2009 SESSION

ENROLLED

[H 2068]

1

VIRGINIA ACTS OF ASSEMBLY - CHAPTER

2 An Act to amend and reenact §§ 51.1-162, 51.1-165.1, 51.1-207, and 51.1-218 of the Code of Virginia, 3 relating to the Virginia Retirement System; notarizing certain forms.

4 5

26

Approved

6 Be it enacted by the General Assembly of Virginia:

7 1. That §§ 51.1-162, 51.1-165.1, 51.1-207, and 51.1-218 of the Code of Virginia are amended and 8 reenacted as follows: 9

§ 51.1-162. Death before retirement.

10 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 11 12 according to the order of precedence set forth in this section. This amount shall be reduced by the 13 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 14 15 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 in a manner prescribed by the Board, signed and acknowledged by 16 17 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 18 19 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 20 21 the member and another designation has not been made, the proceeds shall be paid to the persons 22 surviving at the death of the member in the following order of precedence: 23

First, to the spouse of the member;

24 Second, if no surviving spouse, to the children of the member and descendants of deceased children, 25 per stirpes;

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

27 Fourth, if none of the above, to the duly appointed executor or administrator of the estate of the 28 member;

29 Fifth, if none of the above, to other next of kin of the member entitled under the laws of the 30 domicile of the member at the time of his death.

31 B. If a member dies in service and if no benefits are payable under subsection C of this section, a 32 retirement allowance shall be paid to the person or persons designated as provided in subsection A of 33 this section if the person is the member's (i) surviving spouse, (ii) minor child, or (iii) parent(s). If no 34 designation has been made, or if the death of the designated person occurs prior to the death of the 35 member and another designation has not been made, a retirement allowance shall be paid in the 36 following order of precedence to the member's (a) surviving spouse, (b) minor children, or (c) parent(s). 37 The retirement allowance shall be paid to the first person qualifying in the orders of precedence set out 38 in this subsection. If more than one minor child survives the deceased member, the allowance shall be 39 divided among them in a manner determined by the Board. If more than one parent survives the 40 deceased member, the allowance shall be divided among them in a manner determined by the Board. 41 The retirement allowance shall be continued during the lifetime of the person or in the case of a minor 42 child until the child dies or attains the age of majority, whichever occurs first. The retirement allowance 43 shall equal the decreased retirement allowance that would have been payable under the joint and 44 survivor option so that the same amount would be continued to such person after the member's death. If 45 the member dies prior to his fifty-fifth birthday, then, for purposes of this subsection, the member shall be presumed to be age fifty-five on his date of death. When determining the allowance that would have 46 been payable to the member had the member retired on the date of his death, the provisions of 47 48 subdivision A 4 of § 51.1-155 shall not apply. If the person elects in writing under seal and duly acknowledged, the amount of the member's accumulated contributions or lump sum payment shall be 49 50 paid to him exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter. 51

C. If a member dies in service from a cause compensable under the Virginia Workers' Compensation 52 53 Act (§ 65.2-100 et seq.), a retirement allowance shall be paid to the member's surviving spouse. If no 54 compensation is finally awarded under the Virginia Workers' Compensation Act due to legal proceedings 55 or otherwise resulting in settlement from the persons causing such death, the Virginia Workers' 56 Compensation Commission shall determine whether the member's death was from a cause compensable

HB2068ER

under the Virginia Workers' Compensation Act. If the member leaves no surviving spouse or the 57 58 surviving spouse dies, any minor children of the deceased member shall be paid an allowance until the 59 children die or attain the age of majority, whichever occurs first. If more than one minor child survives 60 the deceased member, the allowance shall be divided in a manner determined by the Board. If the 61 deceased member leaves neither surviving spouse nor minor child, the allowance, divided in a manner 62 determined by the Board, shall be paid to the member's parents during their lives.

63 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 64 65 death of the member equals fifty percent of the member's average final compensation if the survivor 66 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 67 Social Security Act in effect on the date of the death of the member, the allowance payable from the 68 retirement system when added to the compensation payable under the Virginia Workers' Compensation 69 70 Act shall equal thirty-three and one-third percent of the member's average final compensation.

71 Any beneficiary entitled to the entire amount of a retirement allowance under the provisions of this 72 subsection as a result of the death of a member shall be entitled to waive his rights to the allowance by 73 written notification to the Board within ninety days after the death of the member in order to make 74 available a retirement allowance under the provisions of subsection B of this section. 75

§ 51.1-165.1. Acknowledgment by spouse of member.

76 Any application for retirement benefits under this chapter or Chapter 2 (§ 51.1-200 et seq.) or 77 Chapter 3 (§ 51.1-300 et seq.) of this title shall include a statement, acknowledged pursuant to 78 § 55-118.4 or § 55-118.6, made by the spouse, if any, of the applicant, acknowledging (i) that the 79 spouse has read the provisions of payment options and (ii) the selection of the basic benefit or any other 80 benefit selected. Payments to a retired member who fails to have executed properly a statement of 81 acknowledgment, and the provisions for obtaining such statement, shall be governed by procedures 82 adopted by the Board. 83

§ 51.1-207. Death before retirement.

84 A. If a member dies before retirement, and if no benefits are payable under subsection B, the amount 85 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 86 87 be reduced by the amount of any retirement allowance previously received by the member under this 88 chapter or the abolished system. Each member shall designate who is to receive a refund of accumulated 89 contributions credited to his account in the event of the death of the member prior to retirement. The 90 designation must be made on a form prepared by the Board, signed and acknowledged by the member 91 before a person authorized to take acknowledgments, and filed in a manner prescribed by the Board. 92 The designation may be changed by the member by the written designation of some other person, 93 signed, acknowledged, and filed in a manner prescribed by the Board.

