. Effective date of retirement. -- The effective date of retirement shall be after the last day of service of the member, but shall not be more than 90 days prior to the filing of the notice of retirement.

E. Notification on behalf of member. -- If the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification on his behalf.

Code 1950, §§ 51-134, 51-150; 1950, p. 884; 1954, c. 139; 1956, c. 562; 1962, c. 585; 1966, c. 628; 1970, c. 657; 1977, c. 620; 1982, c. 427; 1984, c. 430; 1986, c. 474; 1988, c. 222; 1989, c.

484; 1990, c. 832; 1995, cc. 152, 692, 811; 1996, c. 997; 1999, c. 111; 2000, cc. 66, 657, 911; 2002, c. 466; 2004, c. 83; 2005, c. 146; 2008, c. 28; 2011, c. 483; 2012, c. 85.

§ 51.1-206. Service retirement allowance

A. A member shall receive an annual retirement allowance, payable for life, as follows:

1. Normal retirement. -- The allowance shall equal the amount of creditable service multiplied by (i) 1.70 percent of his average final compensation for retirements prior to July 1, 2007, and (ii) 1.85 percent of his average final compensation for retirements on or after July 1, 2007.

For retirements between October 1, 1994, and December 31, 1998, any state police officer who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to three percent of the service or disability retirement allowance payable under this section. Average final compensation attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

2. Early retirement. -- The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has less than 25 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on or after his fiftieth birthday on which he would have completed a total of 25 years of creditable service.

B. In addition to the allowance payable under subsection A, a member shall receive annually from the date of his retirement until his retirement age, as such term is defined under the Social Security Act (42 U.S.C. § 416 et seq., as now or hereafter amended), an allowance equal to $9,264. Beginning July 1, 2001, and biennially thereafter, such allowance shall be reviewed and adjusted by the Board to an amount recommended by the actuary of the Virginia Retirement System based upon increases in social security benefits in the interim.

This subsection shall not apply to the following: (i) any member who qualifies for retirement under subsection C of § 51.1-205 and is credited with less than 20 years' service rendered in a hazardous position or (ii) any member employed initially on or after July 1, 1974, who is credited with less than 20 years' service rendered in a hazardous position. However, any service rendered as an employee, as such term is defined in § 51.1-212, shall be deemed as service in a hazardous position for purposes of the additional retirement allowance herein.

C. If a beneficiary of a service retirement allowance under this chapter is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so employed.

Code 1950, §§ 51-135, 51-151; 1950, p. 885; 1954, c. 139; 1956, c. 562; 1966, c. 628; 1968, c. 647; 1970, c. 657; 1972, c. 568; 1973, cc. 290, 523; 1974, c. 353; 1976, cc. 525, 538; 1978, c. 841; 1981, c. 393; 1984, c. 430; 1986, c. 73; 1989, c. 484; 1990, c. 832; 1992, c. 815; 1993, cc. 408, 568; 1994, 1st Sp. Sess., c. 5; 1995, cc. 152, 692, 811; 1998, cc. 674, 676; 2000, c. 911; 2001, c. 804; 2004, c. 687; 2005, c. 146; 2007, c. 819.

§ 51.1-207. Death before retirement

A. If a member dies before retirement, and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to a surviving relative according to the same order of precedence as set forth in subsection A of § 51.1-162. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter or the abolished system. Each member shall designate who is to receive a refund of accumulated contributions credited to his account in the event of the death of the member prior to retirement. The designation must be made on a form prepared by the Board, signed and filed in a manner prescribed by the Board. The designation may be changed by the member by the written designation of some other person, signed and filed in a manner prescribed by the Board.

If no designation has been made, or the death of the designated person occurs prior to the death of the member and another designation has not been made, the proceeds shall be paid to the persons surviving at the death of the member in the same order of precedence as set forth in subsection A of § 51.1-162.

B. To the extent required by § 401(a)(37) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder applicable to governmental plans, if a member dies in service, including a member performing active duty military service in the armed forces of the United States, and if no benefits are payable under subsection C, a retirement allowance shall be paid to the person designated as provided in subsection A of this section if the person is the member's (i) surviving spouse, (ii) minor child, or (iii) parent(s). If no designation has been made, or if the death of the designated person occurs prior to the death of the member and another designation has not been made, a retirement allowance shall be paid in the same order of precedence as set forth in subsection B of § 51.1-162. The retirement allowance shall be continued during the lifetime of the person or in the case of a minor child until the child dies or attains the age of majority, whichever occurs first. The retirement allowance shall equal the decreased retirement allowance that would have been payable under the joint and survivor option so that the same amount would be continued to such person after the member's death. If the member dies prior to his fiftieth birthday, then, for purposes of this subsection, the member shall be presumed to be age 50 on his date of death. When determining the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subsection B of § 51.1-206 shall not apply. If the person elects in writing, the amount of the member's accumulated contributions shall be paid to the person exclusively, in lieu of any other benefits under this section.

This amount shall be reduced by the amount of any retirement allowance previously received by the member.

C. If a member dies in service from a cause compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), a retirement allowance shall be paid to the member's surviving spouse. If no compensation is finally awarded under the Virginia Workers' Compensation Act due to legal proceedings or otherwise resulting in settlement from the persons causing such death, the Virginia Workers' Compensation Commission shall determine whether the member's death was from a cause compensable under the Virginia Workers' Compensation Act. If the member leaves no surviving spouse or the surviving spouse dies, any minor children of the deceased member shall be paid an allowance until the children die or attain the age of majority, whichever occurs first. If more than one minor child survives the deceased member, the allowance shall be divided in a manner determined by the Board. If the deceased member leaves neither surviving spouse nor minor child, the allowance, divided in a manner determined by the Board, shall be paid to the member's parents during their lives.

The retirement allowance, payable hereunder to a qualifying survivor, shall be the annual amount which when added to the compensation payable under the Virginia Workers' Compensation Act for the death of the member, shall equal 50 percent of the member's average final compensation if the survivor does not qualify for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member. If the survivor qualifies for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member, the allowance payable from the retirement system when added to the compensation payable under the Virginia Workers' Compensation Act shall equal thirty-three and one-third percent of the member's average final compensation.

Any beneficiary entitled to the entire amount of a retirement allowance under the provisions of this subsection as a result of the death of a member shall be entitled to waive his rights to the allowance by written notification to the Board within 90 days after the death of the member in order to make available a retirement allowance under the provisions of subsection B.

Code 1950, §§ 51-136.1, 51-156; 1954, c. 139; 1958, c. 624; 1966, c. 628; 1970, c. 657; 1972, c. 568; 1973, c. 523; 1974, c. 353; 1976, c. 654; 1986, c. 474; 1988, cc. 531, 540; 1989, c. 484; 1990, c. 832; 1998, c. 407; 1999, cc. 111, 510; 2001, c. 683; 2002, c. 313; 2009, c. 22; 2012, c. 696; 2015, c. 660.

§ 51.1-208. Post-retirement supplements

In computing the amount of any post-retirement supplements, any additional allowances being paid under the provisions of subsection B of § 51.1-206 shall be disregarded. Any recipient of an allowance which initially commenced on or prior to January 1, 1990, shall be entitled to post-retirement supplements effective July 1, 1991.

1970, c. 657, § 51-157.1; 1989, c. 484; 1990, c. 832; 1991, c. 719 .

§ 51.1-209. Disability as the result of felonious misconduct of another

Any member in service who is totally and permanently disabled while on active duty as the result of the felonious misconduct of another may retire for disability as provided in subsection B of § 51.1-156 and shall be entitled to maintenance and services at or under the supervision of the Wilson Workforce and Rehabilitation Center without being liable to pay for the same.

1990, c. 832; 2015, c. 542.

§ 51.1-210. Disability benefit

Any member in service who (i) is credited with at least twenty years of service in a hazardous duty position and (ii) meets the (a) requirements for a disability retirement allowance under § 51.1-156 and (b) minimum age requirements of § 51.1-205 may elect to receive the higher of the disability retirement allowance payable under Article 9 (§ 51.1-152 et seq.) of Chapter 1 of this title or the service retirement allowance payable under § 51.1-206 less any reduction in allowance required by subsection C of § 51.1-157 or § 51.1-158.

1997, c. 889.

Chapter 2.1 - VIRGINIA LAW OFFICERS' RETIREMENT SYSTEM

§ 51.1-211. Virginia Law Officers' Retirement System; application of provisions of Virginia Retirement System

The Virginia Law Officers' Retirement System is created and shall be administered by the Board of Trustees of the Virginia Retirement System. Except as otherwise provided, the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of this title shall apply to and govern the operation of the Virginia Law Officers' Retirement System.

1999, c. 585.

§ 51.1-212. (Effective until October 1, 2016) Definitions

As used in this chapter, unless the context requires a different meaning:

"Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus police officer appointed under the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23, (iii) conservation police officer in the Department of Game and Inland Fisheries appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.), (v) law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) any parole officer appointed pursuant to § 53.1-143, and (viii) any commercial vehicle enforcement officer employed by the Department of State Police.

"Member" means any person included in the membership of the Retirement System as provided in this chapter.

"Normal retirement date" means a member's sixtieth birthday.

"Retirement System" means the Virginia Law Officers' Retirement System.

1999, c. 585; 2007, c. 87.

§ 51.1-212. (Effective October 1, 2016, until July 1, 2018) Definitions
As used in this chapter, unless the context requires a different meaning:

"Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, (iii) conservation police officer in the Department of Game and Inland Fisheries appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.), (v) law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) any parole officer appointed pursuant to § 53.1-143, and (viii) any commercial vehicle enforcement officer employed by the Department of State Police.

"Member" means any person included in the membership of the Retirement System as provided in this chapter.

"Normal retirement date" means a member's sixtieth birthday.

"Retirement System" means the Virginia Law Officers' Retirement System.

1999, c. 585; 2007, c. 87.

§ 51.1-212. (Effective July 1, 2018) Definitions
As used in this chapter, unless the context requires a different meaning:

"Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus police officer appointed under the provisions of Article 3 (§ 23.1-809 et seq.) of Chapter 8 of Title 23.1, (iii) conservation police officer in the Department of Game and Inland Fisheries appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Virginia Alcoholic Beverage Control Authority appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, (v) law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) any parole officer appointed pursuant to § 53.1-143, and (viii) any commercial vehicle enforcement officer employed by the Department of State Police.

"Member" means any person included in the membership of the Retirement System as provided in this chapter.

"Normal retirement date" means a member's sixtieth birthday.

"Retirement System" means the Virginia Law Officers' Retirement System.

1999, c. 585; 2007, c. 87; 2015, cc. 38, 730.

§ 51.1-213. Membership in Retirement System

Membership in the Retirement System shall be compulsory for all employees.

1999, c. 585.

§ 51.1-214. Creditable service

A. Service qualifying for credit under the provisions of the Virginia Retirement System shall be included as creditable service for the purposes of this chapter, provided the requirements set forth in Chapter 1 (§ 51.1-124.1 et seq.) of this title for crediting service have been complied with and any payment required is credited in the member's contribution account.

B. If a member ceases to be an employee, has not received a refund of the accumulated contributions credited to his member's contribution account, and accepts employment in a position covered by the Virginia Retirement System, the Judicial Retirement System or the State Police Officers' Retirement System, he shall be entitled to credit for his previous creditable service under this chapter. His accumulated contributions shall be transferred and credited to his member's contribution account in the appropriate retirement system. Future retirement rights shall be as set forth under the provisions of the appropriate retirement system.

1999, c. 585; 2001, cc. 686, 697.

§ 51.1-215. Contributions by Commonwealth

The Commonwealth shall contribute an amount equal to the sum of the normal contribution, any accrued liability contribution, and any supplementary contribution. The amount shall be determined and paid as provided in Chapter 1 (§ 51.1-124.1 et seq.) of this title.

1999, c. 585.

§ 51.1-216. Service retirement generally

A. Normal retirement.

1. Any employee commencing employment or reemployment on or after July 1, 2001, and any employee who makes the election provided in § 51.1-221, who is a member in service in any retirement program administered by the Virginia Retirement System at his normal retirement date with five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138, may retire upon written notification to the Board, setting forth the date the retirement is to become effective.

Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-205.

2. Any other employee who is a member in service at his normal retirement date with five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138 may retire upon written notification to the Board, setting forth the date the retirement is to become effective.

Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-205.

B. Early retirement.

1. Any employee commencing employment or reemployment on or after July 1, 2001, and any employee who makes the election provided in § 51.1-221, who is a member in service in any retirement program administered by the Virginia Retirement System other than the program established by this chapter shall retire pursuant to the early retirement provisions of the retirement program of which he is a member at the time of retirement.

Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-205.

2. Any other employee who is a member in service and who has attained his fiftieth birthday with five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138 may retire upon written notification to the Board setting forth the date the retirement is to become effective.

Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-205.

C. Deferred retirement for members terminating service.

1. Any employee commencing employment or reemployment on or after July 1, 2001, and any employee who makes the election provided in § 51.1-221, who terminates service from any position with membership in any retirement program administered by the Virginia Retirement System, may retire under the provisions of subdivision A 1 or B 1 if (i) he is otherwise eligible for such benefits, (ii) he has not withdrawn his accumulated contributions prior to the effective date of his retirement, and (iii) he has five or more years of creditable service (a) as a member in the retirement system established by this chapter, (b) as a member in the retirement system

established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (c) while earning the benefits permitted by § 51.1-138 for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-205.

2. Any other member who terminates service after five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138 may retire under the provisions of subdivision A 2 or B 2 if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service (a) as a member in the retirement system established by this chapter, (b) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (c) while earning the benefits permitted by § 51.1-138 for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply.

Effective December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is credited with five or more years of creditable service rendered under Chapter 1 (§ 51.1-100 et seq.) of this title, Chapter 2 (§ 51.1-200 et seq.) of this title, or this chapter shall not be subject to the vesting requirements of this section, and §§ 51.1-138 and 51.1-205.

D. Effective date of retirement. -- The effective date of retirement shall be after the last day of service, but shall not be more than 90 days prior to the filing of the notice of retirement.

E. Notification on behalf of member. -- If the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification on his behalf.

1999, c. 585; 2000, cc. 66, 657, 911; 2001, c. 804; 2002, c. 466; 2004, c. 83; 2011, c. 483.

§ 51.1-217. Service retirement allowance

A. A member shall receive an annual retirement allowance, payable for life, as follows:

1. Normal retirement.

a. Notwithstanding the provisions of §§ 51.1-155, 51.1-155.1 and 51.1-155.2, for any employee commencing employment or reemployment on or after July 1, 2001, and for any employee who makes the election provided in § 51.1-221, the allowance shall equal (i) two percent of his average

final compensation multiplied by the amount of creditable service earned (a) as a member in the retirement system established by this chapter, (b) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (c) while earning the benefits permitted by § 51.1-138; and (ii) 1.70 percent of his average final compensation multiplied by all other creditable service, if any; and

b. For any other employee, the allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of creditable service.

2. Early retirement. -- The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement.

a. For an individual retiring pursuant to subdivision B 1 of § 51.1-216, who is not retiring directly from service as an employee as defined in § 51.1-212, and who has less than thirty years of service shall retire under the provisions of the retirement system for which he is a member as of his retirement date; and

b. For all other individuals retiring pursuant to subdivision B 1 of § 51.1-216, and for an individual retiring pursuant to subdivision B 2 of § 51.1-216 who has less than twenty-five years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on or after his fiftieth birthday on which he would have completed a total of twenty-five years of creditable service.

B. Any person who is an employee on June 30, 2001, and on July 1, 2001, who does not make the election provided in § 51.1-221, shall receive, in addition to the allowance payable under subsection A, from the date of his retirement until his sixty-fifth birthday, an annual allowance equal to $9,264. Beginning July 1, 2001, and biennially thereafter, such allowance shall be reviewed and adjusted by the Board to an amount recommended by the actuary of the Virginia Retirement System based upon increases in Social Security benefits in the interim. This subsection shall not apply to the following: (i) any member who qualifies for retirement under subsection C of § 51.1-216 and is credited with less than twenty years' service rendered in a hazardous position or (ii) any member employed initially on or after July 1, 1974, who is credited with less than twenty years' service rendered in a hazardous position.

C. If a beneficiary of a service retirement allowance under this chapter is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so employed.

D. No person shall be eligible to receive any of the allowances provided in this section if he receives retirement benefits under Chapter 2 (§ 51.1-200 et seq.) of Title 51.1 or under § 51.1-138. No person shall receive any allowance pursuant to subdivision A 1 (i) if he has received an

allowance pursuant to subsection B of § 51.1-206 or subsection B of § 51.1-217, unless, after receiving the allowance pursuant to subsection B of § 51.1-206 or subsection B of § 51.1-217, he becomes employed or reemployed as an employee defined in § 51.1-212, and thereafter earns five or more years of creditable service (a) as a member in the retirement system established by this chapter, (b) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (c) while earning the benefits permitted by § 51.1-138.

1999, c. 585; 2000, c. 911; 2001, c. 804; 2002, c. 466.

§ 51.1-218. Death before retirement

A. If a member dies before retirement, and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to a surviving relative according to the same order of precedence as set forth in subsection A of § 51.1-162. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter or the abolished system. Each member shall designate who is to receive a refund of accumulated contributions credited to his account in the event of the death of the member prior to retirement. The designation must be made on a form prepared by the Board, signed by the member, and filed with the Board. The designation may be changed by the member by the written designation of some other person, signed and filed with the Board.

If no designation has been made, or the death of the designated person occurs prior to the death of the member and another designation has not been made, the proceeds shall be paid to the persons surviving at the death of the member in the same order of precedence as set forth in subsection A of § 51.1-162.

B. To the extent required by § 401(a)(37) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder applicable to governmental plans, if a member dies in service, including a member performing active duty military service in the armed forces of the United States, and if no benefits are payable under subsection C, a retirement allowance shall be paid to the person designated as provided in subsection A of this section if the person is the member's (i) surviving spouse, (ii) minor child, or (iii) parent(s). If no designation has been made, or if the death of the designated person occurs prior to the death of the member and another designation has not been made, a retirement allowance shall be paid in the same order of precedence as set forth in subsection B of § 51.1-162. The retirement allowance shall be continued during the lifetime of the person or in the case of a minor child until the child dies or attains the age of majority, whichever occurs first. The retirement allowance shall equal the decreased retirement allowance that would have been payable under the joint and survivor option so that the same amount would be continued to such person after the member's death. If the member dies prior to his fiftieth birthday, then, for purposes of this subsection, the member shall be presumed to be age 50 on his date of death. When determining the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subsection B of § 51.1-217 shall not apply. If the person elects in writing, the amount of the member's accumulated

contributions shall be paid to the person exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member.

C. If a member dies in service from a cause compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), a retirement allowance shall be paid to the member's surviving spouse. If no compensation is finally awarded under the Virginia Workers' Compensation Act due to legal proceedings or otherwise resulting in settlement from the persons causing such death, the Virginia Workers' Compensation Commission shall determine whether the member's death was from a cause compensable under the Virginia Workers' Compensation Act. If the member leaves no surviving spouse or the surviving spouse dies, any minor children of the deceased member shall be paid an allowance until the children die or attain the age of majority, whichever occurs first. If more than one minor child survives the deceased member, the allowance shall be divided in a manner determined by the Board. If the deceased member leaves neither surviving spouse nor minor child, the allowance shall be paid to the member's parents, divided in a manner determined by the Board, during the lives of the parents.

The retirement allowance, payable hereunder to a qualifying survivor, shall be the annual amount which, when added to the compensation payable under the Virginia Workers' Compensation Act for the death of the member, shall equal 50 percent of the member's average final compensation if the survivor does not qualify for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member. If the survivor qualifies for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member, the allowance payable from the Retirement System when added to the compensation payable under the Virginia Workers' Compensation Act shall equal thirty-three and one-third percent of the member's average final compensation.

Any beneficiary entitled to the entire amount of a retirement allowance under the provisions of this subsection as a result of the death of a member shall be entitled to waive his rights to the allowance by written notification to the Board within 90 days after the death of the member in order to make available a retirement allowance under the provisions of subsection B.

1999, c. 585; 2000, c. 911; 2001, c. 683; 2002, c. 313; 2009, c. 22; 2012, c. 696; 2015, c. 660.

§ 51.1-219. Post-retirement supplements

In computing the amount of any post-retirement supplements, any additional allowances being paid under the provisions of subsection B of § 51.1-217 shall be disregarded.

1999, c. 585.

§ 51.1-220. Disability benefit

Any member in service who (i) is credited with at least twenty years of service in a hazardous duty position and (ii) meets the (a) requirements for a disability retirement allowance under § 51.1-156 and (b) minimum age requirements of § 51.1-216 may elect to receive the higher of the disability

retirement allowance payable under Article 9 (§ 51.1-152 et seq.) of Chapter 1 of this title or the service retirement allowance payable under § 51.1-217 less any reduction in allowance required by subsection C of § 51.1-157 or by § 51.1-158.

1999, c. 585.

§ 51.1-221. Election of benefits

All persons who are employees on June 30, 2001, and on July 1, 2001, shall have until October 31, 2001, to make an irrevocable election to be covered by the benefits provided in subdivision A 1 a of § 51.1-217.

2001, c. 804.

Chapter 3 - JUDICIAL RETIREMENT SYSTEM

§ 51.1-300. Judicial Retirement System continued; administration; application of provisions of Virginia Retirement System

The Judicial Retirement System is continued and shall be administered by the Board of Trustees of the Virginia Retirement System. Except as otherwise provided, the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of this title shall apply to and govern the administration of the Judicial Retirement System.

1970, c. 779, § 51-160; 1990, c. 832 .

§ 51.1-301. Definitions

As used in this chapter, unless the context requires a different meaning:

"Appointing authority" means the General Assembly or the Governor.

"Creditable service" means prior service plus membership service, as further defined in and modified by § 51.1-303, for which credit is allowable under this chapter.

"Judge" means any justice or judge of a court of record of the Commonwealth, any member of the State Corporation Commission or Virginia Workers' Compensation Commission, any judge of a district court of the Commonwealth other than a substitute judge of such district court, and any executive secretary of the Supreme Court assuming such position between December 1, 1975, and January 31, 1976.

"Normal retirement date" means a member's sixty-fifth birthday.

"Previous systems" means the systems established under the provisions of Chapters 2 (§ 51-3 et seq.) and 2.2 (§ 51-29.8 et seq.) of Title 51, and, in the case of judges of regional juvenile and domestic relations courts, the Virginia Retirement System.

"Primary social security benefit" means, with respect to any member, the primary insurance amount to which the member is entitled, for old age or disability, as the case may be, pursuant to the federal Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as otherwise specifically provided.

"Retirement system" means the Judicial Retirement System.

"Service" means service as a judge.

1970, c. 779, § 51-161; 1972, cc. 568, 708; 1973, cc. 523, 546; 1974, cc. 353, 484; 1975, c. 597; 1976, cc. 374, 678; 1978, c. 841; 1984, c. 430; 1990, c. 832; 1993, c. 895; 2010, cc. 737, 738.

§ 51.1-302. Membership in retirement system

Membership in the retirement system shall consist of all judges.

1970, c. 779, § 51-162; 1981, c. 396; 1990, c. 832; 2012, cc. 701, 823; 2014, c. 356.

§ 51.1-303. Creditable service

A. For those members in service on December 31, 1994, service as a judge shall be multiplied by a factor of 3.5, the weighted years of service factor, to calculate years of creditable service. To calculate years of creditable service for those members appointed or elected to an original term commencing on or after January 1, 1995, service as a judge shall be multiplied by the weighted years of service factor of 2.5. To calculate years of creditable service for those members appointed or elected to an original term commencing on or after July 1, 2010, the following formula shall be used: if (i) the member was less than 45 years old at the time he was appointed or elected to such original term, then service as a judge shall be multiplied by the weighted years of service factor of 1.5, (ii) the member was at least 45 years old but less than 55 years old at the time he was appointed or elected to such original term, then service as a judge shall be multiplied by the weighted years of service factor of 2.0, and (iii) the member was at least 55 years old at the time he was appointed or elected to such original term, then service as a judge shall be multiplied by the weighted years of service factor of 2.5. For purposes of this section, "original term" means the first term for which the member was appointed or elected to a position covered by the Judicial Retirement System.

B. Service qualifying for credit under the provisions of the Virginia Retirement System, the State Police Officers' Retirement System, and the Virginia Law Officers' Retirement System shall be included as creditable service for the purposes of this chapter, provided the requirements of those systems for crediting service have been complied with. Service purchased in accordance with the provisions of § 51.1-142.2 shall not be considered in determining the actuarial equivalent for early retirement nor shall it be considered twice in determining any disability allowance payable under this chapter.

C. If a member ceases to be a judge, has not received a refund of the accumulated contributions credited to his member's contribution account, and accepts employment in a position covered by a "retirement plan administered by the Virginia Retirement System" as defined under § 51.1-124.3, he shall be entitled to credit for his previous creditable service under this chapter. The amount of service transferred to the credit of the member in such other retirement plan shall not exceed the amount of credit which would provide a benefit of 78 percent of average final compensation determined on the assumption that the member was eligible for normal retirement as of the date

of transfer and that he had elected no optional allowance. Future retirement rights shall be as provided under the applicable retirement plan. However, the annual retirement allowance payable to such person accepting employment in a position covered by any other retirement plan administered by the Virginia Retirement System shall not exceed 78 percent of the person's average final compensation, unless the person has been credited with five or more years of creditable service under such other retirement plan for service performed after ceasing to be a judge. In no case shall the annual retirement allowance payable to such person exceed 100 percent of his average final compensation.

1970, c. 779, § 51-163; 1973, c. 546; 1974, c. 484; 1976, c. 654; 1977, c. 620; 1986, c. 474; 1990, c. 832; 1992, c. 811; 1994, cc. 821, 899; 2000, c. 911; 2004, c. 672; 2010, cc. 737, 738; 2014, c. 776.

§ 51.1-304. Contributions by Commonwealth

The Commonwealth shall contribute an amount equal to the sum of the normal contribution, any accrued liability contribution, and any supplementary contribution. The amount shall be determined and paid as provided in Chapter 1 (§ 51.1-124.1 et seq.). Notwithstanding the foregoing provisions of this section, member contributions and employer contributions for judges appointed or elected to an original term commencing on or after January 1, 2014, shall be determined under the provisions of the hybrid retirement program described in § 51.1-169.

1972, c. 151, § 51-165.1; 1982, c. 467; 1990, c. 832; 2014, c. 356.

§ 51.1-305. Service retirement generally

A. Any member in service at his normal retirement date with five or more years of creditable service may retire upon written notification to the Board setting forth the date the retirement is to become effective.

B. Any member in service who has either (i) attained his fifty-fifth birthday with five or more years of creditable service or (ii) in the case of a member of any of the previous systems immediately prior to July 1, 1970, complied with the requirements for retirement set forth under the provisions of such previous system as in effect immediately prior to July 1, 1970, may retire upon written notification to the Board setting forth the date the retirement is to become effective.

B1. (Effective until June 1, 2017) Mandatory retirement. -- Any member who attains 70 years of age shall be retired 20 days after the convening of the next regular session of the General Assembly. However, if the mandatory retirement provisions of this subdivision would require a member of the State Corporation Commission to be retired before the end of his elected term and such retirement would occur during a session of the General Assembly in which the General Assembly is required, pursuant to § 12.1-6, to elect another member or members of the State Corporation Commission to serve either a regular term or a portion of a regular term, such member who otherwise would be subject to the mandatory retirement provisions of this subdivision shall be retired upon the first to occur of (i) the expiration of the term to which he was elected or (ii) 20

days after the commencing of the regular session of the General Assembly that immediately follows the date such member attains 72 years of age. The provisions of this subsection shall apply only to those members who are elected or appointed to an original or subsequent term commencing after July 1, 1993.

B1. (Effective June 1, 2017) Mandatory retirement. -- Any member who attains 73 years of age shall be retired 20 days after the convening of the next regular session of the General Assembly following his seventy-third birthday.

C. Any member who terminates service after five or more years of creditable service may retire under the provisions of subsection A or B of this section, if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply.

D. The effective date of retirement shall be after the last day of service of the member, but shall not be more than 90 days prior to the filing of the notice of retirement.

E. In addition to the notice to the Board required by this section, the same notice shall be given by the member to his appointing authority. If a member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification to the Board on his behalf.

1970, c. 779, § 51-167; 1977, c. 620; 1982, c. 427; 1986, c. 474; 1988, c. 222; 1990, c. 832; 1992, c. 694; 2005, c. 288; 2011, c. 483; 2015, cc. 762, 773; 2016, c. 667.

§ 51.1-306. Service retirement allowance

A. Retirement allowance. -- A member shall receive an annual retirement allowance, payable for life as follows:

1. Normal retirement. -- The allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of creditable service. Notwithstanding the foregoing, for a member appointed or elected to an original term commencing on or after January 1, 2013, the allowance shall equal the sum of (a) 1.65 percent of his average final compensation multiplied by the amount of his creditable service performed or purchased on or after January 1, 2013, and (b) 1.70 percent of his average final compensation multiplied by the amount of all other creditable service.

In no case shall the annual retirement allowance exceed 78 percent of the average final compensation of the member.

For retirements between October 1, 1994, and December 31, 1998, any judge who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to three percent of the service retirement allowance payable under this section. Average final compensation attributable to service as Governor, Lieutenant Governor,

Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

2. Early retirement. -- The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has not attained his sixtieth birthday or has less than 30 years of service, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on or after his sixtieth birthday on which he would have completed a total of 30 years of creditable service.

In no case shall the annual retirement allowance exceed 78 percent of the average final compensation of the member.

B. Normal and early retirement guarantees. -- Any member who was a member of one of the previous systems immediately prior to July 1, 1970, and who would have been eligible for retirement benefits thereunder shall be guaranteed a minimum retirement allowance no less than that for which he would have qualified had he continued to participate therein.

C. Determination of retirement allowance. -- For the purposes of subsection B of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

D. Beneficiary serving in position covered by this title. -- If a beneficiary of a service retirement allowance under this chapter or under any of the previous systems is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so employed.

