

VIRGINIA ACTS OF ASSEMBLY -- 2000 SESSION

CHAPTER 911

An Act to amend and reenact §§ 2.1-20.1:2, 2.1-20.1:3, 2.1-20.1:6, 2.1-116.24, 2.1-384.1, 51.1-124.3, 51.1-124.31, 51.1-142, 51.1-153, 51.1-155.1, 51.1-155.2, 51.1-205, 51.1-206, 51.1-216, 51.1-217, 51.1-218, 51.1-303, 51.1-308, 51.1-502, and 51.1-1201 of the Code of Virginia, relating to the Virginia Retirement System.

[H 135]

Approved April 9, 2000

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-20.1:2, 2.1-20.1:3, 2.1-20.1:6, 2.1-116.24, 2.1-384.1, 51.1-124.3, 51.1-124.31, 51.1-142, 51.1-153, 51.1-155.1, 51.1-155.2, 51.1-205, 51.1-206, 51.1-216, 51.1-217, 51.1-218, 51.1-303, 51.1-308, 51.1-502, and 51.1-1201 of the Code of Virginia are amended and reenacted as follows:

§ 2.1-20.1:2. 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 § 2.1-20.1, 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 and who (i) rendered at least fifteen 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 four dollars per year of creditable service, not to exceed a maximum monthly allowance of \$120, which amount shall be credited monthly to any retired state employee participating in the state retiree health benefits program pursuant to § 2.1-20.1:6 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 retired state employee retired under the provisions of §§ 51.1-156 and 51.1-307 shall receive the maximum credit provided by this section. 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.) of Title 51.1 who elects to defer his retirement pursuant to subsection C of §§ 51.1-153, 51.1-205 or § 51.1-305 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

B. 1. For those retired state employees 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.) of Title 51.1. 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. For those retired state employees 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.

3. 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.) of Title 51.1 who (i) rendered at least fifteen years of total creditable service as a state employee as defined in § 2.1-20.1 and (ii) after terminating state service, was employed by a local government that does not elect to provide a health insurance credit under § 2.1-20.1:3 or § 2.1-20.1:4, 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 C. 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* ~~rendered by the employee~~.

C. 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.

D. Notwithstanding anything contained in this section to the contrary, the Medical College of Virginia Hospitals 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 fifteen years of creditable service as regularly employed full-time employees of such Authority or the Commonwealth.

§ 2.1-20.1:3. Health insurance credits for retired teachers.

A. A teacher, as defined in § 51.1-124.3, retired under the Virginia Retirement System who rendered at least fifteen 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 two dollars and fifty cents for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of seventy-five dollars; however, each former member whose retirement was for disability shall receive a monthly health insurance credit of seventy-five dollars. 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 one dollar per month for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of thirty dollars. 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.

3. 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.) of Title 51.1 who (i) rendered at least fifteen 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 § 2.1-20.1:4, 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 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* ~~rendered by the employee~~.

D. 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.

§ 2.1-20.1:6. Participation in the state retiree health benefits program.

A. As used in this section:

"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 § 2.1-20.1.

"State employee" has the same meaning as defined in § 2.1-20.1.

"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, 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 thirty-one 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 thirty-one 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 Personnel and Training 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.

§ 2.1-116.24. Retirement program.

A. In lieu of the transitional severance benefit provided in § 2.1-116.23, any otherwise eligible employee who, on the date of involuntary separation, is also (i) a vested member of the Virginia Retirement System, ~~or the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System~~ and (ii) at least fifty years of age, may elect to have the Commonwealth purchase on his behalf years to be credited to either his age or creditable service or a combination of age and creditable service, except that any years of credit purchased on behalf of a member of the Virginia Retirement System, ~~or the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System~~ who is eligible for unreduced retirement shall be added to his creditable service and not his age. The cost of each year of age or creditable service purchased by the Commonwealth shall be equal to fifteen percent of the employee's present annual compensation. The number of years of age or creditable service to be purchased by the Commonwealth shall be equal to the quotient obtained by dividing (i) the cash value of the benefits to which the employee would be entitled under subsections A and D of § 2.1-116.23 by (ii) the cost of each year of age or creditable service. Partial years shall be rounded up to the next highest year. Deferred retirement under the provisions of *subsection C of §§ 51.1-153* ~~€~~, ~~and § 51.1-205~~ ~~€~~, ~~and 51.1-216~~, and disability retirement under the provisions of § 51.1-156 et seq. and § 51.1-209, shall not be available under this section.

