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**HOUSE BILL NO. 511**

Offered January 13, 2010

Prefiled January 12, 2010

A *BILL to amend and reenact §§ 51.1-126, 51.1-126.5, 51.1-126.6, 51.1-144, 51.1-153, 51.1-166, 51.1-205, 51.1-206, 51.1-216, and 51.1-217 of the Code of Virginia, relating to retirement plans under the Virginia Retirement System.*

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Referred to Committee on Appropriations

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

1. **That §§ 51.1-126, 51.1-126.5, 51.1-126.6, 51.1-144, 51.1-153, 51.1-166, 51.1-205, 51.1-206, 51.1-216, and 51.1-217 of the Code of Virginia are amended and reenacted as follows:**

§ 51.1-126. Employees of institutions of higher education.

For purposes of this section, "optional retirement plan" means a retirement plan covering the employee for retirement purposes other than the Virginia Retirement System defined benefit retirement plan established under this chapter.

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

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

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

2. Every employee, with the exception of employees described in subdivision B 3, (i) hired on or after July 1, 2003, by an institution of higher education that has established and is maintaining its own optional retirement plan pursuant to this subsection and (ii) engaged in the performance of teaching, administrative, or research duties shall make an irrevocable election to participate in either: (a) the Virginia Retirement System defined benefit retirement plan established by this chapter or (b) such optional retirement plan of the institution of higher education. Such employee shall not be provided any election to participate in an optional retirement plan maintained by the Board.

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

3. Any employee (i) hired on or after July 1, 2003, by an institution of higher education engaged in the performance of teaching, administrative, or research duties and (ii) who at the time of hiring is in continuous service in the performance of such teaching, administrative, or research duties shall participate in the optional retirement plan established by the institution of higher education pursuant to this subsection if the most recent retirement plan covering the employee prior to such hiring was an

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59 optional retirement plan. If the most recent retirement plan covering the employee prior to such hiring  
60 was the Virginia Retirement System defined benefit retirement plan, such person shall participate in such  
61 defined benefit retirement plan from the time of his entry upon the performance of his duties.

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

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

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

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

81 2. If a member of the optional retirement plan maintained under this section is at any time in service  
82 as an employee in a position covered for retirement purposes under the provisions of Chapters 1  
83 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.), his  
84 benefit payments under the optional retirement plan maintained under this section shall be suspended  
85 while so employed; provided, however, reemployment shall have no effect on the payment under the  
86 optional plan maintained under this section if the benefits are being paid in an annuity form under an  
87 annuity contract purchased with the member's account balance.

88 F. 1. The contribution by the Commonwealth on behalf of an employee participating in an optional  
89 retirement plan maintained by the Board or on behalf of an employee participating in an optional  
90 retirement plan established by his institution of higher education under this section to such employee's  
91 retirement plan shall be 10.4 percent of creditable compensation. An institution of higher education may  
92 make an additional contribution for participants who, before January 1, 1991, exercised the election to  
93 participate in the plan provided by the institution employing them. Such additional contributions shall be  
94 made using funds other than general funds, tuition or fees, up to an additional 2.17 percent of creditable  
95 compensation.

96 2. *Effective July 1, 2010, the contribution by the Commonwealth on behalf of an employee*  
97 *participating in an optional retirement plan maintained by the Board or on behalf of an employee*  
98 *participating in an optional retirement plan established by his institution of higher education under this*  
99 *section to such employee's retirement plan shall be 9.4 percent of creditable compensation, and the*  
100 *employee shall be required to contribute one percent of creditable compensation on a salary reduction*  
101 *basis in accordance with § 414 (h) of the Internal Revenue Code. An institution of higher education may*  
102 *make an additional contribution for participants who, before January 1, 1991, exercised the election to*  
103 *participate in the plan provided by the institution employing them. Such additional contributions shall be*  
104 *made using funds other than general funds, tuition or fees, up to an additional 2.17 percent of*  
105 *creditable compensation.*