1970, c. 779, § 51-168; 1972, c. 568; 1973, c. 523; 1974, c. 353; 1977, c. 620; 1978, c. 841; 1981, c. 393; 1984, c. 430; 1990, c. 832; 1994, 1st Sp. Sess., c. 5; 1998, c. 674; 2012, cc. 701, 823; 2013, c. 463; 2014, c. 776.

§ 51.1-306.1. Service retirement allowance for judges appointed or elected after January 1, 2014

Notwithstanding any contrary provision of this chapter, the service retirement allowance for judges appointed or elected to an original term commencing on or after January 1, 2014, shall be determined under the provisions of the hybrid retirement program described in § 51.1-169.

2014, c. 356.

§ 51.1-307. Notice of disability retirement

In addition to the notice of retirement for disability which is required to be made to the Board, notice shall be given by the member to his appointing authority.

1970, c. 779, § 51-169; 1973, c. 523; 1982, c. 427; 1986, c. 474; 1990, c. 832 .

§ 51.1-308. Disability retirement allowance

A. Allowance payable on retirement. -- Upon retirement for disability, a member who has five or more years of creditable service shall receive an annual retirement allowance payable during his lifetime and continued disability equal to 1.70 percent of average final compensation when multiplied by the smaller of (i) twice the amount of creditable service or (ii) the amount of creditable service he would have completed at age 60 if he had remained in service to that age. However, for a member appointed or elected to an original term commencing on or after January 1, 2013, the applicable percentage shall be 1.65 percent, and for a member participating in the hybrid retirement program described in § 51.1-169, the applicable percentage shall be one percent. If a member has already attained age 60, the amount of creditable service at his date of retirement shall be used.

In no case shall the annual retirement allowance exceed 78 percent of the average final compensation of the member.

B. Workers' compensation guarantee. -- If a member retires for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the annual retirement allowance shall, subject to the provisions of subsection D, equal 66 and two-thirds percent of the member's average final compensation if the member does not qualify for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal 50 percent of his average final compensation. A member shall be entitled to the larger of the retirement allowance as determined under the provisions of subsection A of this section or under the provisions of this subsection.

C. General disability retirement guarantee. -- The disability retirement allowance payable to a member who immediately prior to July 1, 1970, was a member of one of the previous systems shall be at least an amount equal to the disability retirement allowance to which he would have been entitled under the provisions of the previous system.

D. Determination of retirement allowance. -- For the purposes of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

E. Reduction of allowance. -- Any allowance payable to a member who retires for disability from a cause compensable under the Virginia Workers' Compensation Act shall be reduced by the amount of any payments under the provisions of the Act in effect on the date of retirement of the member and the excess of the allowance shall be paid to such member. When the time for compensation payments under the Act has elapsed, the member shall receive the full amount of the allowance payable during his lifetime and continued disability. If the member's payments under the Virginia Workers' Compensation Act are adjusted or terminated for refusal to work or to comply with the

requirements of § 65.2-603, his allowance shall be computed as if he were receiving the compensation to which he would otherwise be entitled.

F. Special retirement allowance guarantee. -- Any member retired from a cause which is not compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement allowance during his lifetime and continued disability which equals 50 percent of the member's average final compensation if the member does not qualify for primary social security benefits under the provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for primary social security benefits under the provisions of the Social Security Act in effect on the date of retirement, the allowance payable from the retirement system shall equal 33 and one-third percent of his average final compensation.

1970, c. 779, § 51-170; 1972, c. 568; 1973, c. 523; 1974, c. 353; 1976, cc. 541, 654; 1986, c. 474; 1990, c. 832; 1993, c. 895; 1994, 1st Sp. Sess., c. 5; 1999, c. 111; 2000, c. 911; 2012, cc. 701, 823; 2014, c. 776; 2015, c. 660.

§ 51.1-309. Appearance as counsel in certain forums prohibited

A. No former justice or judge of a court of record of the Commonwealth and no former full-time judge of a court not of record of the Commonwealth, who is retired and receiving retirement benefits under the provisions of the Judicial Retirement System, shall appear as counsel in any case in any court of the Commonwealth.

B. No former member of the State Corporation Commission or Virginia Workers' Compensation Commission, who is retired and receiving retirement benefits under the provisions of the Judicial Retirement System, shall appear as counsel in any case before the Commission of which he was formerly a member.

C. The provisions of subsection A shall not be applicable if (i) the retired justice or judge has been retired for at least two years and is not authorized for temporary recall by the Chief Justice of the Supreme Court, (ii) the retired justice or judge is appearing as counsel, pro bono, for an indigent person in a civil matter, (iii) such civil matter is assigned or referred to the retired justice or judge by a nonprofit legal aid program organized under the auspices of the Virginia State Bar, and (iv) the retired justice or judge is not an employee, officer, or board member of such nonprofit legal aid program. Nothing herein shall relieve the retired justice or judge from having obtained any license or meeting any requirement in connection with the appearance as counsel as required by law, rule, or regulation.

1970, c. 778, § 51-179; 1975, c. 188; 1980, c. 138; 1990, c. 832; 2011, c. 705.

Chapter 4 - PROVISIONS COORDINATING PAST AND PRESENT RETIREMENT PLANS

§ 51.1-400. Definitions

The definitions listed in §§ 51.1-124.3, 51.1-201, and 51.1-301 shall apply to this chapter except as otherwise provided.

1990, c. 832 .

§ 51.1-401. Accumulated contributions under abolished system

The accumulated contributions of the members of the abolished system shall be refunded to the persons entitled to the contributions. No interest shall accumulate after February 1, 1952. Until refunded or otherwise disposed of, such funds, interests therein, and rights thereto shall not be subject to legal, judicial, or other process.

1952, c. 1, § 51-111.68; 1990, c. 832 .

§ 51.1-402. Continuation of benefits; amount of life insurance

A. Any former teachers retired under the provisions of Chapter 36 of the Code of 1919, any former members of the abolished system retired under the provisions of that system, any members or former members of the Virginia Retirement System, the State Police Officers' Retirement System, or the Judicial Retirement System who retired under the provisions of the applicable system or who were eligible to receive benefits under the provisions of the applicable system as it existed prior to July 1, 1990, and any beneficiaries of such members shall continue to receive the benefits to which they were entitled or to which they would have become entitled prior to July 1, 1990, except that all provisions of Chapter 722 of the 1980 Acts of Assembly, as amended, shall no longer be applicable to those members with all service rendered after March 31, 1980.

B. All persons who were members of the systems established by Chapters 2, 2.1, and 2.2 of Title 51 immediately prior to July 1, 1970, shall be entitled to all rights and benefits to which they or their beneficiaries were or would have been entitled to thereunder and shall be entitled to all rights and benefits to which they or their beneficiaries were or would have been entitled under the provisions of Chapter 7 of Title 51 as it existed prior to July 1, 1990.

C. The amount of life insurance on each insured employee who retired prior to July 1, 1990, shall be determined under the provisions of the group insurance program in existence on the employee's date of retirement.

1952, c. 1, § 51-111.68; c. 343, § 51-111.70; c. 362, § 51-111.69; 1954, c. 404; 1956, c. 441; 1958, c. 582; 1960, c. 604, § 51-111.67:4; 1962, c. 43, c. 291, § 51-111.70:1; 1964, cc. 275, 594; 1966, c. 174; 1968, c. 725; 1970, cc. 476, 774; 1971, Ex. Sess., c. 89; 1974, c. 353; 1975, cc. 306, 309; 1976, c. 654; 1977, c. 620; 1978, c. 841; 1980, cc. 595, 637, 638; 1981, c. 151; 1982, cc. 467, 639; 1984, c. 430; 1986, c. 474; 1990, c. 832; 1992, c. 811 .

§ 51.1-403. Service retirement allowance

A. Member contributions. -- Any member who was a former member of the abolished system, who transferred his accumulated contributions to the retirement system, and who has not withdrawn such contributions may, at the time of filing his notice of retirement, deposit in his member's contribution account an amount which will increase his total retirement allowance to an amount not

greater than the largest amount obtainable under the applicable provisions of subsection C of this section.

B. Normal retirement guarantee. -- The retirement allowance payable upon normal retirement to a former member of the abolished system who transferred his accumulated contributions to the retirement system and who has not withdrawn his contributions prior to retirement shall not be less than the service retirement allowance to which the member would have been entitled under the provisions of the abolished system if he had continued contributions in the amount in effect on the date the system was abolished. In the case of a member with thirty or more years of creditable service, the larger of such allowance or $2,036.28 annually shall be paid.

C. Early retirement guarantee. -- The retirement allowance payable upon early retirement to a former member of the abolished system who transferred his accumulated contributions to the retirement system and who has not withdrawn his contributions prior to retirement, and who would have qualified prior to normal retirement for a service retirement allowance under the abolished system, shall, prior to the member's sixty-fifth birthday, not be less than the service retirement allowance that would have been payable under the provisions of the abolished system. After the member's sixty-fifth birthday, it shall not be less than the larger of such allowance or $2,036.28 annually.

D. Determination of retirement allowance. -- For the purposes of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

1952, c. 157, §§ 51-111.46, 51-111.55; 1956, c. 560; 1960, cc. 138, 604; 1962, c. 417; 1964, c. 223; 1966, c. 174; 1970, c. 476; 1972, cc. 118, 568; 1973, c. 523; 1974, c. 353; 1976, c. 538; 1977, c. 620; 1978, c. 841; 1984, c. 430; 1987, cc. 13, 14; 1990, c. 832.

§ 51.1-404. Disability retirement

A. Disability retirement guarantee. -- The disability allowance payable to a former member of the abolished system who transferred his accumulated contributions to the retirement system and who has not withdrawn such contributions prior to retirement shall not be less than $2,036.28 annually.

B. Minimum disability retirement allowance. -- Effective five months after the effective date of retirement, the amount of annual retirement allowance shall equal $1,000 or twenty-five percent of the average final compensation of the member, whichever is larger. Except for members of the Judicial Retirement System, any member with twenty or more years of creditable service at the time of retirement shall, effective five months after the effective date of retirement, receive a retirement allowance of not less than $2,036.28 annually.

C. Determination of retirement allowance. -- For the purposes of this section, the retirement allowance shall be determined on the assumption that the retirement allowance is payable to the member alone and that no optional retirement allowance is elected.

1952, c. 157, § 51-111.57; 1956, cc. 560, 652; 1960, c. 604; 1962, c. 245; 1964, c. 186; 1966, c. 174; 1970, c. 476; 1971, Ex. Sess., c. 88; 1972, c. 568; 1973, c. 523; 1974, c. 353; 1976, c. 541; 1986, c. 474; 1990, c. 832.

§ 51.1-405. Special retirement guarantee

The retirement allowance payable to any member of the State Police Officers' Retirement System who was in service on June 30, 1966, and who retires on or after his normal retirement date shall equal two percent of his average final compensation multiplied by his years of creditable service not in excess of twenty-five years. If a member retires prior to his normal retirement date, his allowance shall be determined in the same manner; however, the allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the normal retirement date. For the purposes of this section, the retirement allowance shall be determined on the assumption that it is payable to the member alone and that no optional retirement allowance is elected.

Code 1950, §§ 51-135, 51-151; 1950, p. 885; 1954, c. 139; 1956, c. 562; 1966, c. 628; 1968, c. 647; 1970, c. 657; 1972, c. 568; 1973, cc. 290, 523; 1974, c. 353; 1976, cc. 525, 538; 1978, c. 841; 1981, c. 393; 1984, c. 430; 1986, c. 73; 1989, c. 484; 1990, c. 832 .

Chapter 5 - GROUP INSURANCE PROGRAM

§ 51.1-500. Definitions

As used in this chapter, unless the context requires a different meaning:

"Accident" means an accident covered under the group insurance coverage purchased by the Board.

"Board" means the Board of Trustees of the Virginia Retirement System.

"Company" means insurance company.

(Effective until October 1, 2016) "Contributor" means the same as that term is defined in § 23-38.75.

(Effective October 1, 2016) "Contributor" means the same as that term is defined in § 23.1-700.

"Dependent child" means (i) the insured employee's unmarried natural or legally adopted children who are not self-supporting; (ii) the insured employee's unmarried stepchildren living full time with the insured employee in a parent-child relationship and who can be claimed as a dependent on the insured employee's federal income tax return; (iii) any other children if they are in the insured employee's court-ordered custody; or (iv) other dependent children of the employee's family who are eligible for coverage under the family membership program offered under policies and procedures of the Department of Human Resource Management governing health insurance plans administered pursuant to § 2.2-1204 or § 2.2-2818.

"Dismemberment" means a dismemberment covered under the group insurance coverage purchased by the Board.

"Felonious assault" means a physical assault (i) by another person resulting in bodily harm to an insured employee; (ii) that takes place while such employee is performing his customary duties at the employer's normal place of business or at other places the employer's business requires him to travel; (iii) that involves the use of force or violence with the intent to cause harm; and (iv) that is a felony or misdemeanor under applicable law.

"Group insurance program" or "insurance program" means the plan covered under the policy purchased by the Board which provides group life, accidental death, and dismemberment insurance coverage for employees.

"Immediate family member" means the insured employee's spouse, children, parents, grandparents, grandchildren, brothers and sisters and their spouses.

"Qualifying child" means a dependent child less than eighteen years of age, or if eighteen years of age or older a dependent child enrolled in high school.

"Retirement System" means the Virginia Retirement System.

"Safety restraint system" means a properly installed seatbelt, lap and shoulder restraint or other restraint approved by the National Highway Traffic Safety Administration or any successor governmental agency. The term excludes an air bag safety system.

In addition to the definitions listed above, the definitions listed in § 51.1-124.3 shall apply to this chapter except as otherwise provided.

1990, c. 832; 2001, cc. 685, 690.

§ 51.1-501. Board authorized to purchase group life and accident insurance policies

The Board is authorized to purchase group insurance policies to insure eligible employees. The policies shall provide life, accidental death, and dismemberment insurance and shall be purchased from and carried with a life insurance company authorized to do business in the Commonwealth and which maintains in the Commonwealth sufficient staff and facilities to efficiently administer and service the insurance. Each policy shall contain a provision stipulating the maximum expense and risk charges that are determined by the Board to be on a basis consistent with the general level of charges made by life insurance companies under policies of group life, accidental death, and dismemberment insurance issued to large employers. The Board may require that the policies have reinsurance with a life insurance company incorporated or organized under the laws of and authorized to do business in the Commonwealth.

1960, c. 604, § 51-111.67:1; 1968, c. 617; 1974, c. 353; 1985, c. 236; 1990, c. 832 .

§ 51.1-502. Eligible employees and officers

The following persons are eligible to participate in the group insurance program:

1. Teachers.

2. State employees.

3. Members of the State Police Officers' Retirement System.

4. Members of the Judicial Retirement System.

5. Members of the Virginia Law Officers' Retirement System.

6. Regular full-time employees of a political subdivision participating in the Virginia Retirement System, subject to Board approval. In order for coverage to become effective, seventy-five percent of the eligible employees must elect to become covered on the effective date of coverage. Limitation of waiver of group insurance as provided in this chapter shall be in effect for all employees after the effective date of coverage.

7. Regular full-time employees of a local school board who participate in the retirement system of a local government which provides group life insurance for its employees under this chapter.

1960, c. 604, § 51-111.67:2; 1962, c. 542; 1968, c. 736; 1971, Ex. Sess., cc. 88, 185; 1972, c. 708; 1973, cc. 545, 546; 1974, cc. 353, 484; 1975, cc. 597, 611; 1976, c. 551; 1977, c. 620; 1980, c. 595; 1981, c. 478; 1982, cc. 467, 478; 1990, c. 832; 1992, c. 530; 2000, c. 911.

§ 51.1-502.1. Certain employees of teaching hospitals

Any teaching hospital affiliated with an institution of higher education, other than the University of Virginia Medical Center, may purchase group life, accidental death and dismemberment, and disability insurance policies covering in whole or in part its employees who are health care providers, as determined by the Department of Human Resource Management pursuant to § 2.2-2905. In addition, any such teaching hospital may increase the coverage under such policies to make available to each active insured employee optional life, accidental death and dismemberment insurance as provided in § 51.1-512. All health care providers employed by such teaching hospital on or after July 1, 1992, shall be covered by the policies purchased by the teaching hospital as soon as such policies become effective and may not elect to be covered by the Board's group insurance program under § 51.1-501. Nor shall they be required to present at their own expense evidence of insurability satisfactory to an insurance company upon changing from one form of coverage to another provided by this chapter. No other section of this chapter shall apply to insurance coverage offered by a teaching hospital to which this section applies, except §§ 51.1-510 and 51.1-511.

Notwithstanding the definition of "state employee" contained in § 51.1-124.3, a health care provider, as determined in accordance with subdivisions 18 and 19 of § 2.2-2905, may be enrolled in a health care plan other than that provided for in § 2.2-2818, at the election of a teaching hospital to which this section applies, and subject to the review and approval of the Secretary of Education.

1992, c. 417; 1996, cc. 933, 995; 2000, cc. 66, 657.

§ 51.1-502.2. Repealed

Repealed by Acts 2001, c. 694.

§ 51.1-502.3. Certain employees of the Virginia Port Authority

The Virginia Port Authority may purchase group life, accidental death and dismemberment, and disability insurance policies covering in whole or in part its employees who elect to participate in any retirement plan established under the provisions of § 51.1-126.4. In addition, the Authority may increase the coverage under such policies to make available to each active insured employee optional life and accidental death and dismemberment insurance as provided in § 51.1-512. All eligible employees of the Authority shall be covered by the policies purchased by the Authority as soon as such policies become effective and may not elect to be covered by the Board's group insurance program under § 51.1-501, nor shall they be required to present at their own expense evidence of insurability satisfactory to an insurance company upon changing from one form of coverage to another provided by this chapter. No other section of this chapter shall apply to insurance coverage offered by the Authority to which this section applies except §§ 51.1-510 and 51.1-511.

1997, c. 232.

§ 51.1-503. Limitation on coverage

No person shall have more than one coverage under the group insurance program. Any person employed in more than one position which provides coverage under the group insurance program shall elect one position on which his coverage shall be based by written notification to the Board.

1952, c. 157, § 51-111.27; 1954, c. 241; 1960, c. 400; 1973, c. 523; 1978, c. 841; 1982, c. 467; 1984, c. 430; 1985, c. 490; 1987, c. 575; 1990, c. 832 .

§ 51.1-504. Election of political subdivision to participate; approval by Board

Any political subdivision which has group life insurance with any insurance company or nonprofit association may continue the coverage, but shall not participate in this group insurance program while the other group life insurance is in effect. Upon discontinuance of the other group life insurance, the political subdivision may request coverage for eligible employees under this group insurance program.

1960, c. 604, § 51-111.67:3; 1964, c. 407; 1977, cc. 429, 620; 1986, c. 474; 1990, c. 832; 1993, c. 895 .

§ 51.1-505. Amounts of life and accident insurance for each employee; reduction and termination of insurance

A. Each employee to whom this chapter applies shall, subject to the terms and conditions thereof, be eligible to be insured for an amount of group life insurance plus an amount of group accidental death and dismemberment insurance, each amount equal to twice the amount of his annual salary. If an employee's annual salary is not an even multiple of $1,000, his annual salary for purposes of this section shall be considered to be the next higher $1,000. For purposes of this section, the annual salary of a member of the General Assembly shall be his creditable compensation for his last full calendar year of service or his salary under § 30-19.11, whichever is greater, and shall include the full amount of any salaries payable to such member for working in covered positions,

regardless of whether such salaries were paid, reduced, or not paid because of such member's service in the General Assembly. The annual salary for an employee retired for service or disability on an immediate retirement allowance may be adjusted by the Board in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.).

Subject to the conditions and limitations of the group insurance policy, the accidental death and dismemberment insurance shall provide payments as follows:

Loss	Amount Payable
For loss of life	Full amount determined in accordance with the provisions of this section
Loss of one hand or of one foot or loss of sight of one eye	One-half of the amount determined in accordance with the provisions of this section
Loss of two or more such members	Full amount determined in accordance with the provisions of this section.

For any one accident, the aggregate amount of accidental death and dismemberment insurance that may be paid shall not exceed the maximum amount of accidental death and dismemberment insurance determined in accordance with this section.

Notwithstanding the provisions of § 51.1-124.8, the amount of life insurance for which an employee shall be eligible shall be equal to twice the amount of his annual salary without regard to the date of the employee's qualification for a retirement allowance.

B. The amount of life insurance on an employee who retires for service on an immediate retirement allowance or who elects to postpone the receipt of his retirement allowance to some date other than his last day of service shall be the amount set forth in subsection A, reduced by an amount equal to 25 percent thereof on the January 1 following the first full year from the date the employee is separated from service and each January 1 thereafter. The amount of life insurance on an employee who retires for disability on an immediate retirement allowance shall be the amount set forth in subsection A on the date the employee last rendered service reduced by an amount equal to 25 percent thereof on January 1 following the first full year from the date the employee attains his "normal retirement date" as defined in § 51.1-124.3, and each January 1 thereafter. If the employee by statute or Board regulation has been construed to be in service to the beginning of the next school year, the reduction shall not apply until the beginning of the next school year. The reduction shall not decrease the amount of life insurance on an employee to less than 25 percent of the amount of life insurance to which the initial reduction is applied, provided, however, that the reduction shall not decrease the amount of life insurance to less than $8,000 for employees with at least 30 years of creditable service, which amount shall be increased by the same percentage as any annual post-retirement supplement for retirees, as calculated for employees hired on or after July 1, 2010, pursuant to § 51.1-166. For purposes of this subsection, an employee shall be deemed to have retired only if the employee has five or more years of service as an

employee prior to the date of retirement. This requirement shall not be applicable if the employee is retired for disability.

Any employee who was denied membership in the Retirement System because of having attained age 60 at the time of being employed or reemployed and who has five or more years of service immediately prior to separation from service shall retain the life insurance coverage as though he had retired on an immediate retirement allowance.

C. For any employee who at any time has at least 20 years of creditable service in any retirement plan administered by the Virginia Retirement System or other Virginia public plan participating in the group life program established by this chapter, the amount of group life insurance shall be an amount equal to twice the amount of the highest annual salary earned during such employment.

The provisions of subsection B providing a reduction in the amount of life insurance shall apply to the amount of group life insurance as determined under this subsection for such employees with at least 20 years of creditable service.

D. The amount of life insurance for an employee who is retired for disability on an immediate retirement allowance, who also has attained age 55, and who elects to receive a retirement allowance as set forth in subsection C of § 51.1-160, shall be reduced as set forth in subsection B. The reduction shall begin the January 1 following the first full year from the date the employee elects a service retirement allowance.

E. All accidental death and dismemberment insurance on an employee shall cease upon the earliest of (i) his separation from service; (ii) his failure to pay, in the manner prescribed by the Board, the contribution required for the first 24 months of leave without pay; (iii) if the employee has not returned to pay status, the expiration of 24 months of leave without pay; or (iv) his retirement.

F. Except in case of retirement as provided in subsections B, C, and D, all life insurance on an employee shall cease upon the earliest of (i) his separation from service; (ii) his failure to pay, in the manner prescribed by the Board, the contribution required for the first 24 months of leave without pay; or (iii) if the employee has not returned to pay status, the expiration of 24 months of leave without pay. Except in the case of retirement, life insurance shall be subject to a temporary extension of 31 days. During this 31-day extension, the employee may convert his life insurance into an individual policy of life insurance (without disability or other supplementary benefits) in any one of the forms, except term insurance, then customarily issued by the insuring company. The amount of life insurance which may be converted shall not exceed the amount of his life insurance under the group insurance policy at the time coverage is terminated. The insurance shall be converted to an individual policy (a) without evidence of insurability, (b) at the premium applicable to the class of risk to which he belongs, and (c) to the form and amount of the individual policy at his then attained age, provided application for the individual policy and payment of the first premium thereon is made to the issuing company within the 31 days. The right to convert to

an individual policy as provided in § 38.2-3333 shall not apply upon termination of this group policy or elimination of a class of insured employees.

Except as provided in subsection C, the amount of life insurance on each insured employee who retires shall be determined under the provisions of this chapter as it exists on the employee's date of retirement.

G. Each employee of a state institution of higher education or of a local school board who remains in service until the completion of the school year and who makes contributions required to provide insurance coverage until service normally will be resumed the beginning of the next school year shall be deemed to be in service as an employee through the period to which the payments apply. If the employee is retired for service or disability during this period, contributions made by the employee shall be accepted and retained as proper.

Each state employee of a public institution of higher education or a teaching hospital affiliated with a public institution of higher education who (i) is employed pursuant to a contract (a) that is for a term of employment of at least nine months and (b) that does not coincide with the normal scholastic year, (ii) remains in service until the completion of the contract year, and (iii) makes contributions required to provide insurance coverage until service normally will be resumed at the beginning of the next contract year shall be deemed to be in service as an employee through the period to which the payments apply. If the employee is retired for service or disability during this period, contributions made by the employee shall be accepted and retained as proper.

H. The limit of 24 months of leave without pay, after which accidental death and dismemberment insurance and life insurance shall cease, referred to in subsections E and F shall not apply to an employee who is on leave without pay while performing active duty military service in the armed forces of the United States.

I. The provisions of this section shall apply to all members of the Virginia Retirement System who, on and after July 1, 1995, are covered under the group life insurance program created pursuant to this section and whose effective date of retirement is (i) before July 1, 1970, or (ii) on and after July 1, 1970.

1960, c. 604, §§ 51-111.67:2, 51-111.67:4; 1962, cc. 43, 542; 1964, c. 594; 1966, c. 174; 1968, c. 736; 1970, c. 774; 1971, Ex. Sess., cc. 88, 89, 185; 1972, c. 708; 1973, cc. 545, 546; 1974, cc. 353, 484; 1975, cc. 306, 309, 597, 611; 1976, cc. 551, 654; 1977, c. 620; 1978, c. 841; 1980, cc. 595, 637, 638; 1981, cc. 151, 478; 1982, cc. 467, 478, 639; 1984, c. 430; 1986, c. 474; 1990, c. 832; 1991, c. 700; 1995, cc. 52, 307, 605; 1999, c. 111; 2001, c. 696; 2002, c. 313; 2003, cc. 9, 220; 2004, c. 102; 2005, cc. 147, 933, 945; 2006, c. 640; 2009, c. 362; 2010, c. 751; 2012, c. 696; 2015, c. 512.

§ 51.1-505.01. (Effective until October 1, 2016) Additional accidental death and dismemberment benefits

The group life, accidental death, and dismemberment insurance coverage purchased by the Board shall include, but not be limited to, the following benefits:

A. If, as a result of an accident, an insured employee dies at least seventy-five miles from his principal residence, an additional accidental death benefit shall be paid for the preparation and transportation of the employee to a mortuary. The additional benefit shall be the lesser of the actual cost for such preparation and transportation or $5,000;

B. If an insured employee dies or suffers a dismemberment as a result of an accident that occurs while the employee is driving or riding in a private passenger vehicle, an additional accidental death or dismemberment benefit shall be paid, provided that (i) the private passenger vehicle is equipped with a safety restraint system; (ii) such safety restraint system was being used properly by the insured employee at the time of the accident, as certified in the official accident report or by the official investigating officer; and (iii) at the time of the accident, the driver of the private passenger vehicle held a current license to operate a private passenger vehicle and was not intoxicated, driving while impaired or under the influence of alcohol or drugs, as is defined or determined under applicable law.

The additional benefit shall be the lesser of ten percent of the amount otherwise payable due to such accidental death or dismemberment or $50,000.

C. Death or dismemberment from a felonious assault.

1. If an insured employee dies or suffers a dismemberment as a result of an accident caused by a felonious assault committed by other than an immediate family member, there shall be paid an additional accidental death or dismemberment benefit equal to the lesser of twenty-five percent of the amount otherwise payable due to such accidental death or dismemberment or $50,000.

2. In addition, if (i) an insured employee dies as a result of an accident caused by a felonious assault committed by other than an immediate family member, and (ii) such insured employee has a qualifying child at the time of such accident, a savings trust account shall be opened for each qualifying child pursuant to the Virginia College Savings Plan (§ 23-38.75 et seq.). The Retirement System shall contribute into the account of each such qualifying child an amount approximately equal to the current cost of purchasing in full a prepaid tuition contract for tuition and mandatory fees at a four-year public institution of higher education in the Commonwealth, as determined under § 23-38.75 et seq. The qualified beneficiary, as defined in § 23-38.75, shall be the qualifying child on whose behalf such account was opened. Specific benefits of the savings trust account shall be as defined by the Virginia College Savings Plan.

Funds in a savings trust account opened on behalf of a qualifying child shall be used for qualified higher education expenses at eligible institutions, both as defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law, as determined by the Board of the Virginia College Savings Plan. Savings trust account funds shall not be disbursed prior to a qualifying child being admitted and enrolled at an eligible institution. Any funds in a savings trust

account that are not used by a qualifying child before the expiration of the time period for the use of such funds, as determined by the Virginia College Savings Plan, shall be paid to the Retirement System promptly after the expiration of such period.

2001, cc. 685, 690; 2002, c. 313.

§ 51.1-505.01. (Effective October 1, 2016) Additional accidental death and dismemberment benefits

The group life, accidental death, and dismemberment insurance coverage purchased by the Board shall include, but not be limited to, the following benefits:

A. If, as a result of an accident, an insured employee dies at least seventy-five miles from his principal residence, an additional accidental death benefit shall be paid for the preparation and transportation of the employee to a mortuary. The additional benefit shall be the lesser of the actual cost for such preparation and transportation or $5,000;

B. If an insured employee dies or suffers a dismemberment as a result of an accident that occurs while the employee is driving or riding in a private passenger vehicle, an additional accidental death or dismemberment benefit shall be paid, provided that (i) the private passenger vehicle is equipped with a safety restraint system; (ii) such safety restraint system was being used properly by the insured employee at the time of the accident, as certified in the official accident report or by the official investigating officer; and (iii) at the time of the accident, the driver of the private passenger vehicle held a current license to operate a private passenger vehicle and was not intoxicated, driving while impaired or under the influence of alcohol or drugs, as is defined or determined under applicable law.

The additional benefit shall be the lesser of ten percent of the amount otherwise payable due to such accidental death or dismemberment or $50,000.