B. In lieu of the (i) transitional severance benefit provided in § 2.1-116.23 and (ii) the retirement program provided in subsection A, any employee who is otherwise eligible may take immediate retirement pursuant to § 51.1-155.1.

C. The retirement allowance for any employee electing to retire under this section who, by adding years to his age, is between ages fifty-five and sixty-five, shall be reduced on the actuarial basis provided in subdivision A 2 of § 51.1-155.

§ 2.1-384.1. Exception for state retirement systems.

Notwithstanding the provisions of § 2.1-380, the Virginia Retirement System may disseminate information as to the retirement status or benefit eligibility of any employee covered by the Virginia Retirement System, the Judicial Retirement System, ~~or the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System~~, to the chief executive officer or personnel officers of the state or local agency by which he is employed.

§ 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, 1990, 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 thirty-six highest consecutive months of creditable service or during the entire period of his creditable service if less than thirty-six months. 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. In cases where compensation includes maintenance or other perquisites, the Board shall fix the value of that part of the compensation not paid in money. 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 plus membership service for which credit is allowable. Creditable service may include sick leave credit accumulated as of the employee's retirement date as certified by the employer to the Board as set forth in § 51.1-142.1.

"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.

"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.

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

"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 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 Visually Handicapped pursuant to § 63.1-73, (iv) any member of the State Police Officers' Retirement System, ~~or~~ (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.

§ 51.1-124.31. Pooling of assets for investment.

The Board may invest the assets of ~~any the Virginia Retirement System, the State Police Officers' Retirement System, and the Judicial~~ 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*.

§ 51.1-142. Prior service or membership credit for certain members.

A. Any member in service may purchase credit for service lost as a result of the following:

1. Rejection of membership in the retirement system.

2. Cessation of membership under this chapter because of the withdrawal of his accumulated contributions.

3. Exclusion from membership because of being a member of the General Assembly or other state officer elected by the people.

4. Termination of service as an officer or employee of a political subdivision in a position which subsequently became covered by the retirement system and for which prior service credit was granted.

In order to receive credit for the service, the member must pay an amount equal to the contributions that he would have made during the entire period to be credited, assuming that the member contribution rate specified in this chapter as of the date of payment had been in effect during the entire period and that the higher of the member's creditable compensation or average final compensation as of the date of payment had been received during the entire period.

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 or by an additional payroll deduction. Only one additional deduction shall be permitted at any time. Should the additional deduction be terminated prior to purchasing the entire period which might otherwise be credited, the member shall be credited with the

number of additional months of service for which payments are made. If the 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 which might otherwise have been credited and the excess amount deducted shall be refunded to the member.

B. Any vested member in service with at least twenty-five years of creditable service in the Retirement System may purchase prior service credit for (i) active duty military service in the armed forces of the United States, provided that the discharge from the armed forces was not dishonorable, (ii) certified creditable service in the retirement system of another state or of a political subdivision or public school system of this or another state, (iii) civilian service of the United States, or (iv) any combination thereof. 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.

Such prior service credit shall be calculated at the ratio of one year of prior service credit to one year of active duty military service or certified creditable service in the retirement system of another state, political subdivision or public school system of this or another state, or civilian service of the United States up to a maximum of four years of prior service credit. The member must pay an amount equal to five percent of his present annual compensation for each year to be credited or five percent of his average annual creditable compensation during his thirty-six highest consecutive months of creditable service, whichever is greater. Such prior service credit shall not be otherwise creditable as prior service in the calculation of any retirement benefit by this or another retirement system, but shall be creditable as prior service under this chapter and, if applicable, shall be considered in determining the actuarial equivalent for early retirement. Prior service credit for ~~more than three service in excess of four years of service~~ may be purchased by the member pursuant to § 51.1-143.