106 3. *Effective July 1, 2011, the contribution by the Commonwealth on behalf of an employee*  
107 *participating in an optional retirement plan maintained by the Board or on behalf of an employee*  
108 *participating in an optional retirement plan established by his institution of higher education under this*  
109 *section to such employee's retirement plan shall be 8.4 percent of creditable compensation, and the*  
110 *employee shall be required to contribute two percent of creditable compensation on a salary reduction*  
111 *basis in accordance with § 414 (h) of the Internal Revenue Code. An institution of higher education may*  
112 *make an additional contribution for participants who, before January 1, 1991, exercised the election to*  
113 *participate in the plan provided by the institution employing them. Such additional contributions shall be*  
114 *made using funds other than general funds, tuition or fees, up to an additional 2.17 percent of*  
115 *creditable compensation.*

116 2 4. These contribution rates shall be examined by the Board at least once every six years. The  
117 examination shall consider the salary peer group mean contribution as determined by the State Council  
118 of Higher Education and the Virginia Retirement System actuary, and, if deemed advisable, recommend  
119 a revision to the rate of contribution by the Commonwealth.

120 G. With respect to any employee who elects pursuant to subsection A or B to participate in the

Virginia Retirement System defined benefit retirement plan established by this chapter, the institution of higher education shall collect and pay all employee and employer contributions to the Virginia Retirement System for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) for such employees.

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

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

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

§ 51.1-126.5. Defined contribution plan for eligible members.

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

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

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

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

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

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

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

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

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

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

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

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

G. 1. The contribution by the Commonwealth to a participating member's defined contribution account shall be determined by the Board of Trustees of the Virginia Retirement System in consultation with its actuary. Contributions to the defined contribution account and all earnings thereon shall be credited to an account to be maintained for each participating member. Contributions by the Commonwealth to a participating member's defined contribution account shall be in lieu of contributions to the retirement system required pursuant to § 51.1-145.

182 2. *The contribution by a participating member, on a salary reduction basis in accordance with § 414*  
183 *(h) of the Internal Revenue Code, shall be (i) effective July 1, 2010, one percent of creditable*  
184 *compensation and (ii) effective July 1, 2011, two percent of creditable compensation.*

185 § 51.1-126.6. Certain employees of public school divisions.

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

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

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

201 D. 1. The contribution by the school board to such employee's defined contribution account shall be  
202 determined by the Board of Trustees of the Virginia Retirement System in consultation with its actuary.  
203 Contributions to the defined contribution account and all earnings thereon shall be credited to an account  
204 to be maintained for each eligible employee who elects to participate. Contributions by the school board  
205 to an electing employee's defined contribution account shall be in lieu of contributions to the retirement  
206 system required pursuant to § 51.1-145.

207 2. *A school board at its option may require an eligible employee to contribute on a salary reduction*  
208 *basis in accordance with § 414 (h) of the Internal Revenue Code (i) effective July 1, 2010, one percent*  
209 *of creditable compensation and (ii) effective July 1, 2011, two percent of creditable compensation.*

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

217 F. The Virginia Retirement System shall develop policies and procedures for the administration of  
218 such plan in accordance with existing and future federal and state policies, regulations, and statutes  
219 governing the administration of such plans.

220 § 51.1-144. Member contributions.

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

223 The employer shall deduct the contribution payable by the member. Every employee accepting  
224 employment shall be deemed to consent and agree to any deductions from his compensation required by  
225 this chapter. No deduction shall be taken from the compensation of a member after his normal  
226 retirement date if the member elects not to contribute.

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

232 C. The minimum compensation provided by law for any member shall be reduced by the deduction  
233 required by this section. Except for any benefits provided by this chapter, payment of compensation  
234 minus the deductions shall be a full and complete discharge of all claims for services rendered by the  
235 member during the period covered by the payment.

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

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

241 F. 1. Any employer may elect to pay an equivalent amount in lieu of all or any portion of the  
242 member contributions required of its employees. Such payments shall be credited to the members'  
243 contribution account. 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.

2. Every "state employee" as defined in § 51.1-124.3 who is covered by the defined benefit plan established under this chapter, and every member of (i) the State Police Officers' Retirement System (Chapter 2 of this title), (ii) the Virginia Law Officers' Retirement System (Chapter 2.1 of this title), and (iii) the Judicial Retirement System (Chapter 3 of this title) shall pay member contributions on a salary reduction basis in accordance with § 414 (h) of the Internal Revenue Code (a) effective July 1, 2010, in the amount of one percent of creditable compensation and the employer shall pay four percent pursuant to this subsection, and (b) effective July 1, 2011, in the amount of two percent of creditable compensation and the employer shall pay three percent pursuant to this subsection.

