

063985820

SENATE BILL NO. 393

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Finance
on February 14, 2006)

(Patrons Prior to Substitute—Senators Stolle and Quayle [SB 636])

A BILL to amend and reenact §§ 9.1-401, 51.1-138, 51.1-206, and 51.1-212 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 33.1-221.1:9; relating to benefits for state and local law-enforcement officers; revenue.

Be it enacted by the General Assembly of Virginia:

1. That §§ 9.1-401, 51.1-138, 51.1-206, and 51.1-212 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 33.1-221.1:9 as follows:

§ 9.1-401. Continued health insurance coverage for disabled persons, their spouses and dependents, and for the surviving spouse and dependents of certain deceased law-enforcement officers, firefighters, etc.

A. The surviving spouse and any dependents of a deceased person shall be afforded continued health insurance coverage, the cost of which shall be paid in full out of the general fund of the state treasury.

B. If the disabled person's disability (i) occurred while in the line of duty as the direct or proximate result of the performance of his duty or (ii) was subject to the provisions of §§ 27-40.1, 27-40.2, 51.1-813 or § 65.2-402, and arose out of and in the course of his employment, the disabled person, his surviving spouse and any dependents shall be afforded continued health insurance coverage. The cost of such health insurance coverage shall be paid in full out of the general fund of the state treasury. *Any local employee included in the definition of a deceased or disabled person who was disabled on or after January 1, 1972, not otherwise already receiving the continued health insurance coverage benefit under this section, shall be entitled to the continued health insurance coverage benefit beginning July 1, 2006.*

C. The continued health insurance coverage provided by this section shall be the same plan of benefits which the deceased or disabled person was entitled to on the last day of his active duty or comparable benefits established as a result of a replacement plan.

D. For any spouse, continued health insurance provided by this section shall terminate upon such spouse's death or coverage by alternate health insurance.

E. For dependents, continued health insurance provided by this section shall terminate upon such dependent's death, marriage, coverage by alternate health insurance or twenty-first birthday. Continued health care insurance shall be provided beyond the dependent's twenty-first birthday if the dependent is a full-time college student and shall continue until such time as the dependent ceases to be a full-time student or reaches his twenty-fifth birthday, whichever occurs first. Continued health care insurance shall also be provided beyond the dependent's twenty-first birthday if the dependent is mentally or physically disabled, and such coverage shall continue until three months following the cessation of the disability.

F. For any disabled person, continued health insurance provided by this section shall automatically terminate upon the disabled person's death, recovery or return to full duty in any position listed in the definition of deceased person in § 9.1-400.

§ 33.1-221.1:9. *Dangerous driving offenses; payments to the Commonwealth.*

A. *Whenever a person is convicted by a court of competent jurisdiction of any of the dangerous driving offenses or traffic infractions enumerated in this section, the court shall, in addition to any fees, fines, or costs imposed, order the person to pay to the State Treasurer for deposit into the General Fund an amount as follows:*

1. *A \$200 payment for a violation of § 18.2-266.1, subsection B of § 46.2-341.24, attempting to elude a law-enforcement officer pursuant to subsection A of § 46.2-817, § 46.2-844, or driving 20 or more miles per hour over the allowed speed limit as set forth in Article 8 (§ 46.2-870 et seq.) of Chapter 8 of Title 46.2.*

2. *A \$300 payment for a violation of § 18.2-266, 18.2-268.3, 18.2-272, or 18.2-36.1 or any other conviction of voluntary manslaughter or involuntary manslaughter involving the use of a vehicle, § 18.2-51.4, subsection B of § 46.2-301, subsection E of § 46.2-301.1, §§ 46.2-302 and 46.2-341.21, subsection A of § 46.2-341.24, §§ 46.2-357 and 46.2-391, subsection B of § 46.2-817, § 46.2-818, overtaking or passing a moving emergency vehicle pursuant to § 46.2-829, 46.2-852, or 46.2-853 when violation of this section would be a felony, §§ 46.2-854 through 46.2-862, § 46.2-863 when violation of this section would be a felony pursuant to subsection B of § 46.2-868, §§ 46.2-864 through 46.2-866, and § 46.2-921.1 if the violation resulted in the death of another person.*

B. *The order to pay the specified amount to the State Treasurer shall also be applicable to a juvenile adjudicated delinquent of any of the offenses listed in subsection A.*

60 *C. The court-ordered payment to the State Treasurer shall be collected from the defendant by the*
61 *court along with any other fines, costs, forfeitures, penalties, and restitution pursuant to Article 3*
62 *(§ 19.2-348 et seq.) of Chapter 21 of Title 19.2. The court shall remit the payment designated for the*
63 *State Treasurer to the Commonwealth.*

64 *D. If the defendant fails to pay the court-ordered payment to the State Treasurer, the court may*
65 *order suspension of the defendant's privilege to drive as provided in § 46.2-395.*

66 § 51.1-138. Benefits.