C. Any member granted a leave of absence for any of the following reasons may purchase limited service on the basis set forth in subsection A of this section:

1. Up to four years of service for any leave of absence for educational purposes or for temporary employment with the General Assembly.

2. Up to four years of service subsequent to January 1, 1964, for any leave of absence due to illness or disability or service which was temporarily terminated due to illness or disability.

3. ~~Up to one year of service for~~ Any unpaid leave of absence due to the birth or adoption of a child, ~~up to one year of service per occurrence.~~

D. Any member in service who was denied membership because of having attained age sixty when first employed or reemployed may purchase all or any portion of service lost as a result of denial upon payment in a lump sum of the amount the member would have contributed had he been allowed to participate in the system.

E. Service may be credited at no cost under the following circumstances:

1. Any member who was a member of the abolished system and who was in service on March 1, 1952, shall receive credit for service rendered as a state employee or teacher prior to July 1, 1942, provided the member has not received a refund of accumulated contributions since becoming a member of the abolished system.

2. Any member in service who is credited with five or more years of membership service who rendered full-time salaried service as a state employee or teacher prior to July 1, 1942, may receive credit for same.

3. Any member who is a teacher may receive credit for service rendered as a nonprofessional employee of a school board provided the school board has extended coverage to its nonprofessional employees and granted credit for service rendered prior to the effective date of coverage.

4. Any vested member who is a teacher shall receive up to two years of service credit for any involuntary leave of absence, without pay, required by local school division policies related to pregnancy or childbirth provided (i) the member was either on such leave from a covered position or submitted a letter of resignation required by the employer prior to July 1, 1974, (ii) the member has not withdrawn all accumulated contributions, and (iii) the member reenters service in a covered position. In such instances, the employer, or its successors, which had such policies in place and applied same to the teacher seeking additional service credit shall be liable for the cost of providing such service credit.

5. Any vested member who is a state employee, upon providing evidence from his employer satisfactory to the retirement system, shall receive up to two years of service credit for any involuntary leave of absence, without pay, required by policies related to pregnancy or childbirth provided that (i) the member was on leave from a covered position between January 1, 1964, and January 1, 1973, (ii) the member has not withdrawn all accumulated contributions, and (iii) the member reentered service in a covered position.

6. Any member may receive credit 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 the armed forces was not dishonorable, (iii) the member has not withdrawn his accumulated contributions, and (iv) the member reenters service in a covered position within one year after discharge from the armed forces. No period of service rendered, through reenlistment, beyond the cessation of hostilities

shall be creditable service.

F. Any member of the abolished system may transfer accumulated contributions in that system to the Retirement System within one year after becoming a member of the Retirement System.

G. Any vested member in service who (i) by virtue of an order of a court of this Commonwealth granting special police powers, enforced the laws of the Commonwealth at any time between 1964 and 1985 as a uniformed law-enforcement officer in any incorporated or unincorporated town in any county with a population between 55,000 and 60,000, as reported in the 1990 census of the population of the United States, and at the time of such member's law-enforcement service, such county participated in the Virginia Retirement System; (ii) reentered service in a covered position; and (iii) has not withdrawn his accumulated contributions, may purchase prior service credit pursuant to § 51.1-144.

H. Any vested member in service who (i) prior to January 1, 1982, was employed by the Commissioner of Revenue in any city of this Commonwealth with a population greater than 200,000, as reported in the 1990 census of the population of the United States, and (ii) on January 1, 1982, became an employee of the Director of Finance in any city of this Commonwealth with a population greater than 200,000, as reported in the 1990 census of the population of the United States, which participated in the Virginia Retirement System, and (iii) has not withdrawn his accumulated contributions, may transfer his years of creditable service from the city's retirement plan to the Virginia Retirement System. The Virginia Retirement System shall compute the present value of the retirement benefit of service so transferred and the city's retirement plan shall pay in a manner prescribed by the Retirement System.