C. Death or dismemberment from a felonious assault.

1. If an insured employee dies or suffers a dismemberment as a result of an accident caused by a felonious assault committed by other than an immediate family member, there shall be paid an additional accidental death or dismemberment benefit equal to the lesser of twenty-five percent of the amount otherwise payable due to such accidental death or dismemberment or $50,000.

2. In addition, if (i) an insured employee dies as a result of an accident caused by a felonious assault committed by other than an immediate family member, and (ii) such insured employee has a qualifying child at the time of such accident, a savings trust account shall be opened for each qualifying child pursuant to the Virginia College Savings Plan (§ 23.1-700 et seq.). The Retirement System shall contribute into the account of each such qualifying child an amount approximately equal to the current cost of purchasing in full a prepaid tuition contract for tuition and mandatory fees at a four-year public institution of higher education in the Commonwealth, as determined under § 23.1-700 et seq. The qualified beneficiary, as defined in § 23.1-700, shall be the qualifying

child on whose behalf such account was opened. Specific benefits of the savings trust account shall be as defined by the Virginia College Savings Plan.

Funds in a savings trust account opened on behalf of a qualifying child shall be used for qualified higher education expenses at eligible institutions, both as defined in § 529 of the Internal Revenue Code of 1986, as amended, or other applicable federal law, as determined by the Board of the Virginia College Savings Plan. Savings trust account funds shall not be disbursed prior to a qualifying child being admitted and enrolled at an eligible institution. Any funds in a savings trust account that are not used by a qualifying child before the expiration of the time period for the use of such funds, as determined by the Virginia College Savings Plan, shall be paid to the Retirement System promptly after the expiration of such period.

2001, cc. 685, 690; 2002, c. 313.

§ 51.1-506. Employee contributions; payroll deductions; effect of failure to deduct

Each insured employee shall contribute to the cost of his insurance an amount to be determined by the Board but not to exceed the rate of $0.70 per month for each $1,000 of annual salary. If the annual salary is not an even multiple of $1,000, annual salary shall be considered to be the next higher $1,000. The employer shall deduct the premium from the salary payable to the insured employee. An employee who is paid on other than a monthly basis shall have an amount deducted at a proportionate rate, adjusted to the nearest cent. All deductions shall be retained by or paid to the State Treasurer to the credit of the Board and shall be available to the Board for the purposes of carrying out the provisions of this chapter. Nothing contained in this section shall prohibit any employer from making the contributions required herein for his employees, in whole or in part.

If the premium is not deducted from the employee's salary and the failure to deduct is not the fault of the employee, the employee shall be insured and the employee shall not be required to pay the amount which should have been deducted.

Employees retired for service or disability shall not be required to contribute to the cost of their life insurance. If an employee is separated from the service of any state institution of higher education or of any local school board prior to completing a school year, the premiums paid shall be accepted and retained as proper to date of separation. If a state employee of a public institution of higher education or a teaching hospital affiliated with a public institution of higher education (i) is employed pursuant to a contract (a) that is for a term of employment of at least nine months and (b) that does not coincide with the normal scholastic year, and (ii) separated from service prior to completing the contract year, the premiums paid shall be accepted and retained as proper to the date of separation.

1960, c. 604, §§ 51-111.67:5, 51-111.67:6; 1962, c. 43; 1966, c. 174; 1972, c. 841; 1974, c. 353; 1975, c. 597; 1980, c. 595; 1990, c. 832; 2005, cc. 933, 945.

§ 51.1-507. Notice of desire not to be insured

Any policy of insurance purchased under the authority of this chapter shall provide that all eligible employees shall be automatically insured. Any employee who notified his employer that he desired not to be insured, or any employee of a political subdivision who notified his employer prior to the effective date of coverage that he desired not to be insured, may thereafter become insured only upon presentation at his own expense of evidence of insurability satisfactory to the insuring company.

1960, c. 604, § 51-111.67:6; 1962, c. 43; 1966, c. 174; 1974, c. 353; 1975, c. 597; 1980, c. 595; 1990, c. 832 .

§ 51.1-508. Employer contributions

Employers, other than the Commonwealth, shall pay to the Board the percentage of the premiums or charges not paid for by employee contributions. Employees paid from special funds shall have their employer contributions paid from such funds.

1960, c. 604, § 51-111.67:9; 1990, c. 832 .

§ 51.1-509. Keeping records and furnishing information required by Board

Each employer, whose employees are insured under the provisions of this chapter, shall keep records and furnish information required by the Board.

1960, c. 604, § 51-111.67:12; 1990, c. 832 .

§ 51.1-510. Insurance exempt from process

A. The insurance provided for in this chapter, including any optional insurance, and all proceeds therefrom shall be exempt from levy, garnishment, and other legal process, except (i) as provided in subsection B and (ii) for administrative actions pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 or any court process to enforce a child or child and spousal support obligation. However, the insured may make a voluntary, irrevocable assignment of his group life insurance and any individual conversion policy that may be issued upon termination of his group life insurance by executing an assignment on a form prepared by the Board of Trustees of the Virginia Retirement System.

B. From any insurance proceeds payable pursuant to this chapter to a retiree's beneficiaries, the Board may deduct any overpayment of retirement allowance paid to such retiree.

1960, c. 604, § 51-111.67:8; 1980, c. 643, § 51-111.67:12.1; 1990, c. 832; 1994, c. 883; 1997, c. 273; 2008, c. 354.

§ 51.1-511. Persons entitled to payment of insurance on employee's death

Any amount of group life, accidental death, and dismemberment insurance in force on any employee at the date of his death shall be paid, upon the establishment of a valid claim therefor, to the beneficiary designated by the employee under the provisions of the Virginia Retirement System or other retirement system administered by the Board, unless the employee has designated and filed with the Board on a form prepared by the Board, a different beneficiary of his group life, accidental death, and dismemberment insurance. If no beneficiary has been designated by the

employee, or if the death of the designated person occurs prior to the death of the member and another designation has not been made, the proceeds shall be paid to the persons surviving at the date of his death, in the same order of precedence as set forth in subsection A of § 51.1-162.

Payment which otherwise would be made to the estate of an employee may be made in accordance with the provisions of § 64.2-601 or 64.2-602.

1960, c. 604, § 51-111.67:10; 1986, c. 474; 1990, c. 832; 2002, c. 313; 2010, c. 269.

§ 51.1-512. Optional life insurance

A. The Board shall, under the terms and conditions specified by the Board, make available to each active insured employee optional life, accidental death, and dismemberment insurance in incremental additional amounts not to exceed a maximum amount determined by the Board. Such maximum shall be reviewed at least once every five calendar years by the actuary of the Virginia Retirement System and increased by the Board upon the recommendation of the actuary. The amount recommended by the actuary shall be based upon the annual increases in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor.

B. The optional life, accidental death, and dismemberment insurance shall be made available to each active insured employee under conditions prescribed by the Board. The conditions prescribed by the Board shall provide that offering the optional insurance does not materially increase the rates for any group life insurance policy provided pursuant to § 51.1-505.

C. All optional insurance on an employee shall cease upon the earlier of (i) the date the employee's basic coverage ceases or (ii) the date insurance being continued in retirement terminates pursuant to subsections D and E.

D. The optional amount of life insurance in force on an employee who retires for disability on an immediate retirement allowance may be continued, subject to payment of any required premium by the employee, during continuance of such disability but not beyond the end of the month in which the employee attains his "normal retirement date" as defined in § 51.1-124.3.

E. The optional amount of life insurance in force on an employee who retires for service on an immediate retirement allowance, or for an employee who retired for disability on an immediate retirement allowance and who attains his "normal retirement date" as defined in § 51.1-124.3, may be continued provided the retiree was continuously insured under this section for a period of at least 60 continuous months prior to retirement, or prior to reaching his "normal retirement date" as defined in § 51.1-124.3 for a disability retirement. This continued insurance shall be in incremental amounts not to exceed a maximum amount determined by the Board and the amounts and corresponding maximum coverage shall reduce beginning at the employee's "normal retirement date" as defined in § 51.1-124.3, as determined by the Board. This maximum coverage amount shall be reviewed at least once every five calendar years as provided for under subsection A. The life insurance continued under this subsection shall cease upon the earliest of (i) the date

the retiree attains age 80, (ii) lapse for nonpayment of premium, or (iii) return to employment and eligibility for active employee life insurance under Chapter 5 (§ 51.1-500 et seq.) of Title 51.1. All accidental death and dismemberment insurance shall cease at retirement.

F. The cost of the optional insurance shall be determined periodically by the Board on the basis it considers appropriate. The Board may discontinue the optional insurance plan at any time upon determination that employee participation is not sufficient to continue the plan on a sound actuarial basis.

G. The amount of optional life, accidental death, and dismemberment insurance in force on any employee at the date of his death shall be paid as provided in this chapter.

H. The Board shall determine the form and content of the accounting reports to be made by the insurance company with respect to the optional insurance. Any expenses incurred by the Retirement System for operating and administering the optional insurance programs provided in this section may be recovered by the Board from the advance premium deposit reserve required by subsection B of § 51.1-514.

1980, c. 643, § 51-111.67:12.1; 1990, c. 832; 1995, c. 360; 1997, c. 273; 2001, c. 696; 2005, c. 57; 2006, c. 252; 2010, c. 751; 2012, c. 696.

§ 51.1-512.1. Optional life insurance for the spouse and minor dependents of employees

A. The Board shall, under the terms and conditions specified by the Board, make available to any active insured employee optional life, accidental death, and dismemberment insurance on the employee's spouse and minor dependents in the following amounts:

1. For the spouse of an active insured employee: an amount up to fifty percent of the maximum amount of optional insurance available to the employee under § 51.1-512.

2. For any minor dependent of an active insured employee in increments specified by the Board. The Board shall adjust these amounts periodically to account for changes in the purchasing power of money over time.

B. All optional insurance on an employee's spouse shall cease upon the earliest of (i) the date the employee's basic coverage ceases, (ii) the entry of a final divorce decree terminating the marriage of the employee and the employee's spouse, or (iii) the date the insurance being continued in retirement terminates pursuant to subsections C and D. All optional insurance on an employee's minor dependent shall cease upon the earliest of (a) the minor dependent attains the age of twenty-one, unless the minor dependent is a full-time college student, then age twenty-five or unless the minor dependent is under a mental or physical disability, in which event coverage shall not terminate until three months following cessation of the disability, (b) marriage of the minor dependent, or (c) the date the employee's basic coverage ceases.

C. Subject to foregoing limitations, the optional amount of life insurance in force on the spouse or minor dependent of an employee who retires for disability on an immediate retirement allowance

may be continued, subject to payment of any required premium by the employee, during continuance of such disability but not beyond the end of the month in which the employee's normal retirement date occurs.

D. Subject to the foregoing limitations, the optional amount of life insurance in force on the spouse or minor dependent of an employee who retires for service on an immediate retirement allowance, or for an employee who retired for disability on an immediate retirement allowance when his normal retirement date occurs, may be continued, subject to payment of any required premium by the employee, and provided the employee had such spouse or dependent insurance for a period of at least sixty continuous months prior to retirement, or prior to reaching normal retirement date for a disability retirement. Life insurance on the spouse that is eligible to be continued shall be an amount specified by the Board and available to the retiree under § 51.1-512 and shall begin to reduce when the retiree's normal retirement date occurs under the terms and conditions specified by the Board. Life insurance on dependent children that is eligible to be continued shall be in increments as specified by the Board. The Board shall adjust these amounts periodically to account for changes in the purchasing power of money over time. All optional life insurance on a retiree's spouse or dependent ceases at the earliest of (i) the retiree attaining age eighty, (ii) the death of the retiree, (iii) for a spouse, the entry of a final divorce decree terminating the marriage of the retiree and the retiree's spouse, (iv) for a minor insured dependent, the date the dependent attains the age of twenty-one, unless the minor insured dependent is a full-time college student, then the date the dependent attains age twenty-five, unless the minor insured dependent is under a mental or physical disability, in which case coverage shall not terminate until three months following cessation of the disability, or (v) for a minor insured dependent, the date of his marriage. All accidental death and dismemberment insurance ceases at retirement.

E. The cost of the optional insurance shall be determined periodically by the Board on the basis it considers appropriate. The Board may discontinue the optional insurance plan at any time upon determination that employee participation is not sufficient to continue the plan on a sound actuarial basis.

F. The amount of optional life, accidental death, and dismemberment insurance in force on an employee's spouse or minor dependent at the date of his or her death shall be paid as provided in this chapter. All accidental death and dismemberment insurance ceases at retirement. The amount of optional life insurance in force on the retiree's spouse or minor dependent at the date of his death shall be paid as provided in this chapter.

G. The Board shall determine the form and content of the accounting reports to be made by the insurance company with respect to the optional insurance. Any expenses incurred by the Retirement System for operating and administering the optional insurance programs provided in this section may be recovered by the Board from the advance premium deposit reserve required by subsection B of § 51.1-514.

H. As used in this section, an employee's "minor dependent" means a child member of the employee's or retiree's family who is eligible for coverage under the family membership program offered under policies and procedures of the Department of Human Resource Management governing health insurance plans administered pursuant to § 2.2-1204 or 2.2-2818.

I. The provisions of this chapter applicable to the provision of group insurance policies to insure eligible employees or retirees shall apply to optional insurance insuring the spouses and minor dependents of eligible employees or retirees pursuant to this section, with the respective differences having been considered.

1995, c. 360; 1997, c. 273; 2000, cc. 66, 657; 2001, c. 696; 2011, c. 880.

§ 51.1-513. Repealed

Repealed by Acts 1998, c. 774.

§ 51.1-513.1. Long-term care insurance

The Department of Human Resource Management is authorized to develop, implement, and administer a long-term care insurance program. The program shall be coordinated with any disability, life, or other insurance program administered under this title. The Department of Human Resource Management is authorized to contract for and purchase such coverage or use other actuarially sound funding necessary to effectuate this provision.

1999, c. 5; 2000, cc. 66, 657.

§ 51.1-513.2. Long-term care coverage program

A. The Board shall maintain and administer a long-term care coverage program for any state employee working an average of at least 20 hours per week, and for any other person who has five or more years of creditable service with any retirement plan administered by the Virginia Retirement System. The long-term care coverage program may also extend coverage to eligible family members of such state employee or other person. The Board is authorized to contract for and purchase insurance coverage or to use other actuarially sound funding necessary to effectuate this provision. Participation in the long-term care coverage program shall be voluntary, subject to policies and procedures adopted by the Board.

B. Any person eligible to participate in the long-term care coverage program pursuant to § 51.1-513.3 will not be eligible for this plan.

C. Notwithstanding the provisions of subsection A, the Board may self-insure long-term care benefits provided under § 51.1-513.2 or 51.1-513.3 in accordance with the standards set forth in § 51.1-124.30.

2008, c. 568; 2011, c. 722.

§ 51.1-513.3. Long-term care insurance program for employees of local governments, local officers, and teachers

A. The Board shall maintain and administer a plan or plans, hereinafter "plan" or "plans," for providing long-term care coverage for employees of local governments, local officers, and teachers. The plan or plans may also extend coverage to eligible family members of such employees of local governments, local officers, or teachers. The plan or plans may, but need not, be rated separately from any plan developed to provide long-term care coverage for state employees under § 51.1-513.2. Participation in such insurance plan or plans shall be (i) voluntary, (ii) approved by the participant's respective governing body, or by the local school board in the case of teachers, and (iii) subject to policies and procedures adopted by the Board.

B. For the purposes of this section:

"Employees of local governments" shall include all officers and employees, working an average of at least 20 hours per week, of the governing body of any county, city, or town, and the directing or governing body of any political entity, subdivision, branch or unit of the Commonwealth or of any commission or public authority or body corporate created by or under an act of the General Assembly specifying the power or powers, privileges or authority capable of exercise by the commission or public authority or body corporate, as distinguished from § 15.2-1300, 15.2-1303, or similar statutes, provided that the officers and employees of a social services department; welfare board; community services board or behavioral health authority; or library board of a county, city, or town shall be deemed to be employees of local government.

"Local officer" means the treasurer, registrar, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, sheriff, or constable of any county or city or deputies or employees, working an average of at least 20 hours per week, of any of the preceding local officers.

"Teacher" means any employee of a county, city, or other local public school board working an average of at least 20 hours per week.

2008, c. 568; 2011, c. 722; 2012, cc. 476, 507.

§ 51.1-513.4. Trust fund for long-term care programs

The Board is authorized to establish a trust fund in connection with the long-term care insurance programs administered under §§ 51.1-513.2 and 51.1-513.3. The costs incurred by the Board in administering such long-term care insurance programs including the provision of case management and cost containment programs, shall be withdrawn from time to time by the Board from the trust fund. Any trust fund established by the Board under this section shall be deemed a separate and independent trust fund, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the participants and beneficiaries thereof. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the long-term care insurance programs administered under §§ 51.1-513.2 and 51.1-513.3.

2008, c. 568.

§ 51.1-514. Policies to provide for accounting to Board; advance premium deposit reserve
A. Each policy purchased by the Board shall provide for an accounting to the Board not later than 120 days after the end of each policy year. The accounting shall include (i) the amounts of premiums actually accrued under the policy during the policy year, (ii) the total amount of all mortality and other claim charges incurred during the policy year, and (iii) the amounts of the insurer's expenses and risk charges for the policy year.

B. Any portion of the excess of the total of item (i) over the sum of items (ii) and (iii) may, with the approval of the Board, be held by the insurance company in an advance premium deposit reserve to be used by the company for charges under the policy only. Any expenses incurred by the Board on behalf of the group insurance program may be deducted from the advance premium deposit reserve. The advance premium deposit reserve shall bear interest at a rate to be determined in advance of each policy year by the insurance company. The rate shall be subject to Board approval as being consistent with the rates generally used by the company for similar funds held under other group life insurance policies. Any portion of the excess not held by the insurance company shall be held by the Board to be used for charges under the policy only. If the Board determines that the advance premium deposit reserve, together with any portion of the excess accumulated and held by the Board, has attained an amount estimated to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall inure to the benefit of the Commonwealth and other employers participating in the group insurance program as determined by the Board.

C. For purposes of this section, the insurance company may combine and consolidate the policies issued by it as directed by the Board.

1960, c. 604, § 51-111.67:7; 1970, c. 476; 1973, c. 523; 1978, c. 841; 1983, c. 457; 1990, c. 832; 1991, c. 700; 1997, c. 273.

Chapter 6 - GOVERNMENT EMPLOYEES DEFERRED COMPENSATION PLAN ACT

§ 51.1-600. Definitions
As used in this chapter, unless the context requires a different meaning:

"Act" means the Government Employees Deferred Compensation Plan Act.

"Board" means the Board of Trustees of the Virginia Retirement System.

"Deferred compensation plan" means a plan established pursuant to the provisions of § 457(b) of the Internal Revenue Code of 1986, as amended, that may provide for elective and non-elective deferrals of compensation by or on behalf of employees and may include a qualified Roth contribution program as described in § 402A of the Internal Revenue Code of 1986, as amended.

"Employee" means, in the case of the plan described in § 51.1-602, all persons employed by a participating employer, including appointed or elected officials. In the case of a plan adopted by a county, municipality, authority or other political subdivision pursuant to § 51.1-603, an employee

shall be defined by such county, municipality, authority or other political subdivision, subject to the approval of the Board.

"Participating employer" means the Commonwealth or any political subdivision that has elected pursuant to § 51.1-603.1 to participate in the deferred compensation plan established by the Board pursuant to this chapter.

1974, c. 461, § 51-111.67:15; 1987, c. 619; 1990, c. 832; 1992, c. 276; 1999, cc. 980, 984; 2002, c. 311; 2007, c. 253; 2014, cc. 356, 747.

§ 51.1-601. Contract for deferred compensation

In accordance with a plan of deferred compensation, the Commonwealth, or any state agency, county, municipality, authority, or other political subdivision may contract with any employee to defer all or any portion of that employee's otherwise payable compensation and, pursuant to the terms of the plan and in such proportions as may be designated or directed under the plan, place such deferred compensation in investment products selected by the Commonwealth and its agencies, county, municipality, authority, or other political subdivision. All investment products shall be offered in compliance with applicable federal and state laws and regulations by persons who are duly authorized by applicable state and federal authorities.

1974, c. 461, § 51-111.67:16; 1987, c. 619; 1990, c. 832; 1992, c. 276; 2002, c. 311; 2007, c. 253.

§ 51.1-601.1. Participation in plan by certain employees

All employees of the Commonwealth and its agencies commencing employment or who are reemployed on or after January 1, 2008, in a position covered by the Virginia Retirement System, and who (i) have not elected to participate in a plan established pursuant to § 403(b) of the Internal Revenue Code of 1986, as amended, or (ii) do not participate in the hybrid retirement program described in § 51.1-169, shall participate in the plan described in § 51.1-602, unless such employee elects, in a manner prescribed by the Board, not to participate in such plan. The amount of the deferral for any such employee participating in the plan shall equal, on a semimonthly basis, $20 of otherwise payable compensation, unless the employee elects to defer a different amount.

2007, c. 253; 2012, cc. 701, 823; 2013, c. 463.

§ 51.1-602. Deferred compensation plan for employees of the Commonwealth; administered by the Board

A. The Board shall establish and administer a deferred compensation plan for employees of the Commonwealth and its agencies. The Virginia Retirement System Director shall be the chief administrative officer of the plan. The Board may contract with private corporations or institutions subject to the standards set forth in § 51.1-124.30 to provide investment products as well as any other goods and services related to the administration of the deferred compensation plan. The Virginia Retirement System is hereby authorized to perform related services including, but not limited to, providing consolidated billing, individual and collective record keeping and accountings,

and asset purchase, control, and safekeeping. In accordance with such plan, and upon contract or agreement with an eligible employee, deferrals of compensation may be accomplished by payroll deductions made by the appropriate officer of the Commonwealth, with such funds being thereafter held and administered in accordance with the plan. Administrative fees related to the VRS program oversight that otherwise would be charged to an employee participating in the plan shall be paid by the participating employer under procedures established by the Board. Any political subdivision participating in the plan pursuant to § 51.1-603.1 may collect the administrative fee imposed by the Virginia Retirement System from employees participating in the plan.

B. If it deems it advisable, the Board may create a trust or other special fund for the segregation of the funds or assets resulting from compensation deferred at the request of employees of the Commonwealth or its agencies and for the implementation of such program.

C. The Department of Accounts shall be responsible for the (i) accounting and reconciliations associated with state employees' contributions to the plan through payroll deductions and (ii) timely transfer of withheld funds to the private corporation or institution designated by the Board pursuant to subsection A. However, any state agency that has decentralized its payroll function and any political subdivision of the Commonwealth participating in the plan pursuant to § 51.1-603.1 shall be responsible for the (i) accounting and reconciliations associated with their employees' contributions to the plan through payroll deductions and (ii) timely transfer of withheld funds to the private corporation or institution designated by the Board pursuant to subsection A.

1974, c. 461, § 51-111.67:17; 1984, cc. 662, 746; 1985, c. 448; 1987, c. 619; 1990, c. 832; 1992, c. 276; 1997, c. 174; 1998, c. 658; 2000, c. 395; 2004, c. 86; 2008, c. 245.

§ 51.1-603. Local deferred compensation plans

A. Any county, municipality, authority, or other political subdivision of the Commonwealth may by ordinance or resolution adopt and establish for itself and its employees a deferred compensation plan. Any such deferred compensation plan may include constitutional officers and their employees. The ordinance or resolution adopting or establishing such plan shall create or designate an appropriate board or officer to administer the plan, and shall confer upon such board or officer the authority to do all things by way of supervision, administration, and implementation of the plan, including the power to contract with private corporations or institutions for services in connection therewith. The deferral of compensation may be accomplished by payroll deductions by the appropriate officer of the county, municipality, authority, or other political subdivision.

B. If it deems it advisable, any county, municipality, authority, or other political subdivision of the Commonwealth, which by ordinance or resolution adopts and establishes for itself and its employees a deferred compensation plan, may (i) create a trust or other special fund for the segregation of the funds or assets resulting from compensation deferred at the request of its employees for the implementation of such plan or (ii) provide that its employees who commence employment or reemployment on or after a specified date, and who have not affirmatively elected to participate in

such deferred compensation plan or in a plan established by such political subdivision pursuant to § 403(b) of the Internal Revenue Code of 1986, as amended, shall participate in either such deferred compensation plan or 403(b) plan, as determined by the political subdivision, at such initial default amount or rate of deferral as it may determine, unless such employee elects, in a manner prescribed by the plan administrator, not to participate in the plan.

1974, c. 461, § 51-111.67:18; 1982, c. 364; 1987, c. 619; 1990, c. 832; 1991, c. 379; 1997, c. 174; 2012, c. 660.

§ 51.1-603.1. Participation by employees of political subdivisions in deferred compensation plan of Virginia Retirement System

A. The Virginia Retirement System may enter into an agreement with any political subdivision of the Commonwealth to permit participation by the political subdivision's employees in the deferred compensation plan established and administered by the Board pursuant to § 51.1-602, except that political subdivisions of the Commonwealth otherwise participating in the retirement system pursuant to Article 5 (§ 51.1-130 et seq.) of Chapter 1 shall participate in the deferred compensation plan established and administered by the Board pursuant to § 51.1-602 to the extent necessary to provide benefits under the hybrid retirement program described in § 51.1-169.

B. The political subdivision may provide in the agreement that its employees who (i) commence employment or reemployment on or after a specified date occurring on or after the effective date of this provision in the agreement, (ii) are not participating in the hybrid retirement program described in § 51.1-169, and (iii) have not affirmatively elected to participate in the plan described in § 51.1-602 or a plan established by such political subdivision pursuant to § 403(b) of the Internal Revenue Code of 1986, as amended, shall participate in either such plan described in § 51.1-602 or a 403(b) plan, as determined by the political subdivision, unless such employee elects, in a manner prescribed by the Board, not to participate in such plan. The amount of the deferral for any such employee participating in the plan shall equal, on a semimonthly basis, $20 of otherwise payable compensation, unless the employee elects to defer a greater amount.

1997, c. 174; 2012, cc. 660, 701, 823; 2013, c. 463.

§ 51.1-604. Standards for deferred compensation plans

No deferred compensation plan shall become effective until the Board, county, municipality, authority or other political subdivision of the Commonwealth is satisfied, by opinion of its respective counsel, such federal agency or agencies as may be deemed necessary, or otherwise, that the contributions thereunder and/or the investment products purchased pursuant to the plan (i) will not be included in the employee's taxable income under federal or state law until it is actually received by the employee under the terms of the plan, provided that such contributions will nonetheless be deemed compensation at the time of deferral for the purposes of social security coverage, for the purposes of the Virginia Retirement System, and for any other retirement, pension, or benefit program established by law, or (ii) are designated Roth contributions as defined in § 402A of the Internal Revenue Code of 1986, as amended.

1974, c. 461, § 51-111.67:19; 1987, c. 619; 1990, c. 832; 1992, c. 276; 2002, c. 311; 2014, c. 747.

§ 51.1-605. Other retirement, pension, etc., systems not affected; annual report

Any deferred compensation program established by this chapter, and any plan adopted hereunder, shall exist and serve in addition to any other retirement, pension, or benefit system established by the Commonwealth, its agencies, counties, municipalities, authorities, or other political subdivisions, and shall not supersede, make inoperative, or reduce any benefits provided by the Virginia Retirement System or by any other retirement, pension, or benefit program established by law.

The Virginia Retirement System shall submit an annual report to the Governor and the General Assembly advising them of the condition of the Commonwealth's fund and all operational costs associated with such fund. This report shall be submitted annually on or before December 31.

The Board shall have the authority to establish a plan pursuant to § 401 (a) or § 403 (b) of the Internal Revenue Code of 1986, as amended, for the purpose of implementation of this section.

1974, c. 461, § 51-111.67:20; 1987, c. 619; 1990, c. 832; 1992, c. 276; 2002, c. 311; 2006, c. 66.

§ 51.1-606. Repealed

Repealed by Acts 2002, c. 311, cl. 2.

Chapter 6.1 - CASH MATCH PLAN

§ 51.1-607. Definitions

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Trustees of the Virginia Retirement System.

"Cash match plan" means a plan established pursuant to the provisions of § 401 (a) of the Internal Revenue Code of 1986, as amended, to which a participating employer contributes based on contributions made by an employee to a deferred compensation plan or to a plan established pursuant to § 403 (b) of the Internal Revenue Code of 1986, as amended. Alternatively, if the Board determines that it is appropriate, such plan may be established pursuant to § 403 (b) of the Internal Revenue Code of 1986, as amended.

"Deferred compensation plan" means a plan described in Chapter 6 (§ 51.1-600 et seq.) of this title.

"Employee" means, in the case of the plan described in § 51.1-608, any salaried person, including appointed or elected officials, providing services for a participating employer. In the case of a plan adopted by a county, municipality, authority or other political subdivision pursuant to § 51.1-610, an employee shall be defined by such county, municipality, authority or other political subdivision, subject to the approval of the Board.

"Participating employer" means the Commonwealth or any political subdivision that has elected pursuant to § 51.1-603.1 to participate in the deferred compensation plan established by the

Board pursuant to Chapter 6 (§ 51.1-600 et seq.) of this title or a sponsor of a plan established pursuant to § 403 (b) of the Internal Revenue Code of 1986, as amended.

"Qualified participant" means, in the case of a plan established pursuant to § 51.1-608, an employee of a participating employer who is making continuous deferrals of at least ten dollars per pay period to the deferred compensation plan established by the Board pursuant to Chapter 6 (§ 51.1-600 et seq.) of this title or to a plan established pursuant to § 403 (b) of the Internal Revenue Code of 1986, as amended. The determination of whether an employee is making continuous deferrals shall be made by the Board. In the case of a plan established pursuant to subsection D of § 51.1-608 or § 51.1-610, qualified participant means an employee described by the governing body establishing such plan in the documents setting forth the details of such plan.

2002, c. 311; 2014, c. 356.

