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**HOUSE BILL NO. 84**

Offered January 14, 2004

Prefiled December 16, 2003

*A BILL to amend and reenact §§ 51.1-138, as it is currently effective and as it shall become effective, 51.1-202, as it is currently effective, 51.1-205, as it is currently effective, 51.1-206, as it is currently effective and as it shall become effective, 51.1-207, 51.1-208, 51.1-216, 51.1-217, 51.1-811, and 51.1-1404 of the Code of Virginia, and to repeal §§ 51.1-219 and 51.1-221 of the Code of Virginia, relating to retirement benefits for state and local law-enforcement officers.*

Patrons—Callahan, Moran and O'Bannon; Senator: Reynolds

Referred to Committee on Appropriations

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 51.1-138, as it is currently effective and as it shall become effective, 51.1-202, as it is currently effective, 51.1-205, as it is currently effective, 51.1-206, as it is currently effective and as it shall become effective, 51.1-207, 51.1-208, 51.1-216, 51.1-217, 51.1-811, and 51.1-1404 of the Code of Virginia are amended and reenacted as follows:**

§ 51.1-138. (Effective until July 1, 2005) 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 benefits provided under § 51.1-209 and except for those provisions allowing a person retired under the State Police Officers' Retirement System to receive the related retirement allowance while employed as a state police officer or as an employee, as defined in § 51.1-124.3, of the Department of State Police, 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, or (iii) 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 and deputy sheriffs of political subdivisions that participate in the retirement system shall receive benefits equivalent to those of state police officers, except for the benefits provided under § 51.1-209 and except for those provisions allowing a person retired under the State Police Officers' Retirement System to receive the related retirement allowance while employed as a state police officer or as an employee, as defined in § 51.1-124.3, of the Department of State Police, 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) 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) 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 which 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.

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~~

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

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

66 § 51.1-138. (Effective July 1, 2005) Benefits.

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

69 B. By resolution legally adopted and approved by the Board, the employer may elect to provide  
70 benefits equivalent to those provided under the State Police Officers' Retirement System, as set out in  
71 Chapter 2 (§ 51.1-200 et seq.) of this title except for § 51.1-209, in lieu of the benefits that would  
72 otherwise be provided hereunder for any employees who are employed in (i) law-enforcement positions  
73 comparably hazardous to that of a state police officer, including any sworn law-enforcement officer who  
74 has the duty and obligation to enforce the penal and traffic laws of this Commonwealth as directed by  
75 his superior officer, if so certified by his appointing authority, (ii) positions as full-time salaried fire  
76 fighters, or (iii) positions as regional jail superintendents and jail officers of regional jail farms, regional  
77 jails or jail authorities, as approved by the respective jail board or authority and by the participating  
78 political subdivisions of such entities. Sheriffs and deputy sheriffs of political subdivisions which  
79 participate in the retirement system shall receive benefits equivalent to those of state police officers,  
80 except for the benefits provided under § 51.1-209, regardless of whether the employer has elected to  
81 provide equivalent benefits as set out in this subsection.

82 C. Each employer providing the benefits of subsection B for its employees prior to July 1, 1990,  
83 may elect to provide for the early retirement of employees as set forth in this subsection in lieu of the  
84 early retirement and death before retirement provisions of the State Police Officers' Retirement System.  
85 Such election must be made to the Board in writing prior to July 1, 1990. Any member in service on or  
86 after his fifty-fifth birthday with five or more years of creditable service (i) as a member in the  
87 retirement system established by this chapter, (ii) as a member in the retirement system established by  
88 Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (iii) as a member in the retirement system established by  
89 Chapter 2.1 (§ 51.1-211 et seq.) of Title 51.1 may retire upon written notification to the Board setting  
90 forth at what time the retirement is to become effective. The effective date shall be after his last day of  
91 service but shall not be more than ninety days prior to the filing of such notice. The member shall  
92 receive an allowance which shall be determined in the same manner as for retirement at an employee's  
93 normal retirement with creditable service and average final compensation being determined as of the  
94 date of his actual retirement. If the member has less than thirty years of service at retirement, the  
95 amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by  
96 which the actual retirement date precedes the earlier of (a) the member's normal retirement date or (b)  
97 the first date on or after the member's fifty-fifth birthday on which the member would have completed a  
98 total of thirty years of creditable service.