G. Any employer whose employees are paying member contributions to the retirement system on a salary reduction basis in accordance with § 414 (h) of the Internal Revenue Code may pay a portion of the member contributions on behalf of all of its employees upon notification to the Board of the employer's intent to make such partial payment. Any employer paying a portion of the member contributions for its employees (i) shall do so in such manner that the entire member contribution for all of its employees shall be paid by the employer starting not later than six years from the commencement of such partial payment, or a period of time approved by the Board upon submission of a plan by the employer, and (ii) shall not pay a portion of the member contribution in any incremental amount with a fractional part of less than one-half of one percent of creditable compensation.

H. Any employer that, by resolution of its governing body, elects to provide retirement coverage for its employees in accordance with § 51.1-130 on or after September 1, 1998, shall allow its employees to pay member contributions to the retirement system on a salary reduction basis in accordance with § 414 (h) of the Internal Revenue Code in lieu of paying the member contribution on behalf of its employees in accordance with the provisions of subsection F.

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

§ 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~~ 60 or over when first employed may retire at any time after his normal retirement date and the requirement of having five or more years of service shall not apply.

B. Early retirement. - 1. Any member in service who has attained his ~~fifty-fifth~~ 55th 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~~ Subject to the provisions of subdivision B 3, any state employee, teacher, or employee of a political subdivision who is a member of the retirement system may retire prior to his normal retirement date after attaining age ~~fifty~~ 50 and ~~thirty~~ 30 years of creditable service, upon written notification to the Board setting forth the date the retirement is to become effective. The benefit for such member shall be calculated in accordance with the provisions of subdivision A 1 of § 51.1-155.

3. Any state employee, teacher, or employee of a political subdivision, commencing employment with no prior service credit on or after July 1, 2010, who is a member of the retirement system may retire prior to his normal retirement date after attaining age 55 and 30 years of creditable service, upon written notification to the Board setting forth the date the retirement is to become effective. The benefit for such member shall be calculated in accordance with the provisions of subdivision A 1 of § 51.1-155.

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~~ 50th birthday with ~~ten~~ 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 ~~ninety~~ 90 days prior to the filing of the notice of retirement.

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

308 § 51.1-166. Post-retirement supplements generally.

309 A. In addition to the allowances payable under this chapter, post-retirement supplements shall be  
310 payable to the recipients of such allowances. Supplements shall be subject to the same conditions of  
311 payment as are allowances. B. The amounts of the post-retirement supplements shall be determined as  
312 percentages of the allowances supplemented hereby. The percentages shall be determined annually by  
313 reference to the increase in the United States Average Consumer Price Index for all items, all urban  
314 consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of  
315 Labor. The percentages shall be based on monthly averages and shall be the difference between the  
316 average for the calendar year in which the allowance initially commenced and the average for the  
317 calendar year immediately prior to the calendar year in which the post-retirement supplement is paid.  
318 The annual increase in the Consumer Price Index shall be considered only to the extent of three percent  
319 plus one-half of such additional increase up to seven percent, *except that for any person commencing*  
320 *employment or reemployment on or after July 1, 2010, with no prior service, the annual increase in the*  
321 *Consumer Price Index shall be considered only to the extent of two percent plus one-half of such*  
322 *additional increase up to six percent.*

323 Beginning July 1, 1997, contribution rates calculated pursuant to § 51.1-145 for all employers shall  
324 include an amount not less than ~~twenty~~ 20 percent of the total annual amount necessary to fund all  
325 post-retirement supplements. Contribution rates for all employers shall increase thereafter until,  
326 beginning July 1, 2002, such rates shall include an amount equal to 100 percent of the total annual  
327 amount necessary to fund all post-retirement supplements. All contribution rates shall be computed in  
328 accordance with recognized actuarial principles on the basis of methods and assumptions approved by  
329 the Board.

330 Nothing in this section shall prohibit an employer from contributing, prior to July 1, 2002, 100  
331 percent of the total annual amount necessary to fund its post-retirement supplements.

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

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

341 § 51.1-205. Service retirement generally.