§ 51.1-608. Cash match plan for employees of the Commonwealth; administered by the Board

A. The Board shall establish and administer a cash match plan for employees of the Commonwealth and its agencies. The Virginia Retirement System Director shall be the chief administrative officer of the plan. The Board may contract with private corporations or institutions subject to the standards set forth in § 51.1-124.30 to provide investment products as well as any other goods and services related to the administration of the cash match plan. The Virginia Retirement System is hereby authorized to perform related services including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, and asset purchase, control, and safekeeping. Administrative fees related to the Virginia Retirement System Program oversight shall be paid by the participating employer under procedures established by the Board.

B. If it deems it advisable, the Board may create a trust or other special fund for the segregation of the funds or assets resulting from contributions made on behalf of qualified participants.

C. The Department of Accounts shall be responsible for the timely transfer of the matching contributions to the private corporation or institution designated by the Board pursuant to subsection A. However, any state agency that has decentralized its payroll function and any political subdivision of the Commonwealth participating in the plan pursuant to § 51.1-611 shall be responsible for the timely transfer of matching contributions to the private corporation or institution designated by the Board pursuant to subsection A.

D. Alternatively, agencies of the Commonwealth that sponsor or maintain programs described in § 403 (b) of the Internal Revenue Code of 1986, as amended, may establish separate cash match plans with the consent of the Board in lieu of participation in the plan established pursuant to this section.

2002, c. 311; 2006, c. 756; 2008, cc. 29, 245.

§ 51.1-609. Contributions on behalf of qualified participants

A. A participating employer or, on behalf of the Commonwealth, the Department of Accounts or any agency of the Commonwealth not covered under the central payroll system, shall transfer funds from its appropriations to the private corporation or institution designated to hold investments under the plan or plans adopted or established by the participating employer pursuant to § 401(a) or § 403(b) of the Internal Revenue Code of 1986, as amended. The funds shall be held, administered and invested as provided for in the applicable document adopted for the administration of such contributions.

B. The amount credited on behalf of a qualified participant pursuant to this section shall not exceed, on a semimonthly basis, the lesser of fifty dollars or fifty percent of the amount that the qualified participant voluntarily contributes to the deferred compensation plan established under this chapter or to a plan established pursuant to § 403(b) of the Internal Revenue Code of 1986, as amended, unless otherwise determined by the General Assembly through the appropriations process. The amount credited pursuant to this section on behalf of a qualified participant who is an employee of a participating employer other than the Commonwealth shall be a discretionary amount determined by the participating employer's governing body from time to time.

C. No amount shall be credited pursuant to subsection B on behalf of a qualified participant who is participating in the hybrid retirement program described in § 51.1-169 if the qualified participant has not contributed the maximum amount of voluntary contributions under subdivision C 2 of § 51.1-169.

2002, c. 311; 2013, c. 463.

§ 51.1-610. Local cash match plans

A. Any county, municipality, authority, or other political subdivision of the Commonwealth may by ordinance or resolution adopt and establish for itself and its employees a cash match plan. Any such cash match plan may include constitutional officers and their employees. The ordinance or resolution adopting or establishing such plan shall create or designate an appropriate board or officer to administer the plan, and shall confer upon such board or officer the authority to do all things by way of supervision, administration, and implementation of the plan, including the power to contract with private corporations or institutions for services in connection therewith.

B. If it deems it advisable, any county, municipality, authority, or other political subdivision of the Commonwealth, which by ordinance or resolution adopts and establishes for itself and its employees a cash match plan, may create a trust or other special fund for the segregation of the funds or assets resulting from contributions.

2002, c. 311; 2013, c. 463; 2015, cc. 538, 539.

§ 51.1-611. Participation by employees of political subdivisions in cash match plan of Virginia Retirement System

The Virginia Retirement System may enter into an agreement with any political subdivision of the Commonwealth to permit participation by the political subdivision's employees in the cash match

plan established and administered by the Board pursuant to § 51.1-607, except that political subdivisions of the Commonwealth otherwise participating in the retirement system pursuant to Article 5 (§ 51.1-130 et seq.) of Chapter 1 shall participate in the cash match plan established and administered by the Board pursuant to § 51.1-608 to the extent necessary to provide benefits under the hybrid retirement program described in § 51.1-169.

2002, c. 311; 2012, cc. 701, 823.

§ 51.1-612. Standards for cash match plans

No cash match plan shall become effective until the Board, county, municipality, authority or other political subdivision of the Commonwealth is satisfied, by opinion of its respective counsel, such federal agency or agencies as may be deemed necessary, or otherwise, that the contribution thereunder or the investment products purchased pursuant to the plan (i) will not be included in the employee's taxable income under federal or state law until it is actually received by the employee under the terms of the plan and (ii) that such contribution will not be deemed compensation at the time of the contribution for the purposes of social security coverage, for the purposes of the Virginia Retirement System, and for any other retirement, pension, or benefit program established by law.

2002, c. 311.

§ 51.1-613. Other retirement, pension, etc., systems not affected; annual report

Any cash match program established by this chapter, and any plan adopted hereunder, shall exist and serve in addition to any other retirement, pension, or benefit system established by the Commonwealth, its agencies, counties, municipalities, authority, or other political subdivisions, and shall not supersede, make inoperative, or reduce any benefits provided by the Virginia Retirement System or by any other retirement, pension, or benefit program established by law.

The Virginia Retirement System shall submit an annual report to the Governor and the General Assembly advising them of the condition of the fund administered by the Virginia Retirement System and all operational costs associated with such fund.

2002, c. 311.

Chapter 6.2 - PUBLIC SCHOOL TEACHER SUPPLEMENTAL RETIREMENT

§ 51.1-617. Definitions

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Trustees of the Virginia Retirement System.

"Eligible employee" means any turnaround specialist or member of the middle school teacher corps providing services for a participating public school division pursuant to subsections F and G of § 22.1-199.1.

"Participating employer" means any local public school board that offers and pays the costs of improved retirement benefits as described in subsections F and G of § 22.1-199.1.

"Plan" means the defined contribution plan established pursuant to this chapter and the provisions of § 401 (a) of the Internal Revenue Code of 1986, as amended.

"Qualified participant" means an eligible employee of a participating employer.

2004, c. 436.

§ 51.1-618. Defined contribution plan for eligible employees of local public school boards; administered by the Board

A. The Board shall establish and administer a defined contribution plan for eligible employees. The Director of the Virginia Retirement System shall be the chief administrative officer of the plan. The Board may contract with private corporations or institutions subject to the standards set forth in § 51.1-124.30 to provide investment products as well as any other goods and services related to the administration of the plan. The Virginia Retirement System is hereby authorized to perform related services including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, and asset purchase, control, and safekeeping.

B. If it deems it advisable, the Board may create a trust or other special fund for the segregation of the funds or assets resulting from contributions made on behalf of qualified participants.

C. Participating employers shall be responsible for setting the contribution rate for their eligible employees and timely transferring contributions to the private corporation or institution designated by the Board pursuant to subsection A.

2004, c. 436; 2008, c. 245.

Chapter 7 - FEDERAL SOCIAL SECURITY FOR STATE AND LOCAL EMPLOYEES

§ 51.1-700. Definitions

As used in this chapter, unless the context requires a different meaning:

"Agreement" means the federal-state agreement between the federal agency and the Commonwealth entered into on February 16, 1952, as authorized by this chapter, for the purpose of extending coverage under the Social Security Act and any subsequent modifications thereto.

"Applicable federal law" refers to provisions of federal law, including federal regulations and requirements issued pursuant thereto, that provide for extending the benefits of the Social Security Act and the Federal Insurance Contributions Act to employees of states and their political subdivisions.

"Board" means the Board of Trustees of the Virginia Retirement System.

"Employee tax" means the tax imposed by § 3101 of the Internal Revenue Code of 1986, as amended.

"Employer" means the Commonwealth or a political subdivision thereof, as defined in this chapter.

"Employment" means employment as defined in the Social Security Act as modified under the terms of the agreement and pursuant to the authority granted the state social security administrator under § 51.1-707.

"Federal agency" means the federal officer, department, or agency charged on behalf of the federal government with the particular federal functions referred to in this chapter in connection with such term.

"Federal Insurance Contributions Act" means subchapters A and B of Chapter 21 of the Internal Revenue Code of 1986, as amended.

"Local employee" means any officer or employee of a political subdivision and includes "special employees," which means a county or city treasurer, commissioner of revenue, attorney for the Commonwealth, clerk of court, sheriff, and a deputy or employee of any such officer.

"Modification" means an amendment to the original agreement to modify coverage for coverage groups or to extend coverage to additional coverage groups consistent with the provisions of Section 218 of the Social Security Act and this chapter.

"Plan of agreement" means an agreement between the state social security administrator and an employer for the purpose of extending the benefits of the Social Security Act to coverage groups within its employ.

"Political subdivision" includes an instrumentality of the Commonwealth or one or more of its political subdivisions, or of the Commonwealth and one or more of its political subdivisions, but only if such instrumentality is a juristic entity which is legally separate and distinct from the Commonwealth or a political subdivision and only if its employees are not by virtue of their relation to such juristic entity employees of the Commonwealth or a political subdivision. "Political subdivision" includes Indian tribes.

"Social Security Act" means the act of Congress approved August 14, 1935, Chapter 531, 49 Statutes 620, officially cited as the "Social Security Act," as such act has been and may be amended.

"State employee" means any person who is employed in the service of the Commonwealth but shall not include any member of the General Assembly or local employee.

"State social security administrator" means the Director of the Virginia Retirement System.

"Teacher" means any person who is regularly employed on a salaried basis as a professional or clerical employee of a county, city, or other local public school board.

"Wages" means all remuneration for employment, including the cash value of all remuneration paid in any medium other than cash, except that part of such remuneration which, even if it were paid for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act.

1952, cc. 2, 48, § 51-111.2; 1956, c. 561; 1980, c. 136; 1990, c. 832; 2005, c. 902.

§ 51.1-701. Rules and policies

The state social security administrator shall adopt rules and policies necessary or appropriate for the administration of this chapter.

1952, c. 2, § 51-111.8; 1990, c. 832; 2005, c. 902.

§ 51.1-702. Federal-state agreement

A. The state social security administrator, with the approval of the Governor, is hereby authorized to enter on behalf of the Commonwealth into an agreement with the federal agency to extend the benefits of the Social Security Act to employees of the Commonwealth and any political subdivision thereof, with respect to services specified in the agreement, which constitute employment. The agreement may contain such provisions relating to coverage, benefits, effective date, modification of the agreement, administration, and other appropriate provisions as the state social security administrator and federal agency shall agree upon, but, except as may be otherwise required by applicable federal law as to the services to be covered, the agreement shall provide in effect that:

1. Benefits shall be provided for employees whose services are covered by the agreement, and their dependents and survivors, on the same basis as though such services constituted employment within the meaning of the Social Security Act.

2. The employer shall pay to the Internal Revenue Service, at the time prescribed by applicable federal law, contributions with respect to wages equal to the applicable taxes which would be imposed by the "Rate of Tax" sections of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that act.

3. All services which constitute employment and are performed in the employ of the Commonwealth by state employees shall be covered by the agreement.

4. All services which (i) constitute employment, (ii) are performed in the employ of a political subdivision, and (iii) are covered by a plan of agreement which is in conformity with the terms of the agreement and has been approved by the state social security administrator, shall be covered by the agreement. Services rendered in the employ of a county, city, or other school board shall be covered by the agreement on the effective date specified therein not prior to January 1, 1951.

5. A political subdivision which is operating under a retirement system which it finances may continue the same or may apply for coverage of its employees under the agreement, or both.

B. The state social security administrator, with the approval of the Board, is authorized to submit and agree to modifications to the agreement relating to coverage, benefits effective dates, administration, and other appropriate provisions as the state social security administrator and the federal agency may agree upon.

1952, c. 2, § 51-111.3; 1956, c. 561; 1980, c. 647; 1984, c. 430; 1990, c. 832; 2005, c. 902.

§ 51.1-703. Interstate agreements

Any instrumentality jointly created by the Commonwealth and any other state or states is hereby authorized, upon the granting of like authority by such other state or states, (i) to enter into an agreement with the federal agency whereby the benefits of the Social Security Act shall be extended to employees of such instrumentality, (ii) to require its employees to pay (and for that purpose to deduct from their wages) contributions equal to the amounts which they would be required to pay under subsection A of § 51.1-704 if they were covered by an agreement made pursuant to § 51.1-702, and (iii) to make payments to the Internal Revenue Service in accordance with such agreement, including payments from its own funds, and otherwise to comply with such agreements. Such agreement shall, to the extent practicable, be consistent with the terms and provisions of § 51.1-702 and other provisions of this chapter.

1952, c. 2, § 51-111.3; 1956, c. 561; 1980, c. 647; 1984, c. 430; 1990, c. 832; 2005, c. 902.

§ 51.1-704. Contributions by state employees

A. Every employee of the Commonwealth whose services are covered by an agreement entered into under § 51.1-702 shall pay contributions, with respect to wages, equal to the applicable taxes which would be imposed by the "Rate of Tax" sections of the Federal Insurance Contributions Act if such services constituted employment within the meaning of that Act.

B. The contribution required by this section shall be collected by the Commonwealth by deducting the amount of the contribution from wages, but failure to make such deduction shall not relieve the employee from liability for such contribution.

1952, c. 2, § 51-111.4; 1990, c. 832; 2005, c. 902.

§ 51.1-705. Plans of agreement for coverage of employees of political subdivisions

A. Any political subdivision of the Commonwealth which desires coverage for its employees, shall submit a plan of agreement for extending the benefits of the Social Security Act to its employees to the state social security administrator for approval. The state social security administrator shall approve plans of agreement or amendments to plans of agreement that conform to the state social security administrator's rules and policies, except that no plan of agreement or amendment shall be approved or adopted unless it:

1. Conforms with the requirements of the applicable federal law and with the agreement entered into under § 51.1-702.

2. Provides that all services which constitute employment and are performed in the employ of the political subdivision by any employees thereof shall be covered by the plan of agreement.

3. Specifies the source from which the funds necessary to make the payments required by subsection C of this section are expected to be derived and contains reasonable assurance that the source will be adequate for such purpose.

4. Provides for the proper and efficient administration of the plan of agreement.

5. Provides that the political subdivision shall make such reports, in such form and containing such information, as the state social security administrator may require and comply with such provisions as the state social security administrator or the federal agency may find necessary to ensure the correctness and verification of such reports.

B. The state social security administrator shall not finally refuse to approve a plan of agreement submitted under subsection A without reasonable notice and opportunity for hearing to each political subdivision affected.

C. Each political subdivision which has a plan of agreement approved under this section shall pay to the Internal Revenue Service, at such time or times as may be required by applicable federal law, contributions with respect to wages, equal to the applicable taxes which would be imposed by the "Rate of Tax" sections of the Federal Insurance Contributions Act if the services covered by the agreement constituted employment within the meaning of that Act.

D. Every political subdivision required to make payments under subsection C is authorized to impose upon its employees, as to services which are covered by an approved plan of agreement, a contribution with respect to wages, not exceeding the amount of tax which would be imposed by the "Rate of Tax" sections of the Federal Insurance Contributions Act if such services constituted employment within the meaning of that Act and to deduct the amount of such contribution from wages. Failure to make such deduction shall not relieve the employee from liability for such contribution.

1952, c. 2, § 51-111.5; 1956, c. 561; 1977, c. 620; 1981, c. 479; 1982, c. 579; 1984, c. 430; 1990, c. 832; 2005, c. 902.

§ 51.1-706. Source of contributions

A. In the case of state employees, the employer contributions by the Commonwealth shall be wholly paid by the Commonwealth.

B. In the case of teachers, the Commonwealth shall reimburse the employing political subdivision for the cost of the employer contribution to the extent specified in the appropriations act.

C. In the case of special employees, the Commonwealth shall reimburse the employing political subdivision for the cost of the employer contribution to the extent the Commonwealth participates in paying the salary of the employee who is covered or to the extent it shares or would share in the excess receipts from such office.

1952, c. 2, § 51-111.6; 1984, c. 430; 1985, c. 129; 1990, c. 832 .

§ 51.1-707. Authority of state social security administrator

In addition to the authority granted elsewhere under this chapter, the state social security administrator is hereby authorized to carry out all the functions required of it by the Social Security Act in connection with the agreement, including but not limited to:

1. Administer and maintain the agreement;

2. Negotiate modification to include additional coverage groups, correct errors in modifications, make elections relating to optional coverage for election workers, conduct referenda and identify additional political subdivisions which join a covered retirement system;

3. Maintain the agreement, modifications, dissolutions, and intrastate agreements in a secured location;

4. Provide the federal agency with notice and evidence of the legal dissolution of a covered employer or coverage group within an employer;

5. Resolve coverage and taxation questions related to the agreement with the federal agency and the Internal Revenue Service;

6. Negotiate with the federal agency to resolve social security contribution payment and wage reporting questions concerning wages paid before 1987;

7. Provide information to state and local public employers covered under agreements in accordance with the Social Security Act;

8. Provide information to state and local public employers in accordance with this chapter and the rules and regulations, policies, procedures, and standards regarding nonsection 218 entities; and

9. Carry out any and all other administrative duties necessary to administer the agreement.

2005, c. 902.

Chapter 8 - LOCAL RETIREMENT SYSTEMS

Article 1 - GENERAL PROVISIONS

§ 51.1-800. Counties, cities, and certain towns to establish local systems or participate in Virginia Retirement System

A. Every county and city, and every town having a population of 5,000 or more, shall provide a retirement system for those officers and employees listed in subsection B either (i) by establishing and maintaining a local retirement system which provides a service retirement allowance to each employee who retires at age sixty-five or older which equals or exceeds two-thirds of the service retirement allowance to which the employee would have been entitled had the allowance been computed under the provisions of the Virginia Retirement System or (ii) by participating directly in the Virginia Retirement System.

B. The following persons shall be covered by a retirement system as provided in subsection A:

1. Officers and employees who are regularly employed full time on a salaried basis, whose tenure is not restricted to temporary or provisional employment.

2. Officers and employees who are regularly employed full time on a salaried basis, whose tenure is not restricted to temporary or provisional employment by an organization other than a public school board that functions solely within the boundaries of a county, city, or town, unless the cost

of the organization's operation is borne by (i) users of services, (ii) more than one county, city, or town, or (iii) an entity other than a county, city, or town.

3. Clerks of the circuit court and deputies or employees of such officers.

C. Nothing in this chapter shall be construed to prohibit a county, city, or town from participating in the Virginia Retirement System and establishing a local retirement system. If a locality participates in the Virginia Retirement System and establishes a local retirement system, pursuant to § 51.1-801, providing supplemental benefits to the state system, the local system shall not be required to satisfy the criterion established in clause A (i) of this section.

D. A county, city, or town shall not be required to provide retirement benefits to an employee who enters into an agreement with the local government for inclusion in a deferred compensation plan when the agreement specifically prohibits inclusion in any other retirement system established by the county, city, or town.

1952, c. 157, § 51-111.31; 1954, c. 241; 1958, c. 367; 1960, c. 400; 1973, c. 523; 1974, c. 353; 1975, c. 296; 1976, c. 581; 1977, c. 620; 1990, c. 832; 1991, c. 381; 1993, c. 866; 2006, c. 406.

§ 51.1-801. Counties, cities, and towns generally

The governing body of any county, city, or town may, by ordinance adopted by a recorded vote of a majority of the members elected, establish a retirement system. The retirement system may cover injured or retired officers and employees of the county, city, or town. Benefits may be payable to the officers and employees or their dependents, estates, or designated beneficiaries. The retirement system may provide for accrued vested or contractual rights thereunder. The local governing body may, through self-funding or the purchase of insurance and annuities, or a combination thereof, provide retirement allowances, death benefits, and group life insurance coverage for officers and employees of the county, city, or town and group accident and sickness insurance coverage for officers and employees of the county, city, or town and their dependents. The governing body may by ordinance establish a fund for the payment of retirement allowances, death benefits, and insurance and annuity premiums by appropriating funds from the treasury of the county, city, or town or by requiring employee contributions through payroll deductions, or both, or by any other mode not prohibited by law.

For the purposes of this section, the term "employees" may include teachers or other employees of county, city, and town school boards.

If any county, city, or town participates in the Virginia Retirement System and also establishes a local retirement system providing supplemental benefits to the employees covered under the Virginia Retirement System, the local system shall not be required to satisfy the retirement age and service criterion established in clause A (i) of § 51.1-800.

Code 1919, § 3035; 1932, p. 752; 1942, p. 178; 1944, p. 54; 1945, p. 74; 1946, p. 61; Code 1950, § 51-112; 1952, cc. 59, 587; 1959, Ex. Sess., c. 58; 1960, c. 404; 1968, c. 60; 1980, c. 135; 1989, Sp. Sess., c. 3; 1990, c. 832 .

§ 51.1-801.1. Portability of service credit between certain political subdivisions of the Commonwealth and the Virginia Retirement System or certain other political subdivisions of the Commonwealth

A. Any political subdivision of the Commonwealth which has a defined benefit plan that is not supplemental to the Virginia Retirement System may enter into an agreement with the Virginia Retirement System to permit any vested member of the Virginia Retirement System, upon entering service in a covered position and filing a written application with the political subdivision's plan, to purchase service credit, of an amount to be determined by the governing authority of the political subdivision's plan, in the political subdivision's plan. The purchase shall be accomplished by and upon the transfer of assets to the political subdivision's plan from the Virginia Retirement System as provided in the agreement.

B. Any political subdivision of the Commonwealth which has a defined benefit plan that is not supplemental to the Virginia Retirement System (the "transferor's plan") may enter into an agreement with any other political subdivision of the Commonwealth which has a defined benefit plan that is not supplemental to the Virginia Retirement System (the "transferee's plan") to permit any vested member of the transferor's plan, upon entering service in a covered position and filing a written application with the transferee's plan, to purchase service credit, of an amount to be determined by the governing authority of the transferee's plan, in the transferee's plan. The purchase shall be accomplished by and upon the transfer of assets to the transferee's plan from the transferor's plan as provided in the agreement.

1996, cc. 939, 990.

§ 51.1-802. Assets of retirement systems; exemption from taxation; execution and assignment

The assets of any retirement system established pursuant to this article, or by a city or town charter, are hereby exempted from any state, county, or municipal tax. The assets of a retirement system, retirement allowances, and other benefits accrued or accruing to any person under the provisions of this chapter, or under any city or town charter, shall not be subject to execution, attachment, garnishment, or any other process except for administrative actions pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 or any court process to enforce a child or child and spousal support obligation, nor shall any assignment thereof be enforceable in any court. However, retirement benefits and assets created under this title which are deemed to be marital property pursuant to Chapter 6 (§ 20-89.1 et seq.) of Title 20 may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to § 20-107.3.

Code 1919, § 3035; 1932, p. 752; 1942, p. 178; 1944, p. 54; 1945, p. 74; 1946, p. 61; Code 1950, § 51-112; 1952, cc. 59, 587; 1959, Ex. Sess., c. 58; 1960, c. 404; 1968, c. 60; 1980, c. 135; 1989, Sp. Sess., c. 3; 1990, c. 832; 1991, c. 433; 1992, c. 716 .

§ 51.1-803. Investments of retirement systems

A. If the governing body of any county, city, or town establishes a retirement system pursuant to the provisions of this article, any funds that may be allocated, segregated, or otherwise designated for the retirement system, which are on hand at any time and are not necessary for immediate payment of pensions or benefits, shall be invested with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with the same aims. Such investments shall be diversified so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so.

B. The selection of services related to the management, purchase, or sale of investments authorized by this section, including but not limited to actuarial services, shall be governed by the standard of care set forth in this section and shall not be subject to the provisions of the Virginia Public Procurement Act (§ 2.2-4300 et seq.) of Title 2.2.

C. In the case of an automatic rollover of a mandatory cash-out, as that term is defined under I.R.C. Section 401 (a) (31) (B) of the United States Internal Revenue Code of 1986 (including as such section is amended or renumbered or any successor provision thereto) and regulations thereunder applicable to governmental plans, the governing body shall not be liable for any loss resulting from the governing body's selection of an individual retirement plan provider and investment product where the selection is made in accordance with guidelines to be adopted by the governing body that are similar to the safe harbor guidelines adopted by the United States Department of Labor for this purpose.

1986, c. 196, § 51-112.1; 1990, c. 832; 1992, c. 810; 1995, c. 307; 1996, c. 508; 1997, c. 213; 2005, c. 196.

§ 51.1-804. In certain cities

Chapter 251 of the Acts of 1942, as amended by Chapter 81 of the Acts of 1946, codified as § 3035r of Michie Code 1942, relating to pensions, etc., for officers and employees of any city having a population of not less than 100,000 nor more than 170,000, and of any city adjoining a county having a density of population of more than 1,000 per square mile, is continued in effect.

1942, c. 251; 1946, c. 81; Code 1950, § 51-113; 1990, c. 832 .

§ 51.1-805. In certain counties

The following laws are continued in effect:

1. Chapter 111 of the Acts of 1942, codified as § 2733a of Michie Code 1942, as amended by Chapter 48 of the Acts of 1947, and as amended by Chapter 212 of the Acts of 1948, as amended by Chapter 555 of the Acts of 1950, as amended by Chapter 272 of the Acts of 1975, and as

amended by Chapter 88 of the Acts of 1980, authorizing a retirement system for the employees of Arlington County.

2. Chapter 303 of the Acts of 1944, as amended, authorizing a police retirement system for any county having the urban county executive form of government and previously recodified as Article 4 of Title 51, §§ 51-127.10 through 51-127.30.

3. Chapter 161 of the Acts of 1946, as amended by Chapter 184 of the Acts of 1956, and as amended by Chapter 268 of the Acts of 1958, providing for police and firemen's pensions and benefits in counties having a population in excess of 1,000 per square mile.

4. Chapter 282 of the Acts of 1946, as amended, authorizing police and firemen's pensions in Norfolk County was repealed by Chapter 296 of the Acts of 1950.

5. Chapter 278 of the Acts of 1946, as amended by Chapter 184 of the Acts of 1956, and as amended by Chapter 267 of the Acts of 1958, providing for employees' pensions and benefits in counties having a population in excess of 1,000 per square mile.

6. Chapter 4 of the Acts of 1947, as amended by Chapter 490 of the Acts of 1950, providing for a system of pensions, etc., for the officers and employees of any county adjoining a county having a population of more than 1,000 per square mile.

Chapter 45 of the Acts of 1948, as amended by Chapter 492 of the Acts of 1950, authorizing the establishment of a retirement and pension plan for the employees of any county adjoining a county having a population of more than 1,000 per square mile, is hereby incorporated in this section by this reference.

1936, c. 224; 1942, c. 111; 1944, p. 437; 1946, cc. 161, 278, 282; 1947, cc. 4, 21, 48; 1948, cc. 45, 212; Code 1950, §§ 51-114, 51-127.10 through 51-127.30; 1950, cc. 296, 490, 492, 555; 1952, c. 421; 1952, Ex. Sess., c. 6; 1954, c. 432; 1956, c. 184; 1958, cc. 18, 76, 267, 268; 1962, c. 485; 1966, c. 351; 1968, c. 180; 1970, c. 599; 1972, c. 529; 1973, c. 499; 1974, c. 439; 1975, c. 272; 1976, c. 197; 1980, cc. 88, 700; 1981, c. 595; 1990, c. 832 .

§ 51.1-806. Reimbursement by Commonwealth for portion of employer contribution on account of certain officers and employees

Any county or city operating a local retirement system which does not participate in the Virginia Retirement System and which defines as "compensation" the full compensation payable or fees earnable by its county and city treasurer, attorney for the Commonwealth, commissioner of the revenue, clerk of court, sheriff, and a deputy or employee of any such officer may be reimbursed for a portion of the employer contribution paid on behalf of any such officer, deputy, or employee. In such cases, the political subdivision shall, at least biennially, submit to the Compensation Board information required by the Board's actuary for computing, at the expense of the employing political subdivision, the employer contribution rate that would be applicable if all such officers, deputies, or employees thereof were members of the Virginia Retirement System. The Retirement

Board shall compute the employer contribution rate on the assumption that no service prior to the computation date was creditable, and no assets were allocable to such members. The political subdivision shall be reimbursed by the Compensation Board on the basis on which the Commonwealth pays the salaries of such officer, deputy, or employee or shares, or would share, in the excess fees from the office.

1958, c. 368, § 51-114.2; 1960, c. 486; 1966, c. 174; 1990, c. 832 .

Article 2 - MEMBERS OF POLICE DEPARTMENTS

§ 51.1-807. Police officers' pension and retirement boards

Any county, city, or town in this Commonwealth having a police department may establish, in the manner hereinafter provided, a board to be known as the "police officers' pension and retirement board." The board shall be a body corporate and consist of five members. One member shall be the treasurer of the county, city, or town and shall also be the treasurer of the board. Two members shall be elected by the majority vote of the members of the police department, one for a term of four years and one for a term of two years, and all successors in office of the one elected for two years shall be elected for terms of four years. Two members shall be appointed by the governing body for terms of four years.

When any board is established, it shall, at its first meeting and annually thereafter, elect one of the members as president and one as secretary. The board may also elect a vice-president.

1940, p. 737; Michie Code 1942, § 3035d; Code 1950, § 51-115; 1990, c. 832 .

§ 51.1-808. Powers, authority, and duties of board

The general powers, authority, and duties of any police officers' pension and retirement board shall be as follows:

1. To adopt bylaws and regulations which the board deems necessary to conduct its affairs;

2. To provide for appropriate clerical, legal, medical, and other services and to pay reasonable compensation for such services;

3. To require deductions from the salaries of active and paid members of the police department and to pay certain percentages of salaries, as hereinafter specified, into the treasury of the board to raise funds for the necessary purposes of the board in the administration of its affairs;

4. To draw warrants on the treasurer of the board, for the payment of pensions, benefits, and administrative costs. Warrants shall be signed in the name of the board and countersigned by its president; and

5. Upon request by the policemen's pension and retirement board, the governing body of the county may by ordinance amend the retirement plan and trust at any time for the purpose of defining, enlarging and improving the benefits that any member thereof may receive and shall by ordin-

ance amend the retirement plan and trust at any time for the purpose of compliance with federal or state law.

1940, p. 738; Michie Code 1942, § 3035e; Code 1950, § 51-116; 1990, c. 832; 1994, c. 523.