I. (Contingent effective date). - 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.) of this title, nor shall they be considered to be salary for purposes of this chapter.

§ 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 sixty 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. 1. Early retirement. - 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.

2. 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 fifty and thirty 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.

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 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. 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.

D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his fiftieth birthday with ten 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 member who is a state employee shall not be eligible for retirement pursuant to this subsection unless the employee has entered into a binding agreement with the Department of Personnel and Training providing that the employee shall not thereafter reenter into full-time or part-time employment with any agency in the executive branch of the Commonwealth for a period of two years following retirement. Institutions of higher education may enter into a contract with a member on a part-time basis, not to exceed twenty hours per week, to provide unique technical expertise for projects sponsored by institution-affiliated research foundations, authorities, or nonprofit corporations.~~

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 ninety 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.

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

A. Members of the retirement system (i) whose positions are described by subdivision 1 (except members of the Judicial Retirement System (§ 51.1-300 et seq.)), 2 (except members of the Judicial

Retirement System (§ 51.1-300 et seq.)), 3, 4 (except officers elected by popular vote), 7, 13, 14, 15, 16, 17, or 19 of § 2.1-116; (ii) who are agency heads appointed by a state board, state commission, or state council; or (iii) who are school division superintendents appointed by a school board pursuant to § 22.1-60, and (a) who are involuntarily separated from state service and (b) who have twenty or more years of creditable service at the date of separation, may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155, upon attaining age ~~fifty-five~~ *fifty*.

B. 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 twenty or more years of creditable service at the date of separation, may retire without the reduction in retirement allowance required by § 51.1-155 A 2 upon attaining age ~~fifty-five~~ *fifty*.

C. 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.

D. 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 § 2.1-20.1 and receive group life insurance benefits as provided in subsection B of § 51.1-505.

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

A. Members of the retirement system who (i) are appointed county administrator pursuant to § 15.2-406, 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, or city or town manager pursuant to Chapter 15 (§15.2-1500 et seq.) of Title 15.2; (ii) are involuntarily separated from service; and (iii) have twenty or more years of creditable service at the date of separation, may retire without the reduction in retirement allowance required by subdivisions A 2 and A 3 of § 51.1-155 upon attaining age ~~fifty-five~~ *fifty*.

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.

§ 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 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, who attains seventy years of age shall be retired forthwith. 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.

B. Early retirement. - Any member in service who has attained his fiftieth birthday 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.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service, may retire under the provisions of subsection A, B, or D 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, 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. 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.

D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his fiftieth birthday with ten 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 member shall not be eligible for retirement pursuant to this subsection unless the member has entered into a binding agreement with the Department of Personnel and Training providing that the member shall not thereafter reenter into full-time or part-time employment with any agency in the executive branch of the Commonwealth for a period of two years following retirement.~~

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 ninety 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.

§ 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 1.70 percent of his average final compensation multiplied by the amount of creditable service.

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 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.

3. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the amount the member would receive if he had taken early retirement or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. In addition to the allowance payable under subsection A of this section, a member shall receive *annually from the date of his retirement until his sixty-fifth birthday* an ~~additional~~ allowance equal to ~~\$8,952~~ \$9,264 ~~annually from date of retirement until his sixty-fifth birthday~~. *Beginning July 1, 2001, and biennially thereafter,* such allowance shall be reviewed and adjusted by the Board ~~biennially~~ 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 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.

§ 51.1-216. Service retirement generally.

A. Normal retirement. - 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. Early retirement. - Any member in service who has attained his fiftieth birthday 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.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service may retire under the provisions of subsection A, B, or D 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. 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.

D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his fiftieth birthday with ten 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 member shall not be eligible for retirement pursuant to this subsection unless the member has entered into a binding agreement with the Department of Personnel and Training providing that the member shall not thereafter reenter into full-time or part-time employment with any agency in the executive branch of the Commonwealth for a period of two years following retirement.~~

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 ninety 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.