67 *For purposes of this section, "total reimbursable contribution costs" means that portion of the annual*
68 *amount charged by the Virginia Retirement System to a county or city for retirement contributions for*
69 *deputy sheriffs that is attributable (i) to only those deputy sheriffs whose salaries are funded or*
70 *reimbursed by the Compensation Board and (ii) using salaries as fixed by the Compensation Board for*
71 *those deputy sheriffs described in clause (i).*

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

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

88 C. Each employer providing the benefits of subsection B for its employees prior to July 1, 1990,
89 may elect to provide for the early retirement of employees as set forth in this subsection in lieu of the
90 early retirement and death before retirement provisions of the State Police Officers' Retirement System.
91 Such election must be made to the Board in writing prior to July 1, 1990. Any member in service on or
92 after his fifty-fifth birthday with five or more years of creditable service (i) as a member in the
93 retirement system established by this chapter, (ii) as a member in the retirement system established by
94 Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) as a member in the retirement system established by
95 Chapter 2.1 (§ 51.1-211 et seq.) of this title may retire upon written notification to the Board setting
96 forth at what time the retirement is to become effective. The effective date shall be after his last day of
97 service but shall not be more than 90 days prior to the filing of such notice. The member shall receive
98 an allowance that shall be determined in the same manner as for retirement at an employee's normal
99 retirement with creditable service and average final compensation being determined as of the date of his
100 actual retirement. If the member has less than 30 years of service at retirement, the amount of the
101 retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual
102 retirement date precedes the earlier of (a) the member's normal retirement date or (b) the first date on or
103 after the member's fifty-fifth birthday on which the member would have completed a total of 30 years of
104 creditable service. Effective December 31, 2003, any employee in service on June 30, 2002, and July 1,
105 2002, who is credited with five or more years of creditable service rendered under this chapter, Chapter
106 2 (§ 51.1-200 et seq.), or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not be subject to the vesting
107 requirements of this section, and §§ 51.1-205 and 51.1-216.

108 Members retiring under the provisions of this subsection shall be entitled to receive post-retirement
109 supplements as provided in § 51.1-166. In computing the amount of any supplement, any additional
110 allowances being paid under the provisions of subsection B of § 51.1-206 shall be disregarded. In the
111 case of death before retirement, members whose employers elect to provide benefits in accordance with
112 the provisions of this subsection and who have not attained the age of 50 on the date of death shall be
113 assumed to be 50 years of age for the purposes of reducing the benefits on an actuarial equivalent basis.

114 D. *Any person being provided benefit coverage equivalent to the benefits provided under the State*
115 *Police Officers' Retirement System pursuant to this section shall, for purposes of his annual retirement*
116 *allowance, be eligible to have his creditable service multiplied by 1.70% of his average final*
117 *compensation. Except as provided in subsection F, this shall be in lieu of such person being eligible for*
118 *having his creditable service multiplied by 2.20% of his average final compensation, for which state*
119 *police officers are eligible under Chapter 2 (§ 51.1-200 et seq.) of this title. Nothing in this subsection*
120 *shall affect such person's eligibility for the additional allowance under subsection B of § 51.1-206.*

121 E. 1. Any county or city participating in the Virginia Retirement System that was providing benefit

coverage as of January 1, 2006, to any deputy sheriff that was at least equivalent to the benefits provided under the State Police Officers' Retirement System shall provide benefit coverage that is at least equivalent to the benefits described under subsection B to all deputy sheriffs serving the county or city, including any deputy sheriffs whose salaries are not funded or reimbursed by the Compensation Board.

2. Any county or city participating in the Virginia Retirement System that was not providing benefit coverage as of January 1, 2006, to any deputy sheriff that was at least equivalent to the benefits provided under the State Police Officers' Retirement System, shall provide benefit coverage beginning July 1, 2006, that is at least equivalent to the benefits described under subsection B to all deputy sheriffs serving the county or city, including any deputy sheriffs whose salaries are not funded or reimbursed by the Compensation Board.

For each such county or city described in this subdivision, the Compensation Board shall, beginning with the 2006-2007 fiscal year, and for each fiscal year thereafter, fund or reimburse 100% of the county's or city's total reimbursable contribution costs.

In no case, however, shall the amount funded or reimbursed to a county or city described in this subdivision in any fiscal year be less than the amount computed by applying the employer retirement contribution rate in effect that is generally applicable for state employees, as such term is defined in § 51.1-124.3, to the salaries of the deputy sheriffs (serving such county or city) whose salaries are funded or reimbursed by the Compensation Board. For purposes of this computation, the salaries of such deputy sheriffs shall be the salaries for such persons as fixed by the Compensation Board.

F. An employer providing benefit coverage pursuant to this section shall increase the multiplier of average final compensation from 1.70% to 2.20% for sheriffs, and may elect to increase the multiplier of average final compensation from 1.70% to 2.20% for any other class of employees described in subsection B. The employer shall be responsible for paying the actuarial cost of such increase. Such payments shall be credited to the employer's contribution account. Such contributions shall not be considered wages for purposes of Chapter 7 (§ 51.1-700 et seq.) of this title, nor shall they be considered salary or creditable compensation for purposes of this chapter.