§ 51.1-809. Treasurer of board

The treasurer of the board shall be the custodian of the board's funds and securities and shall give bond, payable to the board, in such amount and with such surety as the board requires, conditioned for the faithful performance of duties and the proper accounting for all funds and securities which the treasurer receives. The cost of the bond shall be paid out of the funds of the board. The treasurer shall disburse board funds on warrants drawn on him by the board, and signed and countersigned by the board's president.

1940, p. 738; Michie Code 1942, § 3035f; Code 1950, § 51-117; 1990, c. 832 .

§ 51.1-810. Time credited to service record

The time of service of any member of a police department having a police pension and retirement board prior to June 22, 1940, shall be computed to the credit of the member's service record; however, the pension amount payable shall be determined by that proportion of the amounts provided for by this chapter, which the time of service of such member serving in the police department at the time of his retirement, or disability, bears to twenty years.

1940, p. 738; Michie Code 1942, § 3035g; Code 1950, § 51-118; 1990, c. 832 .

§ 51.1-811. Eligibility for retirement; retirement allowance

Any member of a police department who has completed twenty years of service in the department and attained the age of fifty years may retire and receive the pension and benefits provided in this section. Upon retirement, a member shall receive a retirement allowance, payable to the member for life, equal to fifty percent of the member's annual salary, computed on the basis of the last three years of service and an additional amount equal to two percent of the member's salary for each year of service after the age of fifty and after twenty years of service in the department.

1940, p. 738; Michie Code 1942, § 3035i; Code 1950, § 51-120; 1990, c. 832 .

§ 51.1-812. Disability from natural causes not originating in performance of official duties

Any member disabled on account of a natural cause or causes not originating in the performance of the member's official duties shall receive a minimum sum equal to ten percent of the member's salary, during such disability, if the member's disability occurs at any time during the first five years of service and an additional amount equal to two percent of the member's salary for each additional year of service exceeding five years. At no time shall the disability payment amount exceed one-half of the member's salary.

1940, p. 739; Michie Code 1942, § 3035j; Code 1950, § 51-121; 1990, c. 832 .

§ 51.1-813. Disability resulting from activities in discharge of official duties

If any member of a police department of a county, city, or town, other than the City of Richmond, which has a pension plan becomes disabled as a result of activities in the discharge of the member's official duties, the member shall receive, as pension and benefits during such disability, the sum of not less than sixty-six and two-thirds percent of the member's salary until eligible to retire under age and service retirement. The member shall then be retired on the age and service pension as provided in § 51.1-811.

Any member of a county, city, or town police department or any sheriff or deputy sheriff who dies or is totally or partially disabled as a result of hypertension or heart disease shall be presumed to have died or become disabled in the line of duty, unless the contrary is shown by a preponderance of competent evidence. To be eligible, or for a beneficiary to be eligible, for retirement, sickness, or other benefit payments based upon such presumption, a member, sheriff, or deputy sheriff shall, before the claim was filed, have had a physical examination and been found free from hypertension or heart disease. The physical examination shall have included such appropriate laboratory and other diagnostic studies as the governing body prescribed and shall have been conducted by physicians whose qualifications were prescribed by the governing body. Any member, sheriff, or deputy sheriff filing a claim for such benefits based upon disability incurred in the line of duty shall, if requested by the governing body, submit to a physical examination by any physician designated by the governing body. The examination may include such tests or studies as may reasonably be prescribed by the designated physician or, in the case of a claim for death benefits, include a postmortem examination to be performed by the medical examiner for the county, city, or town appointed under § 32.1-282. The member or claimant shall have the right to have present at such examination, at his own expense, any qualified physician he may designate.

Michie Code 1942, § 3035k; Code 1950, § 51-122; 1950, p. 739; 1973, c. 499; 1974, c. 94; 1976, c. 772; 1978, c. 769; 1982, c. 581; 1990, c. 832 .

§ 51.1-814. Employing such presumption in determining eligibility for benefits

The presumption established in § 51.1-813 shall be employed in determining eligibility for death, retirement, sickness, and other benefits, provided pursuant to any other provision of law, the charter of any city or town, or otherwise, for any member of a county, city, or town police department or sheriff or deputy sheriff who dies or becomes totally or partially disabled.

1976, c. 772, § 51-122.1; 1990, c. 832 .

§ 51.1-815. Counties, cities, and towns authorized to provide relief to surviving spouse and children

Any county, city, or town may provide for the relief of any children and surviving spouse of any law-enforcement officer, sheriff, or deputy sheriff who dies while in the service of the county, city, or town. If any policeman loses his life while in the discharge of official duties, there shall be paid to the surviving spouse until death, or remarriage, a pension of not less than one-half of the policeman's salary at the time of death. The relief provided shall be exclusive of any payment out of the general fund of the state treasury pursuant to § 9.1-400 et seq.

1940, p. 738; Michie Code 1942, § 3035h; Code 1950, § 51-119; 1976, c. 772, § 51-122.2; 1990, c. 832 .

§ 51.1-816. Reduction of pension and benefits where income earned during disability retirement

If any person receives a disability pension or benefit under this article and subsequently becomes employed, whether full time or part time, the pensions and benefits received shall be reduced by the amount of income received which exceeds the difference between the benefits received under this section and the amount of pay to which the member would have been entitled had the member's employment progressed in the same rank and grade with credit for the level of seniority the member would have attained had the member not been disabled. The reduction shall continue until the member would have been eligible for normal retirement, based on age and service, had the member remained uninjured and employed. For the purposes of this section, "income" means gross income received less deductions for social security taxes only.

Any person receiving pensions or benefits under the provisions of this section shall upon request, on or before May 1 of each year, provide a copy of all W-2 forms showing income received, or a statement under oath as to whether the member has received compensation for work performed in the previous calendar year, to the governing body of the jurisdiction providing this pension. Refusal to provide such documents shall be grounds for termination of benefits under this section until such documents are produced. Production of the documents shall be required until the person would have been eligible for normal retirement had the member remained uninjured.

Nothing contained in this section shall limit or restrict the right of any person to receive Workers' Compensation benefits under Title 65.2.

1983, c. 351, § 51-122.3; 1990, c. 832 .

§ 51.1-817. Salary deductions payable to estate or refunded

If any police officer dies while in active service and leaves no dependents, the member's salary deductions shall be payable to the member's estate. If any police officer separates from service before becoming eligible for a pension, seventy-five percent of salary deductions shall be refunded to the member.

1940, p. 739; Michie Code 1942, § 3035l; Code 1950, § 51-124; 1990, c. 832 .

§ 51.1-818. Funds for payment of pensions and benefits

Any and all cash assets and funds not necessary for immediate payment of pensions or benefits shall be invested in securities that are legal investments under the laws of the Commonwealth for public sinking funds. Any funds raised by any police officers' pension and retirement board for the payment of pensions and benefits shall be paid over to the treasurer of such board who shall deposit and pay the funds as provided in this section to the credit of the board.

1940, p. 739; Michie Code 1942, § 3035n; Code 1950, § 51-125; 1956, c. 184; 1990, c. 832 .

§ 51.1-819. Adoption of article optional by counties, cities, and towns; appeal

Any county, city, or town in this Commonwealth having a police department may adopt the provisions of this article and establish a police officers' pension and retirement board if the governing body of the county, city, or town adopts a resolution approved by a majority of all the members thereof, by a recorded yea and nay vote.

Upon adoption of a resolution and establishment of the police officers' pension and retirement board, the board shall be vested with all the powers, authority, and duties established under this article.

A member shall be entitled to an appeal of right to the circuit court of the county or city which has jurisdiction of the board from any action on any matter in which the board has discretionary power.

1940, pp. 739, 740; Michie Code 1942, § 3035o; Code 1950, §§ 51-126, 51-126.1; 1990, c. 832 .

§ 51.1-820. Police officers' pensions and retirements

All of the provisions of this article, including all authorizations and all requirements, shall apply to all counties having the county manager plan of government, except Arlington County.

1974, c. 63, § 51-127.9; 1975, c. 272; 1990, c. 832 .

Article 3 - COUNTIES HAVING URBAN COUNTY EXECUTIVE FORM OF GOVERNMENT

§ 51.1-821. Police Retirement System

Prior §§ 51-127.10 through 51-127.30 are continued in effect under subdivision 2 of § 51.1-805 as Chapter 303 of the Acts of Assembly of 1944, as amended.

1990, c. 832 .

§ 51.1-822. Amendment, suspension, or revocation of retirement plan and trust

The governing body of any county with an urban county executive form of government may by ordinance reserve the right to amend, suspend, or revoke the retirement plan and trust at any time, so long as the benefits payable under the plan are consistent with § 51.1-800. However, any amendment, suspension, or revocation shall not have the effect of diverting the trust fund to purposes other than the exclusive benefit of the participating employees or their beneficiaries until all liability for accrued benefits payable under the terms of the plan has been fully satisfied.

1990, c. 832 .

§ 51.1-823. Appeal

An appeal of right from the action of the retirement board of any county having an urban county executive form of government on any matter in which the board has discretionary power shall lie to the circuit court of the county which has jurisdiction of the board.

1990, c. 832 .

Chapter 9 - CONFEDERATE VETERANS

§ 51.1-900. Repealed

Repealed by Acts 2009, c. 33.

Chapter 10 - DISCLOSURE REQUIREMENTS FOR PUBLIC RETIREMENT SYSTEMS

§ 51.1-1000. All state and local plans included

All automated retirement systems administered by the Board of Trustees of the Virginia Retirement System and all automated retirement systems administered by the localities (hereinafter referred to as retirement systems) have a duty to report and disclose certain material information and data to the retirement systems' members and beneficiaries. Such retirement systems shall cause to be furnished to each member covered under the retirement systems' plans and to each beneficiary who is receiving benefits under the retirement systems' plans the following:

1. A summary plan description (SPD) that contains all or substantially all the information an average member would deem crucial to possess a knowledgeable understanding of his benefits under the plan;

2. A statement of benefits that indicates, on the basis of the latest available information: (i) his total accrued benefits and (ii) his nonforfeitable accrued retirement benefits, if any, or the earliest date on which benefits will become nonforfeitable; and

3. A document disclosing material soft dollar transactions (arrangements not negotiated at arm's length or dealings between the retirement systems' fund managers and persons providing services to the systems for noncash considerations) in which the fund managers have engaged. "Material" means transactions wherein it could be asserted that a conflict of interests or an appearance of impropriety was a factor in making the determination of which outside provider of services would be contracted and which involved a transaction or course of dealings involving $10,000 or more. This disclosure document shall not be a part of the retirement system's annual report, but shall be prepared as an annual supplement and made available to the public upon request. Local retirement systems may publish such disclosure document with their annual reports.

1990, c. 706; 1991, c. 612; 2004, c. 209.

§ 51.1-1001. Summary plan description

A. A summary plan description shall contain the following information: the name and type of administration of the retirement system; the name and address of the person designated as agent for the service of legal process, if such person is not the administrator; the name and address of the administrator; names, titles and addresses of any trustee or trustees (if they are persons different from the administrator); the retirement system's requirements respecting eligibility for membership and benefits; and description of the provisions providing for nonforfeitable pension benefits; circumstances which may result in disqualification, ineligibility, or denial or loss of benefits; the source of financing of the retirement system and the identity of any organization through

which benefits are provided; the date of the end of the retirement system plan year and whether the records of the retirement system are kept on a calendar, policy, or fiscal year basis; the procedures to be followed in presenting claims for benefits and the remedies available for the redress of claims which are denied in whole or in part.

B. The summary plan description shall be written in a manner calculated to be understood by the average retirement system member and beneficiary and shall be sufficiently comprehensive to apprise the members and beneficiaries of their rights and obligations under the retirement system plan.

C. Every member and beneficiary shall be furnished a summary plan description within 90 days of becoming a member or beneficiary, and every member and beneficiary shall be furnished an updated summary plan description within 210 days after the end of the retirement system plan year in which a material modification or change in the retirement system or its plan occurs. No charge shall be made for furnishing a copy of the SPD under this subsection.

D. Upon written request, the latest updated summary plan description shall be furnished to any member or beneficiary. A reasonable charge may be made to cover the cost of furnishing an SPD under this subsection.

1990, c. 706; 2004, c. 209.

§ 51.1-1002. Annual statement of benefits

Every member or beneficiary shall be furnished with an annual statement of benefits as provided in § 51.1-1000 after the end of the retirement system's plan year.

1990, c. 706; 2004, c. 209.

§ 51.1-1003. Financial reports by retirement systems; auditor to promulgate standards

A. Every retirement system shall publish an annual report, which shall contain statements prepared in conformance with the standards for public employee retirement systems issued by the Governmental Accounting Standards Board. Such annual report need not contain the disclosure document reporting soft dollar transactions as provided in subdivision 3 of § 51.1-1000, which may be provided as a separate annual supplemental document, but the annual report shall include a certification that such system is in compliance with criterion (i) of subsection A of § 51.1-800. Every retirement system shall transmit its annual report to the Virginia Retirement System at the same time such report is made available to members and beneficiaries.

B. The Auditor of Public Accounts shall incorporate GASB standards for financial reporting by public employee retirement systems into the Uniform Financial Reporting Manual and such incorporation of standards shall be implemented on or before July 1, 1991. All retirement systems' annual reports for retirement system plan years beginning on and after January 1, 1992, shall comply with the Auditor's Uniform Financial Reporting Manual. As GASB standards are modified or changed, the Auditor and the retirement systems shall update their standards and reports as may be necessary to ensure accurate and complete disclosure to members and beneficiaries.

1990, c. 706; 1991, cc. 381, 612; 2004, c. 209.

§ 51.1-1004. Use of electronic media

A. The duty to report and disclose material information and data to members and beneficiaries imposed by this chapter on the Virginia Retirement System and other notice requirements imposed by this title on the Virginia Retirement System may be satisfied by use of electronic media if the conditions established by the Board of Trustees of the Virginia Retirement System for this purpose are met.

B. The duty to report and disclose material information and data to members and beneficiaries imposed by this chapter on any "retirement system" other than the Virginia Retirement System may be satisfied by use of electronic media if the conditions established by the board of such retirement system for this purpose are met.

C. The conditions established by any retirement system board shall require that the retirement system take appropriate and necessary measures reasonably calculated to ensure that the electronic media used results in the actual receipt of the transmitted information and protects the confidentiality of personal information relating to the individual's accounts and benefits.

2004, c. 209.

Chapter 11 - SICKNESS AND DISABILITY PROGRAM

Article 1 - GENERAL PROVISIONS

§ 51.1-1100. Definitions

As used in this chapter, unless the context requires a different meaning:

"Act" means the Virginia Workers' Compensation Act (§ 65.2-100 et seq.).

"Company" means an insurance company issuing a long-term disability insurance policy purchased by the Board pursuant to this chapter.

"Disability" means a partial disability or total disability.

"Disability benefit" means income replacement payments payable to a participating employee under a short-term or long-term disability benefit program pursuant to this chapter. Disability benefits do not include benefits payable under the Act.

"Eligible employee" means (i) a state employee as defined in § 51.1-124.3 who is a member of the retirement system, including the hybrid retirement program described in § 51.1-169; (ii) an employee as defined in § 51.1-201; (iii) an employee as defined in § 51.1-212; or (iv) a qualifying part-time employee. Any person participating in a plan established pursuant to § 51.1-126, 51.1-126.1, 51.1-126.4, 51.1-126.5, 51.1-502.1, or 51.1-502.3 shall not be an eligible employee. Employees of the University of Virginia Medical Center covered under the basic insurance policies purchased by the Medical Center shall not be considered eligible employees under this chapter,

unless the University of Virginia Board of Visitors, or a duly authorized agent or representative of the Board of Visitors, purchases such insurance policies from the Virginia Retirement System.

"Existing employee" means an employee who elected to participate in the Virginia Sickness and Disability Program.

"Partial disability" exists during the first 24 months following the occurrence or commencement of an illness or injury when an employee is earning less than 80 percent of his predisability earnings and, as a result of an injury or illness, is (i) able to perform one or more, but not all, of the essential job functions of his own job on an active employment or a part-time basis; or (ii) able to perform all of the essential job functions of his own job only on a part-time basis.

"Participating employee" means any eligible employee required or electing to participate in the program.

"Program" means the program providing sick leave, family and personal leave, short-term disability, and long-term disability benefits for participating employees established pursuant to this chapter.

"Qualifying part-time employee" means any person who would qualify as a state employee as defined in § 51.1-124.3 but, rather than being regularly employed full time on a salaried basis, is regularly employed part time for at least 20 hours but less than 40 hours per week on a salaried basis.

"State service" means the employee's total period of state service as an eligible employee, including all periods of classified full-time and classified part-time service and periods of leave without pay, but not including periods during which the employee did not meet the definition of an eligible employee.

"Total disability" exists (i) during the first 24 months following the occurrence or commencement of an illness or injury if an employee is unable to perform all of his essential job functions or (ii) after 24 months following the occurrence or commencement of an illness or injury if an employee is unable to perform any job for which he is reasonably qualified based on his training or experience and earning less than 80 percent of his predisability earnings.

"Work-related injury" means an injury, as such term is defined in § 65.2-101, to a participating employee for which benefits are payable under the Act and the Commonwealth is the employer for purposes of the Act.

In addition to the definitions listed above, the definitions listed in § 51.1-124.3 shall apply to this chapter except as otherwise provided.

1998, c. 774; 1999, c. 144; 2000, c. 889; 2001, c. 694; 2012, cc. 701, 823; 2013, c. 463; 2015, c. 660.

§ 51.1-1101. Sickness and disability program; disability insurance policies

A. The Board shall develop, implement, and administer a sick leave, short-term disability, and long-term disability benefits program in accordance with the provisions of this chapter. The Board is authorized to delegate or assign to any person any of the duties required to be performed by the Board pursuant to this chapter. The Board is authorized to purchase long-term disability insurance policies for participating employees. The policies shall be purchased from and carried with a disability insurance company which is authorized to do business in the Commonwealth. Each policy shall contain a provision stipulating the maximum expense and risk charges that are determined by the Board to be on a basis consistent with the general level of charges made by disability insurance companies under policies of long-term disability insurance issued to large employers. The Board may require that the policies have reinsurance with a disability insurance company incorporated or organized under the laws of and authorized to do business in the Commonwealth. This section is not intended to abrogate the final authority of the Director of the Department of Human Resource Management under subdivision A 13 of § 2.2-1201 to establish and interpret personnel policy and procedures, such as the sick leave policy.

B. Notwithstanding the provisions of subsection A, the Board may self-insure long-term disability benefits in accordance with the standards set forth in § 51.1-124.30.

1998, c. 774; 1999, c. 144; 2000, cc. 66, 657; 2012, cc. 803, 835.

§ 51.1-1102. Additional powers of the Board

In addition to any other powers granted to the Board under this title, the Board shall have the powers to:

1. Establish policies and procedures to implement and administer the program and the provisions of this chapter;

2. Contract for the provision of comprehensive case management;

3. Take all other actions necessary for the implementation and administration of the program; and

4. Adopt rules and policies that bring the program into compliance with any applicable law or regulation of this Commonwealth or the United States.

1998, c. 774.

§ 51.1-1103. Participation in the program

A. All prior elections to participate in the program shall be irrevocable.

B. 1. Except for eligible employees who are employed by an institution of higher education in a faculty position performing teaching, research or administrative duties, all eligible employees commencing employment or who are reemployed on or after January 1, 1999, shall participate in the program. The effective date of participation in the program for such employees shall be their first day of employment.

2. Except for such employees of an institution of higher education, all eligible employees not participating in the program prior to October 1, 2002, shall participate in the program effective

January 10, 2003, unless such employee elects not to participate in the program as provided herein. An election not to participate shall be in writing, and on forms prescribed by the Retirement System, and shall be received by the Retirement System during the period commencing on October 1, 2002, but before January 1, 2003. An election not to participate in the program shall be irrevocable and such employee shall be ineligible to participate in the program for the period of his continued employment by the Commonwealth except that any such employee who elects to participate in the hybrid retirement program described in § 51.1-169 shall participate in the program.

C. Any eligible employee who is employed by an institution of higher education in a faculty position performing teaching, research or administrative duties may elect to participate in the program established under this chapter or under an existing program provided by the institution. Any eligible employee who is (i) employed by an institution of higher education in a faculty position performing teaching, research or administrative duties prior to October 1, 2002, and (ii) not participating in the program, shall participate in the program established under this chapter effective January 10, 2003, unless such employee elects not to participate in the manner provided in subdivision B 2. Any eligible employee of an institution of higher education in a faculty position performing teaching, research or administrative duties employed or reemployed on or after October 1, 2002, shall participate in the program unless such employee elects not to participate in the program, in writing and on such forms as prescribed by the Retirement System, within 60 days from the time of entry upon the performance of his duties. The effective date of participation in the program for such employee shall be the first day following the expiration of such 60-day period or January 10, 2003, whichever is later.

Any eligible employee under this subsection shall participate in the sickness and disability program established by his institution of higher education until such time as the employee participates in the program established under this chapter. If the institution of higher education has not established its own sickness and disability program, such eligible employee shall participate in the program established under this chapter effective on his first day of employment.

An election not to participate in the program established under this chapter shall be irrevocable and such employee shall be ineligible to participate in the program for the period of his continued employment by the Commonwealth.

D. Notwithstanding any provision to the contrary, no participating employee commencing employment or reemployment on or after July 1, 2009, shall receive benefits under Article 3 of this Chapter (Nonwork Related Disability Benefits) until the participating employee completes one continuous year of active employment or reemployment.

E. The provisions of this subsection shall apply to any eligible employee who participates in the program under the provisions of subdivision B 2 or subsection C. Any eligible employee, including a person employed by an institution of higher education in a faculty position performing teaching,

research or administrative duties, who (i) is a member of the Retirement System, and (ii) commenced employment or was reemployed prior to January 1, 1999, shall have his sick leave balances, as of the effective date of coverage in the program, converted to disability credits, as provided in subsection F.

F. Any eligible employee converting his sick leave balance as provided in subsection E shall receive one hour of disability credit for each hour of sick leave. Disability credits shall be used to continue periods for which the participating employee receives income replacement during periods of short-term and long-term disability at 100 percent of creditable compensation. Disability credits shall be reduced by one day for each day that the participating employee receives short-term or long-term disability benefits.

G. Upon retiring directly from state service and receiving an immediate annuity, the eligible employee's unused disability credits shall be converted to service credit under the Retirement System at the rate of one month of service for each 173 hours of disability credits, rounded to the next highest month, unless the employee elects to be paid for the balance of such disability credits under the same terms and subject to the same conditions as are in effect for the payment of sick leave benefits in the employee's agency on December 31, 1998. Upon leaving state service under any other circumstances, the employee shall be paid for the balance of such disability credits under the same terms and subject to the same conditions as are in effect for the payment of sick leave benefits in the employee's agency on December 31, 1998, unless he elects to have such credits converted to service credit under the Retirement System at the rate of one month of service for each 173 hours of disability credits, rounded to the next highest month. Upon entry into long-term disability, the employee may be paid for the balance of such disability credits under the same terms and subject to the same conditions in effect for payment of sick leave benefits in the employee's agency as of December 31, 1998.

H. Eligibility for participation in the program shall terminate upon the earliest to occur of an employee's (i) termination of employment, (ii) death, or (iii) retirement from service. Eligibility for participation in the program shall be suspended during periods that an employee is placed on nonpay status, including leave without pay, if such nonpay status is due to suspension pending investigation or outcome of employment-related court or disciplinary action.

1998, c. 774; 1999, c. 144; 2000, c. 889; 2002, cc. 663, 697; 2004, c. 186; 2010, c. 750; 2013, c. 463.

Article 2 - SICK LEAVE AND FAMILY AND PERSONAL LEAVE

§ 51.1-1104. Sick leave benefit for participating employees

A. On the effective date of coverage for existing employees, and thereafter on each January 10, existing participating full-time employees shall receive an amount of sick leave based on the employee's number of months of state service as an eligible employee, as follows:

Months of state service	Number of hours
Less than 60	64
60 to 119	72
120 or more	80

B. Participating full-time employees, except for those described in subsection A, shall receive an initial amount of sick leave at the time their employment or reemployment commences, as follows:

Date employment commenced	Number of hours
January 10 through July 9	64
July 10 through January 9	40

Thereafter, on each January 10 such employees shall receive an amount of sick leave as provided in subsection A.

C. On the effective date of coverage for existing qualifying part-time employees, and thereafter on each January 10, existing participating qualifying part-time employees shall receive an amount of sick leave based on the employee's number of months of state service as an eligible employee, as follows:

Months of state service	Number of hours
Less than 120	32
120 or more	40

D. Participating qualifying part-time employees, except for those described in subsection C, shall receive an initial amount of sick leave at the time their employment or reemployment commences, as follows:

Date employment commenced	Number of hours
January 10 through July 9	32
July 10 through January 9	20

Thereafter, on each January 10 such employees shall receive an amount of sick leave as provided in subsection C.

E. Any partial calendar month during which a participating employee was employed shall constitute one month of state service for purposes of this section.

F. Participating employees shall not be paid or otherwise compensated upon leaving employment for any balance of unused sick leave provided to them under this section.

G. Unused balances of sick leave granted under this section shall not be carried forward beyond the calendar year in which such leave is granted.

H. Employees receiving disability benefits on January 10 of any year shall be granted sick leave for such year on the date they return to active employment. The amount of sick leave granted for such

year shall be determined as if they were continuing employment on the date of their return to work as provided in subsections A through D.

1998, c. 774; 1999, c. 144; 2000, c. 889.

§ 51.1-1105. Use of sick leave by participating employees

Participating employees shall be eligible to take sick leave to account for absences due to an incident, illness, or injury for periods when disability benefits are not payable. Participating employees shall be compensated by their employers at 100 percent of creditable compensation for each hour of sick leave taken, not to exceed the employee's sick leave balance.

1998, c. 774; 1999, c. 144; 2000, c. 889.

§ 51.1-1106. Sick leave benefit for nonparticipating employees

Eligible employees subject to personnel policies of the Department of Human Resource Management who elect not to participate in the program shall receive sick leave benefits in accordance with policies of the Department of Human Resource Management. Eligible employees not subject to personnel policies of the Department of Human Resource Management who elect not to participate in the program shall receive sick leave benefits in accordance with policies of their appointing authority.

1998, c. 774; 2000, cc. 66, 657; 2002, cc. 663, 697.

§ 51.1-1107. Family and personal leave benefit

A. On the effective date of coverage for existing employees, and thereafter on each January 10, existing participating employees shall receive an amount of family and personal leave based on the number of months of state service as an eligible employee, as follows:

Months of state service	Number of hours
Less than 120	32
120 or more	40

B. Any partial calendar month during which a participating employee was employed shall constitute one month of state service for purposes of this section.

C. Participating employees, except for those described in subsection A, shall receive an initial amount of family and personal leave at the time their employment or reemployment commences, as follows:

Date employment commenced	Number of hours
January 10 through July 9	32
July 10 through January 9	16

Thereafter, on each January 10 such employees shall receive an amount of family and personal leave as provided in subsection A.

D. Participating employees shall not be paid or otherwise compensated upon leaving employment for any balance of unused family and personal leave provided to them under this section.

E. Unused balances of family and personal leave granted under this section shall not be carried forward beyond the calendar year in which such leave is granted.

F. Employees receiving disability benefits on January 10 of any year shall be granted family and personal leave for such year on the date they return to active employment. The amount of family and personal leave granted for such year shall be determined as if they were continuing employment on the date of their return to work as provided in subsections A, B and C.

1998, c. 774; 1999, c. 144; 2000, c. 889.

§ 51.1-1108. Use of family and personal leave

A. Participating employees shall be eligible to take family and personal leave to account for absences due to a short-term incident, illness or death of a family member, or other personal need. Participating employees shall be compensated by their employers at 100 percent of creditable compensation for each hour of family and personal leave taken, not to exceed the employee's family and personal leave balance.

B. Family and personal leave may be taken for any permitted purpose at the sole discretion of the participating employee, provided that the employee gives reasonable prior notice to his immediate supervisor and the immediate supervisor does not inform the employee that his taking the leave will materially impede the ability of the employing agency to perform a critical function due to an emergency or exigent circumstances.

1998, c. 774.

Article 3 - NONWORK RELATED DISABILITY BENEFITS

§ 51.1-1109. Applicability of article

The provisions of this article shall apply only with respect to the disability programs providing disability benefits for disabilities not resulting from work-related injuries.

1998, c. 774.

§ 51.1-1110. Short-term disability benefit

A. Except as provided in subsection D of § 51.1-1103, short-term disability benefits for participating employees shall commence upon the expiration of a seven-calendar-day waiting period. The waiting period shall commence the first day of a disability or of maternity leave. If an employee returns to work for one day or less during the seven-calendar-day waiting period but cannot continue to work, the periods worked shall not be considered to have interrupted the seven-calendar-day waiting period. Additionally, the seven-calendar-day waiting period shall not be considered to be interrupted if the employee works 20 hours or less during the waiting period. Short-term disability benefits payable as the result of a catastrophic disability or major chronic condition shall not require a waiting period.

B. Except as provided in subsections C and E of this section and § 51.1-1131, short-term disability coverage shall provide income replacement for a percentage of a participating employee's

creditable compensation during the period specified below that an employee is disabled, on maternity leave, or takes periodic absences due to a major chronic condition, as determined by the Board or its designee, based on the number of months of state service as an eligible employee, as follows:

Months of state service	Work days of 100% replacement of creditable compensation	Work days of 80% replacement of creditable compensation	Work days of 60% replacement of creditable compensation
Less than 60	5	20	100
60 to 119	25	25	75
120 to 179	25	50	50
180 or more	25	75	25

C. For all eligible employees commencing employment or reemployment on or after July 1, 2009, except as provided in subsections B and E of this section and § 51.1-1131, short-term disability coverage shall provide income replacement for (i) 60 percent of a participating employee's creditable compensation for the first 60 months of continuous state service after employment or reemployment and (ii) thereafter, a percentage of a participating employee's creditable compensation during the periods that he is disabled, on maternity leave, or takes periodic absences due to a major chronic condition, based on the number of months of continuous state service, as determined by the Board or its designee, as follows:

Months of state service	Work days of 100% replacement of creditable compensation	Work days of 80% replacement of creditable compensation	Work days of 60% replacement of creditable compensation
60 to 119	25	25	75
120 to 179	25	50	50
180 or more	25	75	25

D. Creditable compensation during periods an employee receives short-term disability benefits shall include general salary increases awarded during the period of short-term disability coverage.