94 If no designation has been made, or the death of the designated person occurs prior to the death of 95 the member and another designation has not been made, the proceeds shall be paid to the persons 96 surviving at the death of the member in the same order of precedence as set forth in subsection A of 97 § 51.1-162.

98 B. If a member dies in service and if no benefits are payable under subsection C, a retirement 99 allowance shall be paid to the person designated as provided in subsection A of this section if the 100 person is the member's (i) surviving spouse, (ii) minor child, or (iii) parent(s). If no designation has 101 been made, or if the death of the designated person occurs prior to the death of the member and another 102 designation has not been made, a retirement allowance shall be paid in the same order of precedence as 103 set forth in subsection B of § 51.1-162. The retirement allowance shall be continued during the lifetime 104 of the person or in the case of a minor child until the child dies or attains the age of majority, 105 whichever occurs first. The retirement allowance shall equal the decreased retirement allowance that 106 would have been payable under the joint and survivor option so that the same amount would be 107 continued to such person after the member's death. If the member dies prior to his fiftieth birthday, then, 108 for purposes of this subsection, the member shall be presumed to be age fifty on his date of death. 109 When determining the allowance that would have been payable to the member had the member retired 110 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 111 112 contributions shall be paid to the person exclusively, in lieu of any other benefits under this section. 113 This amount shall be reduced by the amount of any retirement allowance previously received by the 114 member.

115 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 116 compensation is finally awarded under the Virginia Workers' Compensation Act due to legal proceedings 117

118 or otherwise resulting in settlement from the persons causing such death, the Virginia Workers' 119 Compensation Commission shall determine whether the member's death was from a cause compensable 120 under the Virginia Workers' Compensation Act. If the member leaves no surviving spouse or the 121 surviving spouse dies, any minor children of the deceased member shall be paid an allowance until the 122 children die or attain the age of majority, whichever occurs first. If more than one minor child survives 123 the deceased member, the allowance shall be divided in a manner determined by the Board. If the 124 deceased member leaves neither surviving spouse nor minor child, the allowance, divided in a manner 125 determined by the Board, shall be paid to the member's parents during their lives.

126 The retirement allowance, payable hereunder to a qualifying survivor, shall be the annual amount 127 which when added to the compensation payable under the Virginia Workers' Compensation Act for the 128 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 129 130 the date of the death of the member. If the survivor qualifies for death benefits under the provisions of 131 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 132 133 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.

138 § 51.1-218. Death before retirement.

A. If a member dies before retirement, and if no benefits are payable under subsection B, the amount 139 140 of his accumulated contributions shall be paid to the designated beneficiary or to a surviving relative 141 according to the same order of precedence as set forth in subsection A of § 51.1-162. This amount shall 142 be reduced by the amount of any retirement allowance previously received by the member under this 143 chapter or the abolished system. Each member shall designate who is to receive a refund of accumulated 144 contributions credited to his account in the event of the death of the member prior to retirement. The 145 designation must be made on a form prepared by the Board, signed and acknowledged by the member 146 before a person authorized to take acknowledgments, and filed with the Board. The designation may be 147 changed by the member by the written designation of some other person, signed, acknowledged, and 148 filed with the Board.

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

153 B. If a member dies in service and if no benefits are payable under subsection C, a retirement 154 allowance shall be paid to the person designated as provided in subsection A of this section if the 155 person is the member's (i) surviving spouse, (ii) minor child, or (iii) parent(s). If no designation has 156 been made, or if the death of the designated person occurs prior to the death of the member and another 157 designation has not been made, a retirement allowance shall be paid in the same order of precedence as 158 set forth in subsection B of § 51.1-162. The retirement allowance shall be continued during the lifetime 159 of the person or in the case of a minor child until the child dies or attains the age of majority, 160 whichever occurs first. The retirement allowance shall equal the decreased retirement allowance that 161 would have been payable under the joint and survivor option so that the same amount would be 162 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. 163 164 When determining the allowance that would have been payable to the member had the member retired 165 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 166 contributions shall be paid to the person exclusively, in lieu of any other benefits under this section. 167 168 This amount shall be reduced by the amount of any retirement allowance previously received by the 169 member.

170 C. If a member dies in service from a cause compensable under the Virginia Workers' Compensation 171 Act (§ 65.2-100 et seq.), a retirement allowance shall be paid to the member's surviving spouse. If no 172 compensation is finally awarded under the Virginia Workers' Compensation Act due to legal proceedings 173 or otherwise resulting in settlement from the persons causing such death, the Virginia Workers' 174 Compensation Commission shall determine whether the member's death was from a cause compensable 175 under the Virginia Workers' Compensation Act. If the member leaves no surviving spouse or the 176 surviving spouse dies, any minor children of the deceased member shall be paid an allowance until the 177 children die or attain the age of majority, whichever occurs first. If more than one minor child survives 178 the deceased member, the allowance shall be divided in a manner determined by the Board. If the

179 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 181 182 which, when added to the compensation payable under the Virginia Workers' Compensation Act for the 183 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 184 the date of the death of the member. If the survivor qualifies for death benefits under the provisions of 185 the Social Security Act in effect on the date of the death of the member, the allowance payable from the 186 187 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. 188

189 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.