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

§ 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~~ 2.20 percent of his average final compensation multiplied by the amount of creditable service *or disability retirement allowance payable under this section.*

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

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

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

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

C. If a beneficiary of a service retirement allowance under this chapter is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other

than Chapter 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so employed.
§ 51.1-212. Definitions.

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

"Award" or "awards" means (i) the initial rendering of an award of wage replacement compensation made by the Virginia Workers' Compensation Commission or (ii) the initial approval by the Commission of a settlement agreement for the payment of wage replacement compensation, which award or agreement for the payment of such compensation directly relates to injuries caused by the intentional infliction of physical injury by a person.

"Eligible class" means a single classification of employees comprised of members of the Capitol Police Force as described in § 30-34.2:1, campus police officers appointed under the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23, game wardens in the Department of Game and Inland Fisheries appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, special agents of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.) of Title 4.1, law-enforcement officers employed by the Virginia Marine Resources Commission as described in § 9.1-101, and correctional officers as defined in § 53.1-1 (including correctional officers employed at a juvenile correctional facility as defined in § 66-25.3).

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

1. An "employee" may also include a state agency's public safety officers, whose classification is recognized by the Department of Human Resource Management, with a rate of awards not less than the rate of awards for the eligible class.

An agency head may submit information to the Department of Human Resource Management for the inclusion of the agency's public safety officers in the Retirement System provided under this chapter. All such submissions shall be deemed to be made on the July 1 that immediately follows the date of submission, and the comparison described under this subdivision shall be made for the five fiscal years that immediately precede such July 1. If the Director of the Department of Human Resource Management, based on the submission, determines that the rate of awards for the agency's public safety officers is not less than the rate of awards for the eligible class, the Director shall certify the same to the Governor and to the Board of the Virginia Retirement System. Upon receipt of such certification, the Governor may include an appropriation funding the full costs for retirement coverage under the provisions of this chapter for such public safety officers (such costs being determined by the Board) in the budget bill or his gubernatorial amendments thereto pursuant to subsections A and E of § 2.2-1509, respectively. If an appropriation funding the full costs for retirement coverage under the provisions of this chapter for the agency's public safety officers is included in the appropriation act that covers the fiscal year immediately following the Director's certification, the agency's public safety officers shall thereafter be deemed employees as defined in this section effective on the date as provided in the appropriation act.

No submission shall be considered by the Department of Human Resource Management unless there is at least one award to a member of the agency's public safety officers in each of the five fiscal years covered by the submission.

2. Each state agency making a submission under subdivision 1 shall be responsible for any costs incurred by the Department of Human Resource Management in making the comparison described in subdivision 1.

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

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

"Rate of awards" for a classification of employees means a quotient obtained by dividing (i) the total number of awards for the class by (ii) the average annual number of employees for the classification for the most recent five fiscal years.

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

"Total number of awards" for a classification of employees means the sum of the number of awards made by the Virginia Workers' Compensation Commission in three of the most recent five fiscal years. The two fiscal years excluded from the computation shall be those years that represent the greatest amount and the least amount of awards for a fiscal year.

245 2. That the provisions of this act shall not apply to (i) retirement allowances for retirements that
246 are effective prior to July 1, 2006, or (ii) retirement allowances relating to a member who died
247 prior to July 1, 2006.

248 3. That any person participating in the Virginia Law Officers' Retirement System (§ 51.1-211 et
249 seq. of the Code of Virginia) on June 30, 2006, shall continue to participate in such retirement
250 system on the effective date of this act provided that the person has been in continuous service
251 since such date in a position as an "employee" as defined in § 51.1-212, as the section was in effect
252 on June 30, 2006.

253 4. That the Virginia Workers' Compensation Commission shall report to the Department of
254 Human Resource Management, on a quarterly basis, the number of awards or settlement
255 agreements for the payment of wage replacement compensation to state employees (initially
256 rendered or approved in the calendar quarter) that were for the payment of compensation directly
257 relating to injuries caused by the intentional infliction of physical injury by another person. The
258 Commission shall make each quarterly report no later than the 15th of the month that follows the
259 end of the calendar quarter, beginning with the calendar quarter ending September 30, 2006. The
260 Commission shall consult with the Director of the Department of Human Resource Management
261 for purposes of fulfilling such reporting requirement.

262 5. That the revenues generated pursuant to § 33.1-221.1:9 shall be deposited in the General Fund
263 to be used for funding of the benefits set forth in this act, as provided in the general appropriation
264 act passed by the 2006 General Assembly, which becomes law.

265 6. That the provisions of this Act amending § 51.1-138, as it relates to increased benefits for
266 deputy sheriffs and the funding of such benefits, shall not apply to any locality that has in effect a
267 retirement supplement for deputy sheriffs that equals or exceeds the annual allowance set forth in
268 subsection B of § 51.1-206.