E. An employee's disability credits may be used, on a day for day basis, to extend the period an employee receives short-term disability benefits paid at 100 percent of replacement of creditable compensation.

F. Short-term disability benefits shall be payable only during periods of (i) total disability, (ii) partial disability, (iii) maternity leave, or (iv) periodic absences due to a major chronic condition as defined by the Board or its designee.

1998, c. 774; 1999, c. 144; 2000, c. 889; 2004, c. 1019; 2010, c. 750; 2012, c. 417.

§ 51.1-1111. Successive periods of short-term disability

A. A participating employee's disability which is related or due to the same cause or causes as a prior disability for which short-term disability benefits were paid shall be deemed to be a

continuation of the prior disability if the employee returns to his position on an active employment basis for less than 45 consecutive calendar days. If a participating employee, after receiving short-term disability benefits, immediately returns to work for less than 45 consecutive calendar days and cannot continue to work, the days worked shall be deemed to have interrupted the short-term disability benefits period, and such days worked shall not be counted for purposes of determining the maximum period for which the participating employee is eligible to receive short-term disability benefits. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to his position on an active employment basis for 45 consecutive calendar days or longer, any succeeding period of disability shall constitute a new period of short-term disability.

C. The period of 45 days referred to in subsections A and B shall be consecutive calendar days that the participating employee is (i) actively at work and (ii) fully released to return to work full time, full duty. The Retirement System shall develop policies and procedures to administer the effects of the 45-day period in connection with participants who are deemed to have a major chronic condition.

1998, c. 774; 2010, c. 750.

§ 51.1-1112. Long-term disability benefit

A. Except as provided in subsection D of § 51.1-1103, long-term disability benefits for participating employees shall commence upon the expiration of the maximum period for which the participating employee is eligible to receive short-term disability benefits under § 51.1-1110.

B. Except as provided in subsection D and § 51.1-1131, long-term disability benefits shall provide income replacement in an amount equal to 60 percent of a participating employee's creditable compensation.

C. Creditable compensation during periods an employee receives long-term disability benefits shall (i) not include salary increases awarded during the period covered by long-term disability benefits and (ii) be increased annually by an amount recommended by the actuary of the Virginia Sickness and Disability Program and approved by the Board.

D. An employee's disability credits shall be used, on a day-for-day basis, to extend the period an employee receives long-term disability benefits paid at 100 percent of replacement of creditable compensation.

E. Long-term disability benefits shall be payable only during periods of (i) total disability or (ii) partial disability.

F. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply for Social Security disability benefits.

G. An employee who is approved for disability benefits on or after the date that is five years prior to his normal retirement date shall be eligible for five years of disability benefits before the employee is required to retire under a service retirement. The five years includes short-term disability and long-term disability.

1998, c. 774; 1999, c. 144; 2000, c. 889; 2003, c. 13; 2004, c. 96; 2005, c. 419; 2006, cc. 404, 405; 2010, c. 750; 2011, c. 880.

§ 51.1-1113. Successive periods of long-term disability

A. A participating employee's disability which is related or due to the same cause or causes as a prior disability for which long-term disability benefits were paid shall be deemed to be a continuation of the prior disability if the employee returns to a position on an active employment basis for less than 125 consecutive work days. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to a position on an active employment basis for 125 consecutive work days or longer, any succeeding period of disability shall constitute a new period of disability.

1998, c. 774; 1999, c. 144; 2004, c. 97; 2005, c. 419.

§ 51.1-1114. Adjustments to disability benefits

A. Disability benefit payments shall be offset by an amount equal to any sums payable to a participating employee from the following sources:

1. During the first 12 months the employee receives disability benefits, an amount equal to the employee's wages and salary from any employment times the creditable compensation replacement percentage;

2. After the first 12 months the employee receives disability benefits, an amount equal to 70 percent of the employee's wages and salary from any employment;

3. Disability payments from the Social Security Administration, local government disability benefits, federal or civil service disability benefits, or other similar governmental disability program benefits received by the employee or his family as a result of the qualifying disability;

4. Benefits received from any other group insurance contract provided by the Commonwealth for the purpose of providing income replacement; and

5. Benefits paid under any compulsory benefits law.

Notwithstanding the foregoing, disability benefit payments shall not be offset by military disability benefits payable to a participating employee.

B. If the plan administrator deems a participating employee to be eligible for benefits from any of the sources listed in subdivisions A 3, A 4, and A 5, the plan administrator may direct the

participating employee to apply for those benefits and to pursue whatever additional steps are necessary to obtain the benefits. If a participating employee fails or refuses to pursue the available benefits as directed by the plan administrator, disability benefit payments may be offset by amounts from any of the sources listed in subdivisions A 3, A 4, and A 5 for which a participating employee is deemed eligible by the plan administrator as if the employee received such amounts. However, if the employee has applied for such benefits, and has reapplied and appealed denials of the claim as requested by the administrator of the plan, and the claim is not approved, the employee's disability payments shall not be reduced thereby.

C. If a participating employee's disability benefit payments are reduced as the result of payments from sources listed in subdivisions A 3, A 4, and A 5 or pursuant to subsection B, the employee's disability benefits shall not thereafter be further reduced on account of cost-of-living increases in payments from such sources.

D. Participating employees shall be required to repay, with interest to the Board or their employer, any overpayments of disability benefits on account of the failure of the employee to provide the Board or its designee with information necessary to make any of the reductions required to be made under this article.

E. Any payment to a participating employee that is later determined by the Board or by the employer to have been procured on the basis of any false statement or falsification of any record knowingly made by or on behalf of the member, or the employee's failure to make any required report of change in disability status, may be recovered from the employee by the Board, with interest, either by way of a credit against future payments due the employee, his survivor and beneficiaries or by an action at law against the employee.

1998, c. 774; 1999, c. 144; 2000, c. 889; 2003, c. 5; 2004, c. 99; 2006, cc. 778, 841; 2012, c. 417.

§ 51.1-1115. Rehabilitation incentive

Disability benefits payable to a participating employee who fails to cooperate with a rehabilitation program prescribed for the employee shall be decreased by fifty percent of the amounts otherwise payable to such employee.

1998, c. 774.

§ 51.1-1116. Cessation of disability benefits

If not sooner terminated due to the end of the period of disability coverage as provided in subsection E of § 51.1-1110 or subsection F of § 51.1-1112, disability benefits shall cease to be paid to a participating employee upon the first to occur of the following:

1. The date of death of the participating employee;

2. (i) The participating employee's normal retirement date if the employee is a member of the retirement system or (ii) the date the employee attains age sixty-five if the employee is not a member of the retirement system; or

3. The effective date of the participating full-time employee's service retirement under any provision of this title.

1998, c. 774; 1999, c. 144; 2001, c. 694; 2011, c. 722.

§ 51.1-1117. Service retirement of participating full-time employees receiving disability benefits

A. A participating full-time employee receiving disability benefits who is a vested member of the retirement system shall be eligible for service retirement under any provision of this title for which the employee is otherwise eligible. Such employee shall be authorized to elect any option for the payment of his retirement allowance provided under subsection A of § 51.1-165 for which the employee is otherwise eligible.

B. The average final compensation of any participating full-time employee taking a service retirement under any provision of this title shall be equal to his creditable compensation on the date of the commencement of the disability increased by an amount recommended by the program actuary and approved by the Board, from the date of the commencement of the disability to the date of retirement.

C. The creditable service of a participating full-time employee taking service retirement pursuant to this section shall include periods during which the employee received disability benefits.

1998, c. 774; 1999, c. 144; 2004, c. 98; 2011, c. 722.

§ 51.1-1118. Survivor benefits

If a participating full-time employee who is a member of the retirement system dies during periods he is receiving disability benefits, survivor benefits shall be payable to the extent provided in subsections A and B of § 51.1-162.

1998, c. 774; 1999, c. 144.

Article 4 - WORK-RELATED DISABILITY BENEFITS

§ 51.1-1119. Applicability of article

The provisions of this article shall apply only with respect to disability programs providing payment of disability benefits attributed to work-related injuries.

1998, c. 774.

§ 51.1-1120. Initial benefit period

During the first seven calendar days following the commencement of a disability, a participating employee may use sick leave, family and personal leave, and annual and compensatory leave to provide income replacement.

1998, c. 774.

§ 51.1-1121. Supplemental short-term disability benefit

A. Payments of supplemental short-term disability benefits payable under this article shall be reduced by an amount equal to any benefits paid to the employee under the Act, or which the employee is entitled to receive under the Act, excluding any payments for medical, legal or rehabilitation expenses.

B. Supplemental short-term disability benefits for participating employees shall commence upon the expiration of a seven-calendar-day waiting period. The waiting period shall commence the first day of a disability. If an employee returns to work for one day or less during the seven calendar days following the commencement of a disability but cannot continue to work, the periods worked shall not be considered to have interrupted the seven-calendar-day waiting period. Additionally, the seven-calendar-day waiting period shall not be considered to be interrupted if the employee works 20 hours or less during the waiting period. Short-term disability benefits payable as the result of a catastrophic disability or major chronic condition shall not require a waiting period.

C. Except as provided in subsections D and F and §§ 9.1-401.1 and 51.1-1131, supplemental short-term disability coverage shall provide income replacement for a percentage of a participating employee's creditable compensation during the period specified below that an employee is disabled or takes periodic absences due to a major chronic condition, as determined by the Board or its designee, based on the number of months of state service as an eligible employee, as follows:

Months of state service	Work days of 100% replacement of creditable compensation	Work days of 80% replacement of creditable compensation	Work days of 60% replacement of creditable compensation
Less than 60	65	25	35
60 to 119	85	25	15
120 or more	85	40	0

D. For all eligible employees commencing employment or reemployment on or after July 1, 2009, except as provided in subsection F and §§ 9.1-401.1 and 51.1-1131, short-term disability coverage shall provide income replacement for (i) 60 percent of a participating employee's creditable compensation for the first 60 months of continuous state service after employment or reemployment and (ii) thereafter, a percentage of a participating employee's creditable compensation during the periods specified below, based on the number of months of continuous state service attained by an employee who is disabled, on maternity leave, or takes periodic absences due to a major chronic condition, as determined by the Board or its designee, as follows:

Months of state service	Work days of 100% replacement of creditable compensation	Work days of 80% replacement of creditable compensation	Work days of 60% replacement of creditable compensation
60 to 119	85	25	15
120 or more	85	40	0

E. Creditable compensation during periods an employee receives supplemental short-term disability benefits shall include salary increases awarded during the period of short-term disability coverage.

F. An employee's disability credits may be used, on a day for day basis, to extend the period an employee receives supplemental short-term disability benefits paid at 100 percent of replacement of creditable compensation.

G. Supplemental short-term disability benefits shall be payable only during periods of (i) total disability, (ii) partial disability as determined by the Board or its designee, or (iii) periodic absences due to a major chronic condition as defined by the Board or its designee.

1998, c. 774; 1999, c. 144; 2000, c. 889; 2010, c. 654; 2012, c. 417.

§ 51.1-1122. Successive periods of short-term disability

A. A participating employee's disability which is related or due to the same cause or causes as a prior disability for which supplemental short-term disability benefits were paid shall be deemed to be a continuation of the prior disability if the employee (i) is eligible for benefits payable under the Act, whether or not he is receiving such benefits, and (ii) returns to his position on an active employment basis for less than 45 consecutive calendar days. If a participating employee, after receiving short-term disability benefits, immediately returns to work for less than 45 consecutive calendar days and cannot continue to work, the days worked shall be deemed to have interrupted the short-term disability benefits period, and such days worked shall not be counted for purposes of determining the maximum period for which the participating employee is eligible to receive short-term disability benefits. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to his position on an active employment basis for 45 consecutive calendar days or longer, any succeeding period of disability shall constitute a new period of short-term disability.

C. The period of 45 days referred to in subsections A and B shall be consecutive calendar days that the participating employee is (i) actively at work and (ii) fully released to return to work full time, full duty. The Retirement System shall develop policies and procedures to administer the effects of the 45-day period in connection with participants who are deemed to have a major chronic condition.

1998, c. 774; 2010, c. 750.

§ 51.1-1123. Supplemental long-term disability benefit

A. Supplemental long-term disability benefits for participating employees shall commence upon the expiration of the maximum period for which the participating employee is eligible to receive short-term disability benefits under § 51.1-1121.

B. Except as provided in subsection D and § 51.1-1131, supplemental long-term disability benefits shall provide income replacement in an amount equal to 60 percent of a participating employee's creditable compensation.

C. Creditable compensation during periods an employee receives supplemental long-term disability benefits shall (i) not include salary increases awarded during the period covered by long-term disability benefits and (ii) be increased annually by an amount recommended by the program actuary and approved by the Board.

D. An employee's disability credits shall be used, on a day-for-day basis, to extend the period an employee receives supplemental long-term disability benefits paid at 100 percent of replacement of creditable compensation.

E. Payments of supplemental long-term disability benefits payable under this article shall be reduced by an amount equal to any benefits paid to the employee under the Act, for which the employee is entitled to receive under the Act, excluding any benefit for medical, legal or rehabilitation expenses.

F. Supplemental long-term disability benefits shall be payable only during periods of total and partial disability.

G. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply for Social Security disability benefits.

H. An employee who is approved for disability benefits on or after the date that is five years prior to his normal retirement date shall be eligible for five years of disability benefits before the employee is required to retire under a service retirement. The five years includes short-term disability and long-term disability.

1998, c. 774; 1999, c. 144; 2000, c. 889; 2003, c. 13; 2004, c. 98; 2005, c. 419; 2006, cc. 404, 405, 778, 841; 2010, c. 750; 2011, c. 880.

§ 51.1-1124. Successive periods of long-term disability

A. A participating employee's disability which is related or due to the same cause or causes as a prior disability for which supplemental long-term disability benefits were paid shall be deemed to be a continuation of the prior disability if the employee is eligible for benefits payable under the Act, whether or not he is receiving such benefits, and returns to a position on an active employment basis for less than 125 consecutive work days. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to a position on an active employment basis for 125 consecutive work days or longer, any succeeding period of disability shall constitute a new period of disability.

1998, c. 774; 1999, c. 144; 2004, c. 97; 2005, c. 419.

§ 51.1-1125. Adjustments in supplemental disability benefits

A. In addition to offsets equal to the amount of any benefits paid to a participating employee under the Act, supplemental disability benefit payments shall be offset by an amount equal to any sums payable to a participating employee from the following sources:

1. During the first 12 months the employee receives disability benefits, an amount equal to the employee's wages and salary from any employment times the income replacement percentage payable;

2. After the first 12 months the employee receives disability benefits, an amount equal to 70 percent of the employee's wages and salary from any employment;

3. Disability payments from the Social Security Administration, local government disability benefits, federal civil service disability benefits, or other similar governmental disability program benefits received by the employee or his family as a result of the qualifying disability;

4. Benefits received from any other group insurance contract provided by the Commonwealth for the purpose of income replacement;

5. Benefits paid under any compulsory benefits law; and

6. If the participating employee receives a settlement in lieu of periodic payments for a disability compensable under the Act, an amount determined by dividing the workers' compensation benefit which such employee would have received had the lump-sum settlement not been consummated into the settlement actually accepted by the employee.

Notwithstanding the foregoing, supplemental disability benefit payments shall not be offset by military disability benefits payable to a participating employee.

B. If the plan administrator deems a participating employee to be eligible for benefits from any of the sources listed in subdivisions A 3, A 4, and A 5, the plan administrator may direct the participating employee to apply for those benefits and to pursue whatever additional steps are necessary to obtain the benefits. If a participating employee fails or refuses to pursue the available benefits as directed by the plan administrator, supplemental disability benefit payments may be reduced by amounts from any of the sources listed in subdivisions A 3, A 4, and A 5 for which a participating employee is deemed eligible by the plan administrator as if the employee received such amounts. However, if the employee has applied for such benefits, and has reapplied and appealed denials of the claim as requested by the administrator of the plan, and the claim is not approved, the employee's supplemental disability payments shall not be reduced thereby.

C. If a participating employee's disability benefit payments are reduced as the result of payments from sources listed in subdivisions A 3, A 4, and A 5 or pursuant to subsection B, the employee's disability benefits shall not thereafter be further reduced on account of cost-of-living increases in payments from such sources.

D. Participating employees shall be required to repay, with interest, to the Board or the employer any overpayments of supplemental disability benefits on account of the failure of the employee to provide the Board or its designee with information necessary to make any of the reductions required to be made under this article.

E. Any payment to a participating employee that is later determined by the Board or by the employer to have been procured on the basis of any false statement or falsification of any record knowingly made by or on behalf of the employee, or the employee's failure to make any required report of change in disability status, may be recovered from the employee by the Board, with interest, either by way of a credit against future payments due the employee or by an action at law against the employee.

F. If a participating employee's payments under the Act are adjusted or terminated for refusal to work or to comply with the requirements of § 65.2-603, his disability benefits shall be computed as if he were receiving the compensation to which he would otherwise be entitled under the Act.

1998, c. 774; 1999, c. 144; 2000, c. 889; 2003, c. 5; 2006, cc. 778, 841; 2012, c. 417.

§ 51.1-1126. Rehabilitation incentive

Supplemental disability benefits payable to a participating employee who fails to cooperate with a rehabilitation program prescribed for the employee shall be decreased by fifty percent of the amounts otherwise payable to such employee. In determining the amount of any reduction in benefits under this section, the participating employee shall be presumed to continue to receive benefits payable under the Act. Failure to comply with a vocational rehabilitation assessment process at any time the employee is receiving supplemental disability benefits may constitute a failure to cooperate for purposes of this section.

1998, c. 774; 1999, c. 144.

§ 51.1-1127. Cessation of supplemental disability benefits

Supplemental disability benefits shall cease to be paid to a participating employee upon the first to occur of the following:

1. The end of the period of supplemental disability coverage as provided in subsection G of § 51.1-1121 or subsection F of § 51.1-1123;

2. The date of death of the participating employee;

3. On the date benefits under the Act cease to be paid, if the participating employee is a member of the retirement system and is receiving benefits under the Act on his normal retirement date;

4. On the date benefits under the Act cease to be paid, if the participating employee is a not a member of the retirement system and is receiving benefits under the Act on the date he attains age 65;

5. On his normal retirement date, if the participating employee is a member of the retirement system and is no longer receiving benefits under the Act on his normal retirement date;

6. On the date the employee attains age 65, if the participating employee is a not a member of the retirement system and is no longer receiving benefits under the Act; or

7. The effective date of the participating employee's service retirement under any provision of this title.

1998, c. 774; 1999, c. 144; 2001, c. 694; 2012, c. 417.

§ 51.1-1128. Service retirement of participating full-time employees receiving supplemental disability benefits

A. Upon the cessation of benefits payable under the Act, a participating full-time employee may take service retirement under any provision of this title for which the employee is otherwise eligible. Such employee shall be authorized to elect any option for the payment of his retirement allowance provided under subsection A of § 51.1-165.

B. The employee's average final compensation shall be equal to his creditable compensation on the date of the commencement of the disability increased by an amount recommended by the actuary of the Virginia Retirement System, and approved by the Board, from the date of the commencement of the disability to the date of retirement.

C. The creditable service of a participating full-time employee taking service retirement pursuant to this section shall include periods during which the employee received supplemental disability benefits, provided that such creditable service shall not include periods for which (i) the employee received supplemental short-term disability benefits, (ii) the employer did not report such creditable service to the retirement system, and (iii) the employee did not purchase such creditable service.

1998, c. 774; 1999, c. 144; 2011, cc. 722, 880.

§ 51.1-1129. Survivor benefits

If a participating full-time employee who is a member of the retirement system dies during periods he is receiving supplemental disability benefits, survivor benefits shall be payable to the extent provided in subsection C of § 51.1-162.

1998, c. 774; 1999, c. 144.

§ 51.1-1130. Coordination of benefits

The Board and the Department of Human Resource Management, as administrator of the Commonwealth's self-insurance program for workers' compensation coverage, shall jointly develop guidelines and procedures for the coordination of benefits and case management for participating employees entitled to benefits under the Act and supplemental disability benefits under this article. Such guidelines shall also address disability benefits for participating employees whose disability results from multiple injuries or illnesses, one or more of which is a work-related injury. The Board shall have the authority to approve the final guidelines and procedures.

1998, c. 774; 2000, cc. 618, 632; 2001, cc. 684, 695.

Article 5 - PROVISIONS APPLICABLE TO DISABILITY BENEFITS GENERALLY

§ 51.1-1131. Supplemental benefits for catastrophic disability

Disability benefits shall be increased to eighty percent of creditable compensation for any disabled participating employee who (i) is unable to perform at least two of the six activities of daily living due to a loss of functional capacity or (ii) requires substantial supervision to protect the employee from threats to health and safety as a result of severe cognitive impairment. Determination of whether a participating employee satisfies either of these conditions shall be made in accordance with the policies of the Board or its designee.

1998, c. 774; 1999, c. 144; 2001, c. 694.

§ 51.1-1131.1. Employer contributions during disability absences

Mandatory employer contributions to the defined contribution component of the hybrid retirement program pursuant to subdivision B 2 of § 51.1-169 on behalf of a participating employee shall be made for each employee who is permanently and totally disabled (as defined in § 22(e)(3) of the Internal Revenue Code). The calculation of such contributions shall be based on the full amount of the participating employee's creditable compensation.

2012, cc. 701, 823.

§ 51.1-1132. Health insurance coverage during disability absences

A. Participating employees enrolled in a health insurance plan established pursuant to § 2.2-2818 shall continue to be covered during periods of short-term disability and shall have the option of continuing to be covered by such plan during periods of absence covered by long-term disability benefits.

B. The Commonwealth shall pay the employer's share of the cost of health insurance coverage under such plan for participating employees and for the families or dependents of such employees during periods the employee is receiving short-term disability benefits to the same extent as for other state employees covered by such plan.

C. Participating employees enrolled in such plan established pursuant to § 2.2-2818 shall have the option of continuing to be covered under such plan, and shall pay the full cost for coverage under such plan for themselves and for their families and dependents during periods the employee is receiving long-term disability benefits. However, for an employee as defined in § 51.1-201 who is receiving long-term disability benefits for a work-related disability pursuant to Article 4 (§ 51.1-1119 et seq.) of Chapter 11, the Commonwealth shall continue to pay the employer's share of the cost of health insurance coverage under such plan for the participating employee and for his family and dependents until such time as the employee is approved for continued health insurance coverage as provided under Chapter 4 (§ 9.1-400 et seq.) of Title 9.1.

1998, c. 774; 1999, c. 144; 2007, c. 90.

§ 51.1-1133. Life and accident insurance coverage during disability absences

A. Participating full-time employees participating in a group life and accident insurance program established pursuant to Chapter 5 (§ 51.1-500 et seq.) of this title shall continue to participate in such program during periods of absence covered by short-term and long-term disability benefits.

B. During periods of absence covered by short-term disability benefits, the amount of the life insurance benefit shall be based on the annual salary of the participating full-time employee at the commencement of the disability and shall be adjusted to include salary increases awarded during the period covered by short-term disability benefits.

C. During periods of absence covered by long-term disability benefits, the amount of the life insurance benefit shall be based on the annual salary of the participating employee at the commencement of the disability. Such amount shall (i) not include salary increases awarded during the period covered by long-term disability benefits and (ii) be increased annually by an amount recommended by the program actuary and approved by the Board.

1998, c. 774; 1999, c. 144; 2004, c. 98; 2007, c. 64.

§ 51.1-1134. Optional insurance during disability absences

Participating full-time employees may continue coverage under the optional insurance for themselves and their spouses and minor dependents pursuant to § 51.1-512 at their own expense during periods of disability.

1998, c. 774; 1999, c. 144; 2011, c. 722.

§ 51.1-1135. Exclusions and limitations

A. Disability benefits shall not be payable to any participating employee (i) whose disability results from the employee's commission of a felony or (ii) during any period when the employee is incarcerated.

B. Long-term disability benefits shall not be payable to any participating employee whose disability results from the abuse of alcohol, the misuse of any prescribed medication, or the misuse of any controlled substance, unless the employee is actively receiving treatment and, in the judgment of the case manager, is fully complying with the treatment plan and is making substantial progress toward rehabilitation.

C. Disability benefits shall not be payable if the participating employee is determined by the Board or its designee to be noncompliant with the program.

1998, c. 774; 1999, c. 144; 2000, c. 889.

§ 51.1-1135.1. Appeals

The Board may elect to develop an alternative to the process set forth in the Administrative Process Act (§ 2.2-4000 et seq.) to allow appeals of case decisions related to the payment of disability benefits under this chapter. This alternative process shall be modeled after the claims provisions as provided for in the federal Employee Retirement Income Security Act of 1974, as amended, and shall (i) provide for adequate notice in writing to any participant whose claim for benefits has

been denied setting forth the specific reasons for such denial, and (ii) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a review of the decision denying the claim. Articles 3 (§ 2.2-4018 et seq.) and 4 (§ 2.2-4024) of the Administrative Process Act shall not apply to any portion of this alternative appeals process. However, any person aggrieved by, and claiming the unlawfulness of, a final case decision issued pursuant to this alternative appeals process, whether issued by the Board or by the Board's delegate, shall have a right to seek judicial review thereof. Such judicial review shall be in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

1999, c. 144; 2000, c. 889; 2001, c. 694; 2005, c. 473.

§ 51.1-1135.2. Board authorized to provide long-term care insurance and benefits

A. For purposes of this section, "participating employee" means the same as that term is defined in § 51.1-1100.

B. The Board is authorized to develop, implement, and administer a long-term care insurance program for participating employees that includes, among other elements, provisions under which a person may purchase continuing coverage if he ceases to be a participating employee. The Board may contract for and purchase such long-term care insurance or may self-insure long-term care benefits or may use such other actuarially sound funding necessary to effectuate such long-term care insurance and benefits.

C. The costs of providing long-term care benefits for participating employees shall be paid by state agencies from funds as shall be appropriated by law to state agencies. State agencies shall pay to the Board from such funds contribution amounts, to be determined by the Board, to provide the Board with such funds as shall be required from time to time to (i) obtain and maintain long-term care insurance and benefits for participating employees, and (ii) administer the long-term care insurance program, including providing case management and cost containment programs. Contributions shall be deposited in the Disability Insurance Trust Fund established under § 51.1-1140.

2002, cc. 663, 697; 2011, c. 30.

Article 6 - ADMINISTRATION OF PROGRAM

§ 51.1-1136. Limitation on coverage

No person shall have more than one coverage under a disability benefit program. Any person employed in more than one position which provides coverage under a disability benefit program shall elect one position on which his coverage shall be based by written notification to the Board. No person shall receive more than one disability benefit under this chapter at the same time.

1998, c. 774; 2000, c. 889.

§ 51.1-1137. Keeping records and furnishing information required by Board

Each employer whose employees are covered under the provisions of this chapter shall keep records and furnish information required by the Board.

1998, c. 774.

§ 51.1-1138. Benefits exempt from process

The benefits provided for in this chapter and all proceeds therefrom shall be exempt from levy, garnishment, attachment, and other legal process.

1998, c. 774.

§ 51.1-1139. Policies to provide for accounting to Board; advance premium deposit reserve

A. Each insurance product purchased by the Board or contract for administrative services related to a self-funded product shall provide for an accounting to the Board not later than 120 days after the end of each product year. For an insurance product, the accounting shall include (i) the amounts of premiums actually accrued under the policy during the policy year, (ii) the total amount of all claim charges incurred during the policy year, and (iii) the amount of fees accrued under the policy during the year plus the total amount of all claim charges incurred during the policy year. For a self-insured product, the accounting shall include the total amount of all claim charges incurred during the product year, the total amount of third party administrator expenses, and the total amount of other charges for administrative services.

B. Any portion of the excess of the total of clause A (i) over clause A (iii) may, with the approval of the Board, be held by the insurance company in an advance premium deposit reserve to be used by the company for charges under the policy only. Any expenses incurred by the Board in connection with the administration of the disability benefits provisions of the program may be deducted from the advance premium deposit reserve. The advance premium deposit reserve shall bear interest at a rate to be determined in advance of each policy year by the insurance company. The rate shall be subject to Board approval as being consistent with the rates generally used by the company for similar funds held under other disability insurance policies. Any portion of the excess not held by the insurance company shall be held by the Board to be used for charges under the policy only. If the Board determines that the advance premium deposit reserve, together with any portion of the excess accumulated and held by the Board, has attained an amount estimated to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall inure to the benefit of the Commonwealth as determined by the Board.

C. For purposes of this section, the insurance company may combine and consolidate the policies issued by it as directed by the Board.

1998, c. 774; 2006, c. 641.

§ 51.1-1140. Funding of program; Disability Insurance Trust Fund established

A. The costs of providing sick leave, family and personal leave, and short-term disability benefits shall be paid by state agencies from funds as shall be appropriated by law to state agencies.

B. State agencies shall pay to the Board, from funds as shall be appropriated by law to state agencies, contribution amounts, to be determined by the Board, to provide the Board with such funds as shall be required from time to time to (i) obtain and maintain long-term disability insurance policies under this chapter, and (ii) administer the Program, including providing case management and cost containment programs. Contributions shall be deposited in the Disability Insurance Trust Fund.

C. There is hereby established the Disability Insurance Trust Fund. The costs incurred by the Board in providing policies of long-term disability insurance and administering the Program and in administering the long-term care insurance program established under § 51.1-1135.2, including the provision of case management and cost containment programs, shall be withdrawn from time to time by the Board from the Disability Insurance Trust Fund. The funds of the Disability Insurance Trust Fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth, and shall be invested and administered solely in the interests of the participating employees and beneficiaries thereof. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the Disability Insurance Trust Fund.

1998, c. 774; 2002, cc. 663, 697.

Chapter 11.1 - DISABILITY PROGRAM FOR HYBRID RETIREMENT PROGRAM PARTICIPANTS

Article 1 - GENERAL PROVISIONS

§ 51.1-1150. Definitions

As used in this chapter, unless the context requires a different meaning:

"Act" means the Virginia Workers' Compensation Act (§ 65.2-100 et seq.).