99 Members retiring under the provisions of this subsection shall be entitled to receive post-retirement  
100 supplements as provided in § 51.1-166. ~~In computing the amount of any supplement, any additional~~  
101 ~~allowances being paid under the provisions of subsection B of § 51.1-206 shall be disregarded.~~ In the  
102 case of death before retirement, members whose employers elect to provide benefits in accordance with  
103 the provisions of this subsection and who have not attained the age of fifty on the date of death shall be  
104 assumed to be fifty years of age for the purposes of reducing the benefits on an actuarial equivalent  
105 basis.

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

109 § 51.1-202. (Effective until July 1, 2005) Membership in retirement system.

110 Except as provided in subsection A of § 51.1-205 and subsections ~~DC~~ and ~~ED~~ of § 51.1-206,  
111 membership in the retirement system shall be compulsory for all state police officers.

112 § 51.1-205. (Effective until July 1, 2005) Service retirement generally.

113 A. Normal retirement. - Any member in service at his normal retirement date with five or more years  
114 of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a  
115 member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) of Title 51.1, or (iii)  
116 while earning the benefits permitted by § 51.1-138 may retire upon written notification to the Board,  
117 setting forth the date the retirement is to become effective. Any member in service at age 60 or older  
118 with five or more years of creditable service as a member in the retirement system established by this  
119 chapter may elect to retire and receive a retirement allowance pursuant to this chapter and may continue  
120 to receive such retirement allowance notwithstanding that such person is employed as a state police

officer or as an employee, as defined in § 51.1-124.3, of the Department of State Police for a period of up to one year. Such period may be extended for up to one additional year with the prior approval of the Secretary of Public Safety. Any member, except one appointed by the Governor or elected by the people, who attains 70 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 (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.) of Title 51.1, 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.

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.) of Title 51.1, or (iii) while earning the benefits permitted by § 51.1-138, 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 (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.) of Title 51.1, 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. A person receiving a retirement allowance pursuant to this chapter while employed as a state police officer or as an employee, as defined in § 51.1-124.3, of the Department of State Police pursuant to subsection A of this section or subsection ED of § 51.1-206 shall not be eligible to retire as provided under this subsection. 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 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.

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.

§ 51.1-206. (Effective until July 1, 2005) Service retirement allowance.

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

1. Normal retirement. - The allowance shall equal ~~4.70~~ 2.70 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 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.

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, 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~~

182 amount recommended by the actuary of the Virginia Retirement System based upon increases in social  
183 security benefits in the interim.

184 This subsection shall not apply to the following: (i) any member who qualifies for retirement under  
185 subsection C of § 51.1-205 and is credited with less than 20 years' service rendered in a hazardous  
186 position or (ii) any member employed initially on or after July 1, 1974, who is credited with less than  
187 20 years' service rendered in a hazardous position.

188 ~~CB.~~ Except as provided in subsection ~~DC~~ or ~~ED~~, if a beneficiary of a service retirement allowance  
189 under this chapter is at any time in service as an employee in a position covered for retirement purposes  
190 under the provisions of this or any chapter other than Chapter 7 (§ 51.1-700 et seq.) of this title, his  
191 retirement allowance shall cease while so employed.

192 ~~DC.~~ If a member in service at age 60 or older with five or more years of creditable service elects,  
193 pursuant to subsection A of § 51.1-205, to receive a service retirement allowance pursuant to this  
194 chapter while employed as a state police officer or as an employee, as defined in § 51.1-124.3, of the  
195 Department of State Police, then his service performed and compensation received while receiving such  
196 retirement allowance shall not increase, decrease, or affect in any way his retirement benefits before,  
197 during, or after the payment of such retirement allowance.

198 ~~ED.~~ (For effective date - See Editor's note) Any member between the ages of 55 and 59, inclusive,  
199 who is rehired by the Department of State Police as a state police officer or as an employee, as defined  
200 in § 51.1-124.3, of the Department of State Police, and who has been receiving a service retirement  
201 allowance under this chapter for a period of least 30 days prior to such reemployment may, upon such  
202 reemployment, elect to continue to receive such service retirement allowance for a period of up to one  
203 year. Such period may be extended for up to one additional year with the prior approval of the  
204 Secretary of Public Safety. If the person elects to continue to receive such retirement allowance during  
205 such period of reemployment, then his service performed and compensation received during such period  
206 of reemployment shall not increase, decrease, or affect in any way his retirement benefits before, during,  
207 or after such period of reemployment.

208 § 51.1-206. (Effective July 1, 2005) Service retirement allowance.

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

210 1. Normal retirement. - The allowance shall equal ~~4.70~~ 2.70 percent of his average final  
211 compensation multiplied by the amount of creditable service.