§ 51.1-217. Service retirement allowance.

A. 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.

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 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.

3. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the amount the member would have received if he had taken early retirement or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. In addition to the allowance payable under subsection A of this section, a member shall receive *annually from the date of his retirement until his sixty-fifth birthday an additional allowance equal to \$8,952 \$9,264 annually from date of retirement until his sixty-fifth birthday. Beginning July 1, 2001, and biennially thereafter,* such allowance shall be reviewed and adjusted by the Board *biennially* 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.

§ 51.1-218. Death before retirement.

A. 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 acknowledged by the member before a person authorized to take acknowledgments, and filed with the Board. The designation may be changed by the member by the written designation of some other person, signed, acknowledged, and filed with the Board. If the death of the designated person occurs prior to the death of the member and another designation has not been made, payment shall be made to the executors or administrators of the estate of the member.

If no designation has 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.

If a member dies at any time 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 the persons qualifying in the order of precedence. This amount shall be reduced by the amount of any retirement allowance previously received by the member.

B. If a member dies in service 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 (i) surviving spouse, (ii) minor child, (iii) mother, or (iv) father of the member. *If no designation has been made, a retirement allowance shall be paid in the following order of precedence to the (i) surviving spouse, (ii) minor child, (iii) mother, or (iv) father of the member.* The retirement allowance shall be paid to the first person qualifying in the order 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. 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 one-half of the decreased retirement allowance that would have been payable to the member had the member retired for early service retirement on the date of his death and elected to have his allowance payable under the joint and last-survivor option so that the same amount one-half thereof would be continued to such person after the member's death. In the case of a member who had not attained his fiftieth birthday at his date of death, it shall be assumed that the member's age at his date of death is fifty for the purpose of reducing the benefit on an actuarial equivalent basis. If a member dies after attaining his sixtieth birthday, the allowance shall equal the decreased retirement allowance that would have been payable to the member had the member retired at his normal retirement age on the date of his death and elected to have his allowance payable under the joint and last-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 fifty 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 under seal and duly acknowledged, 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 or remarries, 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 fifty 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.

§ 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 $3 \frac{1}{2}$, 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 $2 \frac{1}{2}$. 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, ~~and 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 § 51.1-143 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 the Virginia Retirement System, 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 the Virginia Retirement System shall not exceed the amount of credit which would provide a benefit of seventy-five 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 in the Virginia Retirement System.

§ 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, not to exceed seventy-eight percent of his average final compensation, 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 sixty if he had remained in service to that age. If a member has already attained age sixty, the amount of creditable service at his date of retirement shall be used.

On and after October 1, 1994, 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 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.

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 sixty-six 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 fifty 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 fifty 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 thirty-three and one-third percent of his average final compensation.

§ 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.*

5- 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.

6- 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.

§ 51.1-1201. (Contingent effective date) Volunteer Firefighters' and Rescue Squad Workers' Pension Fund Board.

A. The Volunteer Firefighters' and Rescue Squad Workers' Pension Fund Board is hereby created and is to be composed of seven members. The Director of the Virginia Retirement System shall be a member and act as chairman and the remaining six members shall be appointed by the Governor. The Governor shall appoint three members of the Board from a list provided by the ~~Fire Services Board~~ *Virginia State Firefighter's Association* and three members from a list provided by the ~~State Emergency Medical Services Advisory Board~~ *Virginia Association of Volunteer Rescue Squads*. Such appointees shall be confirmed by the General Assembly. Two of the appointed members shall serve for initial terms of six years, two for initial terms of four years, and two for initial terms of two years; thereafter, the terms shall be six years. No Board member other than the chairman shall serve more than two full consecutive terms.

B. The Director of the Virginia Retirement System with the consent of the Board shall immediately declare the office of any 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 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 rescue squad representative if his predecessor was a volunteer rescue squad 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.