"Company" means an insurance company issuing a long-term disability insurance policy purchased by the Board pursuant to this chapter.

"Continuous service" means an uninterrupted period of service as a participating employee with the same employer.

"Disability" means a partial disability or total disability.

"Disability benefit" means income replacement payments payable to a participating employee under a short-term or long-term disability benefit program pursuant to this chapter. Disability benefits do not include benefits payable under the Act.

"Eligible employee" means a person who is (i) not eligible for the disability program pursuant to Chapter 11 (§ 51.1-1100 et seq.) and (ii) participating in the hybrid retirement program described in § 51.1-169.

"Partial disability" means a disability that exists during the first 24 months following the occurrence or commencement of an illness or injury when an employee is earning less than 80 percent of his predisability earnings and, as a result of an injury or illness, is (i) able to perform one or more, but not all, of the essential job functions of his own job on an active employment or a part-time basis; or (ii) able to perform all of the essential job functions of his own job only on a part-time basis.

"Participating employee" means any eligible employee required to participate in the program.

"Program" means the program providing short-term disability and long-term disability benefits for participating employees established pursuant to this chapter.

"Service" means a period of service as a participating employee.

"Total disability" means a disability that exists (i) during the first 24 months following the occurrence or commencement of an illness or injury if an employee is unable to perform all of his essential job functions or (ii) after 24 months following the occurrence or commencement of an illness or injury if an employee is unable to perform any job for which he is reasonably qualified based on his training or experience and earning less than 80 percent of his predisability earnings.

"Work-related injury" means an injury, as such term is defined in § 65.2-101, to a participating employee for which benefits are payable under the Act and the employer for purposes of the Act is the Commonwealth or other political subdivision through which the participating employee became eligible for the program.

In addition to the definitions listed in this section, the definitions listed in § 51.1-124.3 shall, as the context requires, apply to this chapter except as otherwise provided.

2012, cc. 701, 823.

§ 51.1-1151. Sickness and disability program; disability insurance policies

A. The Board shall develop, implement, and administer a short-term disability and long-term disability benefits program in accordance with the provisions of this chapter. The Board is authorized to delegate or assign to any person any of the duties required to be performed by the Board pursuant to this chapter. The Board is authorized to purchase long-term disability insurance policies for participating employees. The policies shall be purchased from and carried with a disability insurance company that is authorized to do business in the Commonwealth.

Each policy shall contain a provision stipulating the maximum expense and risk charges that are determined by the Board to be consistent with the general level of charges made by disability insurance companies under policies of long-term disability insurance issued to large employers. The Board may require that the policies have reinsurance with a disability insurance company incorporated or organized under the laws of and authorized to do business in the Commonwealth.

B. Notwithstanding the provisions of subsection A, the Board may self-insure long-term disability benefits in accordance with the standards set forth in § 51.1-124.30.

2012, cc. 701, 823.

§ 51.1-1152. Additional powers of the Board

In addition to any other powers granted to the Board under this title, the Board shall have the power to:

1. Establish policies and procedures to implement and administer the program and the provisions of this chapter;

2. Contract for the provision of comprehensive case management;

3. Take all other actions necessary for the implementation and administration of the program; and

4. Adopt rules and policies that bring the program into compliance with any applicable law or regulation of the Commonwealth or the United States.

2012, cc. 701, 823.

§ 51.1-1153. Participation in the program

A. All eligible employees shall become participants in this program, provided, however, that the governing body of an employer may adopt a resolution on or before January 1, 2014, which shall be submitted to the Board, requesting that its eligible employees not participate in the program because the employer has or will establish, and continue to maintain, comparable disability coverage for such eligible employees. The election by the governing body of an employer not to participate in this program shall be irrevocable. The employer need not consider the provisions of § 51.1-1178 when determining the comparability of its disability coverage to this program. As the context requires, the term "participating employee" includes the employees of an employer electing not to participate in the program under this subdivision.

B. The effective date of participation in the program for participating employees shall be their first day of employment or the effective date of their participation in the hybrid retirement program described in § 51.1-169, whichever is later.

C. Notwithstanding any provision to the contrary, no participating employee shall receive benefits under Article 2 (§ 51.1-1154 et seq.) until the participating employee completes one year of continuous service.

D. Eligibility for participation in the program shall terminate upon the earliest to occur of an employee's (i) termination of employment or (ii) death. Eligibility for participation in the program shall be suspended during periods that an employee is placed on nonpay status, including leave without pay, if such nonpay status is due to suspension pending investigation or outcome of employment-related court or disciplinary action.

2012, cc. 701, 823; 2014, c. 356; 2015, c. 660.

Article 2 - NONWORK-RELATED DISABILITY BENEFITS

§ 51.1-1154. Applicability of article

The provisions of this article shall apply only with respect to the disability programs providing disability benefits for disabilities not resulting from work-related injuries.

2012, cc. 701, 823.

§ 51.1-1155. Short-term disability benefit

A. Except as provided in subsection B of § 51.1-1153, short-term disability benefits for participating employees shall commence upon the expiration of a seven-calendar-day waiting period. The waiting period shall commence the first day of a disability or of maternity leave. If an employee returns to work for one day or less during the seven-calendar-day waiting period but cannot continue to work, the periods worked shall not be considered to have interrupted the seven-calendar-day waiting period. Additionally, the seven-calendar-day waiting period shall not be considered to be interrupted if the employee works 20 hours or less during the waiting period. Short-term disability benefits payable as the result of a catastrophic disability or major chronic condition shall not require a waiting period.

B. Except as provided in § 51.1-1171, short-term disability coverage shall provide income replacement for (i) 60 percent of a participating employee's creditable compensation for the first 60 months of continuous service and (ii) thereafter, a percentage of a participating employee's creditable compensation during the periods specified below, based on the number of months of continuous service attained by an employee who is disabled, on maternity leave, or takes periodic absences due to a major chronic condition, as determined by the Board or its designee, as follows:

Months of Continuous Service	Work Days of 100% Replacement of Creditable Compensation	Work Days of 80% Replacement of Creditable Compensation	Work Days of 60% Replacement of Creditable Compensation
60-119	25	25	75
120-179	25	50	50
180 or more	25	75	25

C. Creditable compensation during periods an employee receives short-term disability benefits shall include salary increases awarded during the period covered by short-term disability benefits.

D. Short-term disability benefits shall be payable only during periods of (i) total disability, (ii) partial disability, (iii) maternity leave, or (iv) periodic absences due to a major chronic condition as defined by the Board or its designee.

2012, cc. 701, 823; 2013, c. 463; 2014, c. 356.

§ 51.1-1156. Successive periods of short-term disability

A. A participating employee's disability, which is related or due to the same cause or causes as a prior disability for which short-term disability benefits were paid, shall be deemed to be a continuation of the prior disability if the employee returns to his position on an active employment basis for less than 45 consecutive calendar days. If a participating employee, after receiving short-

term disability benefits, immediately returns to work for less than 45 consecutive calendar days and cannot continue to work, the days worked shall be deemed to have interrupted the short-term disability benefits period, and such days worked shall not be counted for purposes of determining the maximum period for which the participating employee is eligible to receive short-term disability benefits. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to his position on an active employment basis for 45 consecutive calendar days or longer, any succeeding period of disability shall constitute a new period of short-term disability.

C. The period of 45 days referred to in subsections A and B shall be consecutive calendar days that the participating employee is (i) actively at work and (ii) fully released to return to work full time, full duty. The Retirement System shall develop policies and procedures to administer the effects of the 45-day period in connection with participants who are deemed to have a major chronic condition.

2012, cc. 701, 823; 2013, c. 463.

§ 51.1-1157. Long-term disability benefit

A. Long-term disability benefits for participating employees shall commence upon the expiration of the maximum period for which the participating employee is eligible to receive short-term disability benefits under § 51.1-1155.

B. Except as provided in § 51.1-1171, long-term disability benefits shall provide income replacement in an amount equal to 60 percent of a participating employee's creditable compensation.

C. Creditable compensation during periods an employee receives long-term disability benefits shall not include salary increases awarded during the period covered by long-term disability benefits.

D. Long-term disability benefits shall be payable only during periods of (i) total disability or (ii) partial disability.

E. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply for Social Security disability benefits.

2012, cc. 701, 823.

§ 51.1-1158. Successive periods of long-term disability

A. A participating employee's disability, which is related or due to the same cause or causes as a prior disability for which long-term disability benefits were paid, shall be deemed to be a continuation of the prior disability if the employee returns to a position on an active employment basis for less than 125 consecutive work days. Days of work arranged pursuant to vocational, rehab-

ilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to a position on an active employment basis for 125 consecutive work days or longer, any succeeding period of disability shall constitute a new period of disability.

2012, cc. 701, 823.

§ 51.1-1159. Adjustments to disability benefits

A. Disability benefit payments shall be offset by an amount equal to any sums payable to a participating employee from the following sources:

1. During the first 12 months the employee receives disability benefits, an amount equal to the employee's wages and salary from any employment multiplied by the creditable compensation replacement percentage;

2. After the first 12 months the employee receives disability benefits, an amount equal to 70 percent of the employee's wages and salary from any employment;

3. Disability payments from the Social Security Administration, local government disability benefits, federal civil service disability benefits, or other similar governmental disability program benefits received by the employee or his family as a result of the qualifying disability;

4. Benefits received from any other group insurance contract provided to the participating employee by his employer for the purpose of providing income replacement; and

5. Benefits paid under any compulsory benefits law.

B. If the plan administrator deems a participating employee to be eligible for benefits from any of the sources listed in subdivisions A 3, A 4, and A 5, the plan administrator may direct the participating employee to apply for those benefits and to pursue whatever additional steps are necessary to obtain the benefits. If a participating employee fails or refuses to pursue the available benefits as directed by the plan administrator, disability benefit payments may be offset by amounts from any of the sources listed in subdivisions A 3, A 4, and A 5 for which a participating employee is deemed eligible by the plan administrator as if the employee received such amounts. However, if the employee has applied for such benefits, and has reapplied and appealed denials of the claim as requested by the administrator of the plan, and the claim is not approved, the employee's disability payments shall not be reduced thereby.

C. If a participating employee's disability benefit payments are reduced as the result of payments from sources listed in subdivisions A 3, A 4, and A 5 or pursuant to subsection B, the employee's disability benefits shall not thereafter be further reduced on account of cost-of-living increases in payments from such sources.

D. Participating employees shall be required to repay, with interest, to the Board or their employer, any overpayment of disability benefits on account of the failure of the employee to provide the Board or its designee with information necessary to make any of the reductions required to be made under this article.

E. Any payment to a participating employee that is later determined by the Board or by the employer to have been procured on the basis of any false statement or falsification of any record knowingly made by or on behalf of the member, or the employee's failure to make any required report of change in disability status, may be recovered from the employee by the Board, with interest, either by way of a credit against future payments due the employee, his survivor, and beneficiaries or by an action at law against the employee.

F. Notwithstanding the foregoing, disability benefit payments shall not be offset by military disability benefits payable to a participating employee.

2012, cc. 701, 823.

§ 51.1-1160. Rehabilitation incentive

Disability benefits payable to a participating employee who fails to cooperate with a rehabilitation program prescribed for the employee shall be decreased by 50 percent of the amounts otherwise payable to such employee.

2012, cc. 701, 823.

§ 51.1-1161. Cessation of disability benefits; service retirement

A. Disability benefits shall cease to be paid to a participating employee upon the first to occur of the following:

1. The end of the period of disability coverage as provided in subsection D of § 51.1-1155 or subsection D of § 51.1-1157;

2. The date of death of the participating employee;

3. The date that the participating employee attains normal retirement age; or

4. The effective date of the participating full-time employee's service retirement under the hybrid retirement program described in § 51.1-169.

Notwithstanding the foregoing, an employee who is approved for disability benefits (i) at age 60 through 64 shall be eligible for five years of disability benefits, (ii) at age 65 through 68 shall be eligible for disability benefits to age 70, and (iii) at age 69 or older shall be eligible for disability benefits for one year. The eligibility periods include short-term disability and long-term disability.

B. A participating full-time employee receiving disability benefits who is a vested member of the retirement system, including the hybrid retirement program described in § 51.1-169, shall be eligible for service retirement under any provision of this title for which the employee is otherwise

eligible. Such employee shall be authorized to elect any option for the payment of his retirement allowance provided under subsection A of § 51.1-165 for which the employee is otherwise eligible.

C. The average final compensation of any participating full-time employee taking a service retirement under any provision of this title shall be equal to his creditable compensation on the date of the commencement of the disability increased by an amount recommended by the program actuary and approved by the Board, from the date of the commencement of the disability to the date of retirement.

D. The creditable service of a participating full-time employee taking service retirement pursuant to this section shall include periods during which the employee received disability benefits.

2012, cc. 701, 823.

Article 3 - WORK-RELATED DISABILITY BENEFITS

§ 51.1-1162. Applicability of article

The provisions of this article shall apply only with respect to disability programs providing payment of disability benefits attributed to work-related injuries.

2012, cc. 701, 823.

§ 51.1-1163. Supplemental short-term disability benefit

A. Payments of supplemental short-term disability benefits payable under this article shall be reduced by an amount equal to any benefits paid to the employee under the Act, or which the employee is entitled to receive under the Act, excluding any payments for medical, legal or rehabilitation expenses.

B. Supplemental short-term disability benefits for participating employees shall commence upon the expiration of a seven-calendar-day waiting period. The waiting period shall commence the first day of a disability. If an employee returns to work for one day or less during the seven calendar days following the commencement of a disability but cannot continue to work, the periods worked shall not be considered to have interrupted the seven-calendar-day waiting period. Additionally, the seven-calendar-day waiting period shall not be considered to be interrupted if the employee works 20 hours or less during the waiting period. Short-term disability benefits payable as the result of a catastrophic disability or major chronic condition shall not require any waiting period.

C. Except as provided in § 51.1-1171, supplemental short-term disability coverage shall provide income replacement for (i) 60 percent of a participating employee's creditable compensation for the first 60 months of continuous participation in the program and (ii) thereafter, a percentage of a participating employee's creditable compensation during the periods specified below, based on the number of months of continuous participation in the program attained by an employee who is disabled, on maternity leave, or takes periodic absences due to a major chronic condition, as determined by the Board or its designee, as follows:

Months of	Work Days of 100%	Work Days of 80%	Work Days of 60%

Continuous Participation	Replacement of Creditable Compensation	Replacement of Creditable Compensation	Replacement of Creditable Compensation
60 to 119	85	25	15
120 or more	85	40	0

D. Creditable compensation during periods an employee receives supplemental short-term disability benefits shall include salary increases awarded during the period of short-term disability coverage.

E. Supplemental short-term disability benefits shall be payable only during periods of total disability, partial disability, or periodic absences due to a major chronic condition as defined by the Board or its designee.

2012, cc. 701, 823; 2013, c. 463.

§ 51.1-1164. Successive periods of short-term disability

A. A participating employee's disability, which is related or due to the same cause or causes as a prior disability for which supplemental short-term disability benefits were paid, shall be deemed to be a continuation of the prior disability if the employee (i) is eligible for benefits payable under the Act, whether or not he is receiving such benefits, and (ii) returns to his position on an active employment basis for less than 45 consecutive calendar days. If a participating employee, after receiving short-term disability benefits, immediately returns to work for less than 45 consecutive calendar days and cannot continue to work, the days worked shall be deemed to have interrupted the short-term disability benefits period, and such days worked shall not be counted for purposes of determining the maximum period for which the participating employee is eligible to receive short-term disability benefits. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to his position on an active employment basis for 45 consecutive calendar days or longer, any succeeding period of disability shall constitute a new period of short-term disability.

C. The period of 45 days referred to in subsections A and B shall be consecutive calendar days that the participating employee is (i) actively at work and (ii) fully released to return to work full time, full duty. The Retirement System shall develop policies and procedures to administer the effects of the 45-day period in connection with participants who are deemed to have a major chronic condition.

2012, cc. 701, 823; 2013, c. 463.

§ 51.1-1165. Supplemental long-term disability benefit

A. Supplemental long-term disability benefits for participating employees shall commence upon the expiration of the maximum period for which the participating employee is eligible to receive short-term disability benefits under § 51.1-1163.

B. Except as provided in § 51.1-1171, supplemental long-term disability benefits shall provide income replacement in an amount equal to 60 percent of a participating employee's creditable compensation.

C. Creditable compensation during periods an employee receives supplemental long-term disability benefits shall not include salary increases awarded during the period covered by long-term disability benefits.

D. Payments of supplemental long-term disability benefits payable under this article shall be reduced by an amount equal to any benefits paid to the employee under the Act, for which the employee is entitled to receive under the Act, excluding any benefit for medical, legal or rehabilitation expenses.

E. Supplemental long-term disability benefits shall be payable only during periods of total disability or partial disability.

F. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply for Social Security disability benefits.

2012, cc. 701, 823.

§ 51.1-1166. Successive periods of long-term disability

A. A participating employee's disability, which is related or due to the same cause or causes as a prior disability for which supplemental long-term disability benefits were paid, shall be deemed to be a continuation of the prior disability if the employee is eligible for benefits payable under the Act, whether or not he is receiving such benefits, and returns to a position on an active employment basis for less than 125 consecutive work days. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to a position on an active employment basis for 125 consecutive work days or longer, any succeeding period of disability shall constitute a new period of disability.

2012, cc. 701, 823.

§ 51.1-1167. Adjustments in supplemental disability benefits

A. In addition to offsets equal to the amount of any benefits paid to a participating employee under the Act, supplemental disability benefit payments shall be offset by an amount equal to any sums payable to a participating employee from the following sources:

1. During the first 12 months the employee receives disability benefits, an amount equal to the employee's wages and salary from any employment multiplied by the income replacement percentage payable;

2. After the first 12 months the employee receives disability benefits, an amount equal to 70 percent of the employee's wages and salary from any employment;

3. Disability payments from the Social Security Administration, local government disability benefits, federal civil service disability benefits, or other similar governmental disability program benefits received by the employee or his family as a result of the qualifying disability;

4. Benefits received from any other group insurance contract provided to the participating employee by his employer for the purpose of income replacement;

5. Benefits paid under any compulsory benefits law; and

6. If the participating employee receives a settlement in lieu of periodic payments for a disability compensable under the Act, an amount determined by dividing the workers' compensation benefit, which such employee would have received had the lump-sum settlement not been consummated, into the settlement actually accepted by the employee.

Notwithstanding the foregoing, supplemental disability benefit payments shall not be offset by military disability benefits payable to a participating employee.

B. If the plan administrator deems a participating employee to be eligible for benefits from any of the sources listed in subdivisions A 3, A 4, and A 5, the plan administrator may direct the participating employee to apply for those benefits and to pursue whatever additional steps are necessary to obtain the benefits. If a participating employee fails or refuses to pursue the available benefits as directed by the plan administrator, supplemental disability benefit payments may be reduced by amounts from any of the sources listed in subdivisions A 3, A 4, and A 5 for which a participating employee is deemed eligible by the plan administrator as if the employee received such amounts. However, if the employee has applied for such benefits, and has reapplied and appealed denials of the claim as requested by the administrator of the plan, and the claim is not approved, the employee's supplemental disability payments shall not be reduced thereby.

C. If a participating employee's disability benefit payments are reduced as the result of payments from sources listed in subdivisions A 3, A 4, and A 5 or pursuant to subsection B, the employee's disability benefits shall not thereafter be further reduced on account of cost-of-living increases in payments from such sources.

D. Participating employees shall be required to repay, with interest, to the Board or the employer any overpayments of supplemental disability benefits on account of the failure of the employee to provide the Board or its designee with information necessary to make any of the reductions required to be made under this article.

E. Any payment to a participating employee that is later determined by the Board or by the employer to have been procured on the basis of any false statement or falsification of any record knowingly made by or on behalf of the employee, or the employee's failure to make any required report of change in disability status, may be recovered from the employee by the Board, with interest, either by way of a credit against future payments due the employee or by an action at law against the employee.

F. If a participating employee's payments under the Act are adjusted or terminated for refusal to work or to comply with the requirements of § 65.2-603, his disability benefits shall be computed as if he were receiving the compensation to which he would otherwise be entitled under the Act.

2012, cc. 701, 823.

§ 51.1-1168. Rehabilitation incentive

Supplemental disability benefits payable to a participating employee who fails to cooperate with a rehabilitation program prescribed for the employee shall be decreased by 50 percent of the amounts otherwise payable to such employee. In determining the amount of any reduction in benefits under this section, the participating employee shall be presumed to continue to receive benefits payable under the Act. Failure to comply with a vocational rehabilitation assessment process at any time the employee is receiving supplemental disability benefits may constitute a failure to cooperate for purposes of this section.

2012, cc. 701, 823.

§ 51.1-1169. Cessation of supplemental disability benefits; service retirement

A. Supplemental disability benefits shall cease to be paid to a participating employee upon the first to occur of the following:

1. The end of the period of supplemental disability coverage as provided in subsection E of § 51.1-1163 or subsection E of § 51.1-1165;

2. The date of death of the participating employee;

3. On the date the employee attains normal retirement age; or

4. The effective date of the participating full-time employee's service retirement under the hybrid retirement program described in § 51.1-169.

Notwithstanding the foregoing, an employee who is approved for supplemental disability benefits (i) at age 60 through 64 shall be eligible for five years of supplemental disability benefits, (ii) at age 65 through 68 shall be eligible for supplemental disability benefits to age 70, and (iii) at age 69 or older shall be eligible for supplemental disability benefits for one year. The eligibility periods include supplemental short-term disability and supplemental long-term disability.

B. Upon the cessation of benefits payable under the Act, a participating full-time employee may take service retirement under any provision of this title for which the employee is otherwise eligible, including the hybrid retirement program described in § 51.1-169. Such employee shall be

authorized to elect any option for the payment of his retirement allowance provided under subsection A of § 51.1-165.

C. The employee's average final compensation shall be equal to his creditable compensation on the date of the commencement of the disability increased by an amount recommended by the actuary of the Virginia Retirement System, and approved by the Board, from the date of the commencement of the disability to the date of retirement.

D. The creditable service of a participating full-time employee taking service retirement pursuant to this section shall include periods during which the employee received supplemental disability benefits, provided that such creditable service shall not include periods for which (i) the employee received supplemental short-term disability benefits, (ii) the employer did not report such creditable service to the retirement system, and (iii) the employee did not purchase such creditable service.

2012, cc. 701, 823.

§ 51.1-1170. Coordination of benefits

The Board shall develop guidelines and procedures for the coordination of benefits and case management for participating employees entitled to benefits under the Act and supplemental disability benefits under this article. Such guidelines shall also address disability benefits for participating employees whose disability results from multiple injuries or illnesses, one or more of which is a work-related injury.

2012, cc. 701, 823.

Article 4 - ADMINISTRATIVE PROVISIONS

§ 51.1-1171. Supplemental benefits for catastrophic disability

Disability benefits shall be increased to 80 percent of creditable compensation for any disabled participating employee who (i) is unable to perform at least two of the six activities of daily living due to a loss of functional capacity or (ii) requires substantial supervision to protect the employee from threats to health and safety as a result of severe cognitive impairment. Determination of whether a participating employee satisfies either of these conditions shall be made in accordance with the policies of the Board or its designee.

2012, cc. 701, 823.

§ 51.1-1172. Employer contributions during disability absences

Mandatory employer contributions to the defined contribution component of the hybrid retirement program pursuant to subdivision B 2 of § 51.1-169 on behalf of a participating employee shall be made for each employee who is permanently and totally disabled (as defined in § 22(e)(3) of the Internal Revenue Code). The calculation of such contributions shall be based on the full amount of the participating employee's creditable compensation.

2012, cc. 701, 823.

§ 51.1-1173. Health insurance coverage during disability absences

Participating employees enrolled in a health insurance plan shall (i) continue to be covered during periods of short-term disability and (ii) have the option of continuing to be covered by such plan during periods of absence covered by long-term disability benefits, but only to the extent such health insurance coverage is provided by the employers of such participating employees.

2012, cc. 701, 823; 2013, c. 463.

§ 51.1-1174. Life and accident insurance coverage during disability absences

A. Participating employees participating in a group life and accident insurance program established pursuant to Chapter 5 (§ 51.1-500 et seq.) shall continue to participate in such program during periods of absence covered by short-term and long-term disability benefits.

B. During periods of absence covered by short-term disability benefits, the amount of the life insurance benefit shall be based on the annual salary of the participating employee at the commencement of the disability and shall be adjusted to include salary increases awarded during the period covered by short-term disability benefits.

C. During periods of absence covered by long-term disability benefits, the amount of the life insurance benefit shall be based on the annual salary of the participating employee at the commencement of the disability. Such amount shall not include salary increases awarded during the period covered by long-term disability benefits.

2012, cc. 701, 823.

§ 51.1-1175. Optional insurance during disability absences

Participating employees may continue coverage under the optional insurance for themselves and their spouses and minor dependents pursuant to § 51.1-512 at their own expense during periods of disability.

2012, cc. 701, 823.

§ 51.1-1176. Exclusions and limitations

A. Disability benefits shall not be payable to any participating employee (i) whose disability results from the employee's commission of a felony or (ii) during any period when the employee is incarcerated.

B. Long-term disability benefits shall not be payable to any participating employee whose disability results from the abuse of alcohol, the misuse of any prescribed medication, or the misuse of any controlled substance, unless the employee is actively receiving treatment and, in the judgment of the case manager, is fully complying with the treatment plan and is making substantial progress toward rehabilitation.

C. Disability benefits shall not be payable if the participating employee is determined by the Board or its designee to be noncompliant with the program.

2012, cc. 701, 823.

§ 51.1-1177. Appeals

The Board may elect to develop an alternative to the process set forth in the Administrative Process Act (§ 2.2-4000 et seq.) to allow appeals of case decisions related to the payment of disability benefits under this chapter. This alternative process shall be modeled after the claims provisions as provided for in the federal Employee Retirement Income Security Act of 1974, as amended, and shall (i) provide for adequate notice in writing to any participant whose claim for benefits has been denied setting forth the specific reasons for such denial and (ii) afford a reasonable opportunity to any participant whose claim for benefits has been denied for a review of the decision denying the claim. Articles 3 (§ 2.2-4018 et seq.) and 4 (§ 2.2-4024 et seq.) of the Administrative Process Act shall not apply to any portion of this alternative appeals process.

However, any person aggrieved by, and claiming the unlawfulness of, a final case decision issued pursuant to this alternative appeals process, whether issued by the Board or by the Board's delegate, shall have a right to seek judicial review thereof. Such judicial review shall be in accordance with Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

2012, cc. 701, 823.

§ 51.1-1178. Board authorized to provide long-term care insurance and benefits

A. For purposes of this section, "participating employee" means the same as that term is defined in § 51.1-1150.

B. The Board is authorized to develop, implement, and administer a long-term care insurance program for participating employees. The Board may contract for and purchase such long-term care insurance or may self-insure long-term care benefits or may use such other actuarially sound funding necessary to effectuate such long-term care insurance and benefits.

C. Employers of participating employees shall pay to the Board contribution amounts, to be determined by the Board, to provide the Board with such funds as shall be required from time to time to (i) obtain and maintain long-term care insurance and benefits for participating employees and (ii) administer the long-term care insurance program, including providing case management and cost containment programs. Contributions shall be deposited in the Hybrid Retirement Program Disability Insurance Trust Fund established under § 51.1-1183.

2012, cc. 701, 823.

§ 51.1-1179. Limitation on coverage

No person shall have more than one coverage under a disability benefit program. Any person employed in more than one position that provides coverage under a disability benefit program shall elect one position on which his coverage shall be based by written notification to the Board. No person shall receive more than one disability benefit under this chapter at the same time.

2012, cc. 701, 823.

§ 51.1-1180. Keeping records and furnishing information required by Board

Each employer whose employees are covered under the provisions of this chapter shall keep records and furnish information required by the Board.

2012, cc. 701, 823.

§ 51.1-1181. Benefits exempt from process

The benefits provided for in this chapter and all proceeds therefrom shall be exempt from levy, garnishment, attachment, and other legal process.

2012, cc. 701, 823.

§ 51.1-1182. Policies to provide for accounting to Board; advance premium deposit reserve

A. Each insurance product purchased by the Board or contract for administrative services related to a self-funded product shall provide for an accounting to the Board not later than 120 days after the end of each product year. For an insurance product, the accounting shall include (i) the amounts of premiums actually accrued under the policy during the policy year, (ii) the total amount of all claim charges incurred during the policy year, and (iii) the amount of fees accrued under the policy during the year plus the total amount of all claim charges incurred during the policy year. For a self-insured product, the accounting shall include the total amount of all claim charges incurred during the product year, the total amount of third-party administrator expenses, and the total amount of other charges for administrative services.

B. Any portion of the excess of the total of clause (i) of subsection A over clause (iii) of subsection A may, with the approval of the Board, be held by the insurance company in an advance premium deposit reserve to be used by the company for charges under the policy only. Any expenses incurred by the Board in connection with the administration of the disability benefits provisions of the program may be deducted from the advance premium deposit reserve. The advance premium deposit reserve shall bear interest at a rate to be determined in advance of each policy year by the insurance company. The rate shall be subject to Board approval as being consistent with the rates generally used by the company for similar funds held under other disability insurance policies. Any portion of the excess not held by the insurance company shall be held by the Board to be used for charges under the policy only. If the Board determines that the advance premium deposit reserve, together with any portion of the excess accumulated and held by the Board, has attained an amount estimated to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall inure to the benefit of the Commonwealth and its political subdivisions as determined by the Board.

C. For purposes of this section, the insurance company may combine and consolidate the policies issued by it as directed by the Board.

2012, cc. 701, 823.

§ 51.1-1183. Funding of program; Hybrid Retirement Program Disability Insurance Trust Fund established

A. The costs of providing short-term disability benefits shall be paid by the respective employers of participating employees. Employers that are state agencies shall pay such costs from funds as shall be appropriated by law to state agencies.