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

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

224 3. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the  
225 greater of (i) the amount the member would receive if he had taken early retirement or (ii) the  
226 actuarially calculated present value of the member's accumulated contributions, including accrued  
227 interest.

228 B. ~~In addition to the allowance payable under subsection A, a member shall receive annually from the~~  
229 ~~date of his retirement until his retirement age, as such term is defined under the Social Security Act (42~~  
230 ~~U.S.C. § 416 et seq., as now or hereafter amended), an allowance equal to \$9,264. Beginning July 1,~~  
231 ~~2001, and biennially thereafter, such allowance shall be reviewed and adjusted by the Board to an~~  
232 ~~amount recommended by the actuary of the Virginia Retirement System based upon increases in social~~  
233 ~~security benefits in the interim.~~

234 This subsection shall not apply to the following: (i) any member who qualifies for retirement under  
235 subsection C of § 51.1-205 and is credited with less than twenty years' service rendered in a hazardous  
236 position or (ii) any member employed initially on or after July 1, 1974, who is credited with less than  
237 twenty years' service rendered in a hazardous position.

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

242 § 51.1-207. Death before retirement.

243 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 acknowledged by the member before a person authorized to take acknowledgments, 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, acknowledged, 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. 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 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 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 § 51.1-206 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, 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 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.

§ 51.1-208. 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.

§ 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 Title 51.1, 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.

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 Title 51.1, 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.

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.

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 Title 51.1, 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.

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 Title 51.1, 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.

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 Title 51.1, 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 Title 51.1, 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.

D. Effective date of retirement. - The effective date of retirement shall be after the last day of service, but shall not be more than ninety 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.

§ 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 ~~The~~ allowance shall equal ~~1.70~~ 2.70 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 ~~If the member~~ has less than ~~twenty-five~~ 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 ~~twenty-five~~ 25 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.

CB. 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.

DC. 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.

§ 51.1-811. Eligibility for retirement; retirement allowance.

Any member of a police department who has completed ~~twenty~~ 20 years of service in the department and attained the age of ~~fifty~~ 50 years ~~or who has completed 25 years of service in the department regardless of age~~ 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~~ 50 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 (i) after the age of ~~fifty~~ 50 and after ~~twenty~~ 20 years of service in the department or (ii) after 25 years of service in the department regardless of age.

§ 51.1-1404. Optional supplemental health insurance credit for retired state employees.

A. As used in this section, "lump sum payment amount" means the amount a state employee is entitled to be paid upon the date of retirement from state service, in accordance with the applicable rules and procedures of the employee's agency or institution, for any (i) accumulated annual leave balance, (ii) accumulated sick leave balance, and (iii) wages and salary for any period for which the employee worked and has not yet been paid.

B. Any state employee retiring from service pursuant to subsection A, B or D of § 51.1-153, § 51.1-156, subsection A, or B or D of § 51.1-205, or subsection A, B or B1 of § 51.1-305 on or after July 1, 1999, who participates in the state health insurance plan, shall have the option to require that his lump sum payment amount be credited to a supplemental health insurance credit account which would qualify under Internal Revenue Code § 125 to be used to supplement the amount of the monthly health insurance credit provided pursuant to § 51.1-1400. Such option shall be irrevocably exercised on or before the employee's last day of service.

C. Amounts credited to supplemental health insurance credit accounts shall be deposited in a special fund in the state treasury. Interest accruing on amounts in the special fund shall be credited pro rata

428 among the accounts. Amounts shall be paid from the special fund at the request of the Department of  
429 Human Resource Management, which shall determine, in cooperation with the Board of Trustees of the  
430 Virginia Retirement System, the amount required to be withdrawn from an electing retired employee's  
431 supplemental health insurance credit account in order to cover, in conjunction with the health care credit,  
432 the premium for the retiree-only or family health insurance coverage.

433 D. Amounts in a retiree's supplemental health insurance credit account shall be exempt from taxation  
434 and exempt from execution, attachment, garnishment or any other process to the same extent, and  
435 subject to the same conditions, as are retirement allowances and benefits pursuant to § 51.1-124.4.

436 E. In the event that an electing retiree dies prior to exhausting the amount in the retiree's  
437 supplemental health insurance credit account, the balance in the account shall be paid in the same  
438 manner as provided in § 51.1-163.

439 **2. That §§ 51.1-219 and 51.1-221 of the Code of Virginia are repealed.**