B. Employers of participating employees shall pay to the Board contribution amounts, to be determined by the Board, to provide the Board with such funds as shall be required from time to time to (i) obtain and maintain long-term disability insurance policies under this chapter and (ii) administer the Program, including providing case management and cost containment programs. Employers that are state agencies shall make such contributions from funds as shall be appropriated by law to state agencies. Contributions shall be deposited in the Hybrid Retirement Program Disability Insurance Trust Fund.

C. There is hereby established the Hybrid Retirement Program Disability Insurance Trust Fund. The costs incurred by the Board in providing policies of long-term disability insurance and administering the Program and in administering the long-term care insurance program established under § 51.1-1178, including the provision of case management and cost containment programs, shall be withdrawn from time to time by the Board from the Hybrid Retirement Program Disability Insurance Trust Fund. The funds of the Hybrid Retirement Program Disability Insurance Trust Fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth and its political subdivisions, and shall be invested and administered solely in the interests of the participating employees and beneficiaries thereof. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not limited to legislative oversight of the Hybrid Retirement Program Disability Insurance Trust Fund.

2012, c. 701; 2012, c. 823.

Chapter 12 - VOLUNTEER FIREFIGHTERS' AND RESCUE SQUAD WORKERS' SERVICE AWARD FUND

§ 51.1-1200. Fund established; administration and management; Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board

There is hereby created a fund to be known and designated as the "Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund" (the Fund). The Fund is established to provide service awards to eligible volunteer firefighters and volunteer emergency medical services personnel who elect to become members of the Fund. The Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board (the Board) shall utilize the assistance of the Virginia Retirement System in establishing, investing, and maintaining the Fund. The Board of Trustees of the Virginia Retirement System shall administer and manage the investment of the Fund as custodian and provide staff to further carry out the provisions of this chapter. The Virginia Retirement System shall invest the Funds in accordance with Article 3.1 (§ 51.1-124.30 et seq.) of Chapter 1. The Fund

shall annually reimburse the Virginia Retirement System for all costs incurred and associated, directly and indirectly, with the administration of this chapter and management and investment of the Fund.

1999, cc. 664, 860; 2001, c. 672; 2015, cc. 502, 503.

§ 51.1-1201. Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board

A. The Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board is hereby created and is to be composed of 10 members. The Director of the Virginia Retirement System shall be a member and act as chairman. The Governor shall appoint three members of the Board from a list provided by the Virginia State Firefighters Association and three members from a list provided by the Virginia Association of Volunteer Rescue Squads. Such appointees shall be confirmed by the General Assembly and shall serve for six-year terms. No Board member appointed by the Governor shall serve more than two full consecutive terms. The Speaker of the House of Delegates shall appoint two members of the House of Delegates and the Senate Committee on Rules shall appoint one member of the Senate. Legislative members shall serve terms coincident with their terms of office.

B. The Director of the Virginia Retirement System with the consent of the Board shall immediately declare the office of any nonlegislative member of the Board vacant when he finds that the member is unable to perform the duties of his office or for any reason does not meet the qualifications of this section. The Governor shall appoint a new member, subject to confirmation by the General Assembly, to serve for a full or unexpired term whenever the office of a nonlegislative member becomes or is declared vacant. In any case where a new appointment is made, the person receiving the appointment shall be a (i) volunteer firefighter representative if his predecessor was a volunteer firefighter representative or (ii) volunteer emergency medical services personnel representative if his predecessor was a volunteer emergency medical services personnel representative.

C. The members of the Board shall serve without compensation; however, the nongovernmental members may be reimbursed for their reasonable expenses incurred in attending meetings of the Board or in acting in an official capacity for the Board.

D. The first Board appointed shall meet as soon as practicable for the purpose of organizing and electing officers. Officers other than the chairman shall be elected for one-year terms. The Board shall adopt a general statement of policy and procedures. The Board shall meet at least quarterly and at such special meetings as the chairman may call. The chairman may call a special meeting at any time and shall call a special meeting when requested by three or more members of the Board. No meeting shall be deemed a regular or special meeting unless a quorum is present.

E. Members of the Board shall be subject to removal from office only as set forth in Article 7 (§ 24.2-230 et seq.) of Chapter 2 of Title 24.2. The Circuit Court of the City of Richmond shall have exclusive jurisdiction over such removal proceedings.

1999, cc. 664, 860; 2000, c. 911; 2001, c. 672; 2006, c. 707; 2015, cc. 502, 503.

§ 51.1-1202. Powers and duties of the Board

The Board shall promulgate such rules and policies as are necessary to carry out its responsibilities as required by this chapter. The Board may contract the administrative services related to the service awards provided for herein and designate authority for the administration of those service awards based on the standards set forth in § 51.1-124.30. The Board or its designee shall (i) request such general fund appropriations as necessary to maintain the Fund, (ii) make determinations of eligibility for membership in the Fund, (iii) approve applications for service awards to be paid from the Fund, and (iv) exercise all other powers necessary for the administration of this chapter and management of the Fund. Member contributions to the Fund shall be segregated into separate member accounts and be used only to pay service awards to its members. The Board shall adopt rules and policies that bring the Fund into compliance with any applicable law or regulation of this Commonwealth or the United States.

1999, cc. 664, 860; 2001, c. 672.

§ 51.1-1203. Definitions

For purposes of this chapter, unless the context requires a different meaning:

"Creditable service" means service as an eligible volunteer plus any service credited pursuant to § 51.1-1207.

"Eligible volunteer" means any volunteer emergency medical services personnel or any volunteer firefighter who is a member of a bona fide volunteer emergency medical services agency or volunteer fire department and who is otherwise eligible pursuant to the criteria established by the Board.

"Member" means an eligible volunteer.

1999, cc. 664, 860; 2002, c. 349; 2015, cc. 502, 503.

§ 51.1-1204. Application for membership in Fund; quarterly payments by members; matching payments from the general fund; payments credited to separate accounts of members

Eligible volunteers, and all persons who subsequently become eligible volunteers, may apply to the Board for membership in the Fund. Upon becoming a member of the Fund, each eligible volunteer shall pay an amount to be set by the Board per quarter into the Fund. Each quarterly payment made by a member shall be supplemented by such contribution from the general fund of the state treasury for a period not to exceed 20 years as shall be determined by the Board and as may be appropriated by the general appropriation act. The quarterly payments shall be credited to the separate accounts of the members, and the matching contributions shall be credited to the Fund. The member contribution or any additional contribution to the Fund may be made by (i) the individual fire department or emergency medical services agency, provided it is paid for all eligible members of the Fund within the particular fire department or emergency medical services agency; (ii) local government, provided it is paid for all eligible members of the Fund who are volunteers

for fire departments or emergency medical services agencies within the jurisdiction of the local government; or (iii) any other source provided it is paid for all eligible members of the Fund. Such accounts shall be kept so that they are available for payment on withdrawal from membership or upon receipt of the service award. No eligible volunteer shall maintain more than one membership in the Fund. In the event an eligible volunteer is in more than one eligible position, he must choose the position upon which his membership will be determined.

1999, cc. 664, 860; 2001, c. 672; 2015, cc. 502, 503.

§ 51.1-1205. Equivalent distribution

Any member who has attained the age of sixty and who has ten years of creditable service as an eligible volunteer shall be entitled to a distribution from the Fund equivalent to the contributions that he has made, the appropriate matching contributions made on his behalf, and any investment gains on such contributions less any losses, provided that such amount shall be reduced by the amount of any distribution to such member under § 51.1-1206. The Board may provide alternative methods of distribution in lieu of a lump sum distribution to members entitled to a service award under this section.

The distributions provided shall be in addition to all pensions or other benefits under any other statutes of the Commonwealth or the United States.

1999, cc. 664, 860; 2001, c. 672; 2002, c. 349.

§ 51.1-1206. Other distributions

The Board shall direct payment in lump sums from the Fund as follows:

1. To any eligible volunteer firefighter or eligible volunteer who is an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 upon attaining age 60 who has at least five but less than 10 years of creditable service as an eligible volunteer, an amount equal to (i) the amount paid into the Fund by him plus (ii) the amount paid into the Fund on his behalf by his fire department or emergency medical services agency plus (iii) the amount paid into the Fund on his behalf by his local government plus (iv) the amount paid into the Fund on his behalf by any other source plus (v) a portion of the amount paid into the Fund, on his behalf, from the general fund of the state treasury pursuant to § 51.1-1204 plus (vi) any investment gains less any losses on the amounts paid into the Fund described under clauses (i) through (v). The portion of the amount paid from the general fund on behalf of such person that shall be paid to such person shall be based upon such person's years of creditable service as follows:

Years of creditable service	Portion of general fund contributions to be paid
At least five but less than six	Five percent of general fund contributions
At least six but less than seven	Ten percent of general fund contributions
At least seven but less than eight	Twenty-five percent of general fund contributions
At least eight but less than nine	Forty-five percent of general fund contributions
At least nine but less than ten	Seventy percent of general fund contributions

In any case where the person shall be paid less than 100 percent of the general fund contributions made on his behalf, the investment gain or investment loss applicable to such contributions that shall be paid, or subtracted from any payment otherwise required, to such person shall equal the amount of the investment gain or investment loss, applicable to such contributions at the time of payment, multiplied by the percentage of such general fund contributions to be paid to the person as determined under this subdivision.

2. If the eligible volunteer firefighter or volunteer who is an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 ceases to serve as a volunteer and has less than five years of creditable service upon attaining age 60, such person shall not be paid, nor have any right or interest in, the amount paid into the Fund on his behalf (i) by his fire department or emergency medical services agency, (ii) from the general fund of the state treasury pursuant to § 51.1-1204, or (iii) by any local government. Such person shall, however, be paid all contributions to the Fund that he has made plus the applicable portion of any investment gains or losses thereon.

The amount paid into the Fund on his behalf by his fire department or emergency medical services agency shall remain in the Fund and shall be deemed additional contributions made by such fire department or emergency medical services agency. The amount paid into the Fund on his behalf from the general fund of the state treasury shall remain in the Fund and shall be deemed additional contributions made from the general fund of the state treasury. The amount paid into the Fund on his behalf from a local government shall remain in the Fund and shall be deemed additional contributions from such local government.

3. The provisions of this section shall not be construed to preclude any eligible volunteer firefighter or eligible volunteer emergency medical services personnel from completing the requisite number of years of active service, after attaining the age of 60, necessary to entitle him to the distribution provided for in § 51.1-1205.

4. If an eligible volunteer firefighter or eligible volunteer who is an individual who meets the definition of "emergency medical services personnel" in § 32.1-111.1 dies before a service award is otherwise paid to him under the provisions of this chapter and while he is an eligible volunteer, there shall be paid to his beneficiary an amount equal to the contributions he has made, the matching contributions made on his behalf, and any investment gains on such contributions less any losses. If an eligible volunteer firefighter or eligible volunteer emergency medical services personnel dies before a service award is otherwise paid to him under the provisions of this chapter and while he is no longer an eligible volunteer, there shall be paid to his beneficiary an amount equal to the amount paid into the Fund by the volunteer and any investment gains on that amount, less any losses. For purposes of this section, a member's beneficiary is the person or persons the member may name on a form prepared by the Board, signed by the member and filed in a manner prescribed by the Board. If there are no such persons, then his beneficiary shall be his spouse; if there

is no spouse, then his living children equally; if there are no children, then his heirs-at-law as may be determined by the Board; or if there are no heirs, then his estate, if it is administered.

5. To any firefighter or emergency medical services personnel withdrawing from the Fund, upon proper application, all moneys he contributed to the Fund less any investment losses, and an administrative fee of $25.

1999, cc. 664, 860; 2001, c. 672; 2002, c. 349; 2015, cc. 502, 503.

§ 51.1-1207. Determination of prior creditable service; information furnished by applicants for membership

Any member with eligible service prior to the effective date of membership may purchase up to 10 years of such service upon certification of his fire department or emergency medical services agency. Such purchase shall be prorated at the rate of one year for every two years of eligible service. The cost of such service shall be an amount as established by the Board. Notwithstanding any other provisions of this chapter, the Board may grant qualified prior service credits to an eligible volunteer firefighter or eligible volunteer emergency medical services personnel, under such terms and conditions that the Board may adopt, if the Board determines that such volunteer has been denied such prior service credit through no fault of his own.

1999, cc. 664, 860; 2001, c. 672; 2002, c. 349; 2015, cc. 502, 503.

§ 51.1-1208. Length of service not affected by serving in more than one department or agency; transfer from one department or agency to another

The length of service of an eligible volunteer firefighter or eligible volunteer who is an individual who meets the definition of "emergency services personnel" in § 32.1-111.1 shall not be affected by the fact that he may have served with more than one department or agency, and upon transfer from one department or agency to another, notice of the fact shall be given to the Board.

1999, cc. 664, 860; 2015, cc. 502, 503.

§ 51.1-1209. Effect of member not maintaining eligibility and being six months delinquent in making monthly payments

A. Any member who does not maintain his eligibility as a member and who becomes six months delinquent in making the required quarterly payments by the date as determined by the Board, shall forfeit his membership in the Fund. Upon forfeiting his membership and becoming delinquent, such membership shall be reinstated only upon written request to the Board, and such reinstatement shall be at the sole discretion of the Board.

B. Any member who ceases to maintain his eligibility while in good standing, but notifies the Board of his intention to resume eligibility shall be reinstated upon written request to the Board.

1999, cc. 664, 860.

§ 51.1-1210. Administrative fee for rejoining the Fund

Any individual who had been a member of the Fund and who applies to rejoin the Fund shall not be entitled to membership until he has paid an administrative fee of twenty-five dollars. The Board shall elect to waive the twenty-five dollar fee for members reinstated pursuant to subsection B in § 51.1-1209.

1999, cc. 664, 860; 2002, c. 349.

§ 51.1-1211. Falsification of records; penalty

Any person who knowingly makes any false statement or falsifies or permits the falsification of any record related to eligibility for membership in the Fund in any attempt to defraud the Fund shall be guilty of a Class 1 misdemeanor.

1999, cc. 664, 860.

Chapter 13 - BENEFIT RESTORATION PLAN

§ 51.1-1300. Definitions

As used in this chapter, unless the context requires a different meaning:

"Board" means the Board of Trustees of the Virginia Retirement System.

"Member" means any member whose benefits under the Virginia Retirement System (§ 51.1-124.1 et seq.), the State Police Officers' Retirement System (§ 51.1-200 et seq.), the Virginia Law Enforcement Officers' Retirement System (§ 51.1-211 et seq.), or the Judicial Retirement System (§ 51.1-300 et seq.) would otherwise be limited by § 415(b) of the Internal Revenue Code .

"Retirement System" means the Virginia Retirement System.

2001, cc. 681, 692.

§ 51.1-1301. Benefit restoration plan for employees; administration by the Board

A. The Board shall establish and administer a benefit restoration plan for members. Such plan shall meet the requirements to be treated as a plan established under § 415(m) of the Internal Revenue Code . The Virginia Retirement System Director shall be the chief administrative officer of the plan. The Retirement System is hereby authorized to perform related services including, but not limited to, providing consolidated billing, individual and collective record keeping and accountings, and asset control and safekeeping.

B. The benefit restoration plan shall exist to provide nontaxable benefits to members whose annual benefit is reduced pursuant to subsection B of § 51.1-168. The benefit restoration plan shall be funded from those contributions required under Article 7 (§ 51.1-144 et seq.) of Chapter 1 of this title. If it deems it advisable, the Board may create a trust or other special fund for segregation of the funds or assets relating to a benefit restoration plan established herein.

2001, cc. 681, 692.

§ 51.1-1302. Local benefit restoration plans

The governing body of any county, municipality, authority or other political subdivision of the Commonwealth that does not participate in the retirement system or that maintains a plan that provides supplemental benefits to employees covered by the retirement system may, by ordinance or by resolution adopted by a recorded majority of the members of such governing body, establish for itself and its employees a benefit restoration plan established under § 415 (m) of the Internal Revenue Code and, if it deems it advisable, may create a trust or other special fund for segregation of funds or assets relating to such plan.

2001, cc. 681, 692; 2006, c. 307.

§ 51.1-1303. Standards for benefit restoration plans

No benefit restoration plan shall become effective until the Board, county, municipality or political subdivision of the Commonwealth is satisfied by opinion of its respective counsel, such federal agency or agencies as may be deemed necessary, or otherwise, that the benefits payable under the plan will not be included in the employee's taxable income under federal and state income tax law until it is actually received by or made available to the employee under the terms of the plan.

2001, cc. 681, 692.

§ 51.1-1304. Other retirement, pension systems not affected; annual report

A. Any benefit restoration plan established by this chapter, and any plan adopted hereunder, shall exist and serve in addition to any other retirement, pension or benefit system established by the Commonwealth, its agencies, counties, municipalities or other political subdivisions, and shall not supersede, make inoperative or reduce any benefits provided by the Retirement System or by any other retirement, pension or benefit program established by law.

B. The Retirement System shall submit an annual report to the Governor and the General Assembly annually on or before December 31 advising them of the condition and all operational costs associated with the benefit restoration plan.

2001, cc. 681, 692; 2006, c. 66.

Chapter 14 - HEALTH INSURANCE CREDITS FOR CERTAIN RETIREES

§ 51.1-1400. Health insurance credits for retired state employees

A. The Commonwealth shall provide a credit toward the cost of health insurance coverage for any former state employee, as defined in § 2.2-2818, who retired under the Virginia Retirement System, State Police Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or any retirement system authorized pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, 51.1-126.7, or 51.1-169 and who (i) rendered at least 15 years of total creditable service under the Retirement System or (ii) rendered service as a temporary employee of the General Assembly in 1972 and became a member of the retirement system from 1972 to 1985 immediately following such temporary service. The amount of each monthly health insurance credit payable under this section shall be $4 per year of creditable service, which

amount shall be credited monthly to any retired state employee participating in the state retiree health benefits program pursuant to § 51.1-1405 or an alternative personal health insurance plan as provided herein. However, such credit shall not exceed the health insurance premium for retiree-only coverage as provided under such alternative personal health insurance plan. Any (i) employee participant pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, or 51.1-126.7 receiving long-term disability, or (ii) retired state employee retired under the provisions of § 51.1-156 or 51.1-307, or (iii) any participating employee receiving long-term disability pursuant to § 51.1-1112, 51.1-1123, 51.1-1157, or 51.1-1165 shall receive a maximum monthly credit which is the greater of (i) $120, (ii) $4 per year for each year of creditable service at the time of disability retirement, or (iii) $4 per year for each year of creditable service at the time of eligibility for long-term disability. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) who elects to defer his retirement pursuant to subsection C of § 51.1-153, subsection C of § 51.1-205 or subsection C of § 51.1-305 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

B. For those retired state employees:

1. Participating in the state retiree health benefits program, such credit shall be applied to the monthly premium deducted from benefits payable to retired state employees in accordance with Chapters 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), and 3 (§ 51.1-300 et seq.). In the event that either no benefit is payable or the benefit payable is insufficient to deduct the entire health care premium, the payment of the credit shall be determined in the manner prescribed by the Virginia Retirement System. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System.

2. Not electing or eligible to participate in the state retiree health benefits program and who purchase an alternative personal health insurance policy from a carrier or organization of his own choosing, such retirees shall be eligible to receive a credit in the amount specified in subsection A. Eligibility for the credit and payment for the credit shall be determined in a manner prescribed by the Virginia Retirement System.

C. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) who (i) rendered at least 15 years of total creditable service as a state employee as defined in § 2.2-2818 and (ii) after terminating state service, was employed by a local government that does not elect to provide a health insurance credit under § 51.1-1401 or 51.1-1402, shall be eligible for the credit provided by subsection A, provided that the retired employee is participating in a health insurance plan. The Commonwealth shall be charged with the credit as provided for in subsection D. In such case, the health insurance credit shall be determined based upon the amount of state service or service as a teacher, whichever is greater.

D. The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided by this section to reflect the cost of such credits in the employer contribution rate pursuant to § 51.1-145, and prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administration of the health insurance credit program provided for in this section shall be recovered from the health insurance credit trust fund.

E. (Effective until October 1, 2016) Notwithstanding anything contained in this section to the contrary, the Virginia Commonwealth University Health System Authority shall pay the cost of coverage for employees of such Authority who (i) retired under the Virginia Retirement System or any retirement system authorized pursuant to § 23-50.16:24.1, 51.1-126, 51.1-126.1, or former § 51.1-126.2; (ii) were employed by such Authority prior to July 1, 1998, and were not subsequently rehired by such Authority on or after July 1, 1998; and (iii) served no less than 15 years of creditable service as regularly employed full-time employees of such Authority or the Commonwealth.

E. (Effective October 1, 2016) Notwithstanding anything contained in this section to the contrary, the Virginia Commonwealth University Health System Authority shall pay the cost of coverage for employees of such Authority who (i) retired under the Virginia Retirement System or any retirement system authorized pursuant to § 23.1-2416, 51.1-126, 51.1-126.1, or former § 51.1-126.2; (ii) were employed by such Authority prior to July 1, 1998, and were not subsequently rehired by such Authority on or after July 1, 1998; and (iii) served no less than 15 years of creditable service as regularly employed full-time employees of such Authority or the Commonwealth.

1989, c. 664, § 2.1-20.1:2; 1992, c. 770; 1993, cc. 743, 938; 1995, cc. 612, 734; 1998, cc. 195, 449, 676; 1999, cc. 832, 980, 984; 2000, cc. 720, 911; 2001, c. 844; 2004, c. 79; 2005, c. 535; 2006, c. 622; 2007, c. 64; 2012, cc. 701, 823.

§ 51.1-1401. Health insurance credits for retired teachers

A. A teacher, as defined in § 51.1-124.3, retired under the Virginia Retirement System, including the hybrid retirement program described in § 51.1-169, and any employee retired under a defined contribution plan pursuant to § 51.1-126.6, who rendered at least 15 years of total creditable service under the System or plan shall receive a health insurance credit to his monthly retirement allowance, which shall be applied to reduce the retired member's health insurance premium cost. The amount of each monthly health insurance credit payable under this section shall be $4 for each full year of the retired member's creditable service; however, each former member whose retirement was for disability, any employee participant pursuant to § 51.1-126.6 receiving long-term disability, a participant receiving long-term disability pursuant to § 51.1-1157 or 51.1-1165, or a member of the hybrid retirement program receiving long-term disability pursuant to coverage under subsection A of § 51.1-1153 shall receive a monthly health insurance credit of $4 multiplied by the smaller of (i) twice the amount of his creditable service or (ii) the amount of creditable service he would have completed at age 60 if he had remained in service to that age. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System. Any

member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

B. Those retired employees who purchase an alternative personal health insurance policy from a carrier or organization of their own choosing shall be eligible to receive a credit in the amount specified in subsection D. Eligibility for the credit and payment of the credit shall be determined in a manner prescribed by the Virginia Retirement System.

C. The credit shall be in (i) the amount provided in subsection A or (ii) the amount of premium paid for the personal health insurance policy, whichever is less.

D. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) who (i) rendered at least 15 years of total creditable service as a teacher as defined in § 51.1-124.3 and (ii) after terminating service as a teacher, was employed by a local government that does not elect to provide a health insurance credit under § 51.1-1402, shall be eligible for the credit provided by subsection A and subsection B if provided by the school division from which the service described in clause (i) was rendered, provided that the retired employee is participating in a health insurance plan. The Commonwealth and local school division, if appropriate, shall be charged with the credit as provided for in subsection E. In such case, the health insurance credit shall be determined based upon the amount of state service or service as a teacher, whichever is greater.

E. The Virginia Retirement System shall (i) actuarially determine the amount necessary to fund all credits provided under this section; (ii) reflect the cost of such credits in the applicable employer contribution rate pursuant to §§ 51.1-145, 51.1-204, and 51.1-304; and (iii) prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administration of the health insurance program provided for in this section shall be recovered from the health insurance credit trust fund.

1992, c. 770, § 2.1-20.1:3; 1993, cc. 743, 938; 1995, cc. 612, 734; 1996, c. 764; 1998, cc. 195, 676; 1999, cc. 832, 980, 984; 2000, c. 911; 2001, c. 844; 2004, c. 84; 2007, cc. 866, 921; 2009, c. 23; 2011, c. 722; 2012, cc. 701, 823.

§ 51.1-1402. Health insurance credits for retired local government employees

A. Retired local government employees, whose localities have elected to participate in the Virginia Retirement System, including the hybrid retirement program described in § 51.1-169, who have rendered at least 15 years of total creditable service under the System shall receive a health insurance credit to their monthly retirement allowance, which shall be applied to reduce the retired member's health insurance premium cost, provided the retiree's employer elects to participate in the credit program. The amount of each monthly health insurance credit payable under this section shall be $1.50 for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of $45; however, each former member whose retirement was for

disability, a participant receiving long-term disability pursuant to § 51.1-1157 or 51.1-1165, or a member of the hybrid retirement program receiving long-term disability pursuant to coverage under subsection A of § 51.1-1153 shall receive a monthly health insurance credit of $45. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System. Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

B. Those retired employees who purchase an alternative policy from a carrier or organization of their own choosing shall be eligible to receive a credit in the amount specified in subsection C. Eligibility for the credit and payment of the credit shall be determined in a manner prescribed by the Virginia Retirement System.

C. The credit shall be in the amount provided in subsection A or the amount of premium paid for the personal health insurance policy, whichever is less.

D. The cost of the monthly health insurance credit payable under this section shall be borne by the locality.

E. The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided under this section, reflect the cost of such credits in the applicable employer contribution rate pursuant to § 51.1-145, and prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administration of the health insurance credit program provided for in this section shall be recovered from the health insurance credit trust fund.

1992, c. 770, § 2.1-20.1:4; 1993, cc. 743, 938; 1995, cc. 612, 734; 1998, cc. 195, 676; 2001, c. 844; 2012, cc. 701, 823.

§ 51.1-1403. Health insurance credits for retired constitutional officers, employees of constitutional officers, general registrars, employees of general registrars, and local social service employees

A. A local officer, as defined in § 51.1-124.3, general registrar, employee of a general registrar, or an employee of a local social services board, retired under the Virginia Retirement System, including the hybrid retirement program described in § 51.1-169, who rendered at least 15 years of total creditable service under the System shall receive a health insurance credit to his monthly retirement allowance, which shall be applied to reduce the retired member's health insurance premium cost. The amount of each monthly health insurance credit payable under this section shall be $1.50 for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of $45; however, each former member whose retirement was for disability, a participant receiving long-term disability pursuant to § 51.1-1157 or 51.1-1165, or a member of the hybrid retirement program receiving long-term disability pursuant to coverage under subsection A of § 51.1-1153 shall receive a monthly health insurance credit of $45. Eligibility for the credit shall

be determined in a manner prescribed by the Virginia Retirement System. Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement. The cost of such credit shall be borne by the Commonwealth.

B. In addition to the health insurance credit authorized in subsection A, localities which participate in the Virginia Retirement System may elect to provide an additional health insurance credit of $1 per month for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of $30. The costs of such additional health insurance credit shall be borne by the locality.

C.1. Those retired employees who purchase an alternative personal health insurance policy from a carrier or organization of their own choosing shall be eligible to receive a credit in the amount specified in subdivision C 2. Eligibility for the credit and payment of the credit shall be determined in a manner prescribed by the Virginia Retirement System.

2. The credit shall be in (i) the amount provided in subsection A, or subsection A and subsection B if the additional credit authorized by subsection B is provided or (ii) the amount of premium paid for the personal health insurance policy, whichever is less.

D. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) who (i) rendered at least 15 years of total creditable service as a local officer as defined in § 51.1-124.3 or as an employee of a local social services board or combined service as a general registrar or an employee of a general registrar and (ii) after terminating service as a local officer or employee of a local social services board or general registrar or as an employee of a general registrar, was employed by a local government that does not elect to provide a health insurance credit under § 51.1-1402, shall be eligible for the credit provided by subsection A, provided that the retired employee is participating in a health insurance plan. The Commonwealth shall be charged with the credit as provided for in subsection A. In such case, the health insurance credit shall be determined based upon the amount of state service or service as a local officer or service as an employee of a local social services board or combined service as a general registrar or an employee of a general registrar, whichever is greater.

E. The Virginia Retirement System shall (i) actuarially determine the amount necessary to fund all credits provided under this section, (ii) reflect the cost of such credits in the applicable employer contribution rate pursuant to § 51.1-145, and (iii) prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administration of the health insurance program provided for in this section shall be recovered from the health insurance credit trust fund.

1997, c. 989, § 2.1-20.1:7; 2000, c. 517; 2001, c. 844; 2005, cc. 382, 432; 2006, c. 336; 2012, cc. 701, 823.

§ 51.1-1404. Repealed

Repealed by Acts 2004, c. 76.

§ 51.1-1405. Participation in the state retiree health benefits program

A. As used in this section, unless the context requires a different meaning:

"Involuntarily separated" means separated from state service as the result of any dismissal, requested resignation, or failure to obtain reappointment, excluding a separation resulting from a conviction for a felony or crime involving moral turpitude or dishonesty or a separation related to the job performance or misconduct of the state employee.

"Retiree health benefits program" or "program" means the plan for providing health insurance coverage for retired state employees provided pursuant to subsection E of § 2.2-2818.

"State employee" means the same as that term is defined in § 2.2-2818.

"State retiree" means a state employee retired under the Virginia Retirement System, State Police Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or any retirement system authorized pursuant to § 51.1-126, 51.1-126.5, or 51.1-169 who is eligible to receive a monthly retirement annuity from that retirement system.

B. A state retiree shall be eligible to participate in the retiree health benefits program only if he makes an election to participate in the program within 31 days following the date of termination of employment with the Commonwealth. A retired state employee who fails to elect to participate in the state health plan within 31 days of the effective date of retirement, or who, once having elected to participate, discontinues participation, is barred from participating in the state health plan thereafter.

C. Any state retiree who was involuntarily separated who on July 1, 1999, is participating in the retiree health benefits program and is receiving monthly retirement annuity payments may elect, by notifying the Virginia Retirement System and the Department of Human Resource Management before September 1, 1999, to cease receiving monthly retirement annuity payments until reapplying for such benefits at a later date and to continue participation in the retiree health benefits program.

1999, cc. 980, 984, § 2.1-20.1:6; 2000, cc. 66, 657, 911; 2001, c. 844; 2011, c. 722; 2012, cc. 701, 823.