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

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

357 B. Early retirement. - ~~Any 1.~~ *Subject to the provisions of subdivision B 2, any member in service*  
358 *who has attained his* ~~fiftieth~~ *50th birthday with five or more years of creditable service (i) as a member*  
359 *in the retirement system established by this chapter, (ii) as a member in the retirement system*  
360 *established by Chapter 2.1 (§ 51.1-211 et seq.) of this title, or (iii) while earning the benefits permitted*  
361 *by § 51.1-138 may retire upon written notification to the Board setting forth the date the retirement is to*  
362 *become effective.*

363 *2. Any member in service commencing employment with no prior service credit on or after July 1,*  
364 *2010, who has attained his 55th birthday with five or more years of creditable service (i) as a member*  
365 *in the retirement system established by this chapter, (ii) as a member in the retirement system*  
366 *established by Chapter 2.1 (§ 51.1-211 et seq.) of this title, or (iii) while earning the benefits permitted*

by § 51.1-138 may retire upon written notification to the Board setting forth the date the retirement is to become effective.

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

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) of this title, 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 this title, 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. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

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

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

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

§ 51.1-206. Service retirement allowance.

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

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

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

2. Early retirement. - The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has less than 25 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on or after his ~~fiftieth~~ 50th birthday on which he would have completed a total of 25 years of creditable service. *If the member commenced employment with no prior service credit on or after July 1, 2010, and 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 55th 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

428 the additional retirement allowance herein.

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

432 § 51.1-216. Service retirement generally.

433 A. Normal retirement.

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

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

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

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

454 B. Early retirement.

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

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

464 2. ~~Any~~ *Subject to the provisions of subdivision B 3, any* other employee who is a member in service  
465 and who has attained his ~~fiftieth~~ *50th* birthday with five or more years of creditable service (i) as a  
466 member in the retirement system established by this chapter, (ii) as a member in the retirement system  
467 established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while earning the benefits permitted by  
468 § 51.1-138 may retire upon written notification to the Board setting forth the date the retirement is to  
469 become effective.

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

474 3. *Any other employee commencing employment with no prior service credit on or after July 1, 2010,*  
475 *who has attained his 55th birthday with five or more years of creditable service (i) as a member in the*  
476 *retirement system established by this chapter, (ii) as a member in the retirement system established by*  
477 *Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138*  
478 *may retire upon written notification to the Board setting forth the date the retirement is to become*  
479 *effective.*

480 C. Deferred retirement for members terminating service.

481 1. Any employee commencing employment or reemployment on or after July 1, 2001, and any  
482 employee who makes the election provided in § 51.1-221, who terminates service from any position with  
483 membership in any retirement program administered by the Virginia Retirement System, may retire  
484 under the provisions of subdivision A 1 or B 1 if (i) he is otherwise eligible for such benefits, (ii) he  
485 has not withdrawn his accumulated contributions prior to the effective date of his retirement, and (iii) he  
486 has five or more years of creditable service (a) as a member in the retirement system established by this  
487 chapter, (b) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this  
488 title, or (c) while earning the benefits permitted by § 51.1-138 for which his employer has paid the  
489 contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any



requirements as to the member being in service shall not apply. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

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

2. Any other member who terminates service after five or more years of creditable service (i) as a member in the retirement system established by this chapter, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) while earning the benefits permitted by § 51.1-138 may retire under the provisions of subdivision A 2 or B 2 if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service (a) as a member in the retirement system established by this chapter, (b) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (c) while earning the benefits permitted by § 51.1-138 for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

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

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

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

§ 51.1-217. Service retirement allowance.

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

1. Normal retirement.

a. Notwithstanding the provisions of §§ 51.1-155, 51.1-155.1 and 51.1-155.2, for any employee commencing employment or reemployment on or after July 1, 2001, and for any employee who makes the election provided in § 51.1-221, the allowance shall equal (i) two percent of his average final compensation multiplied by the amount of creditable service earned (a) as a member in the retirement system established by this chapter, (b) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (c) while earning the benefits permitted by § 51.1-138; and (ii) 1.70 percent of his average final compensation multiplied by all other creditable service, if any; and

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

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

a. For an individual retiring pursuant to subdivision B 1 of § 51.1-216, who is not retiring directly from service as an employee as defined in § 51.1-212, and who has less than ~~thirty~~ 30 years of service shall retire under the provisions of the retirement system for which he is a member as of his retirement date; and

b. For all other individuals retiring pursuant to subdivision B 1 of § 51.1-216, and for an individual retiring pursuant to subdivision B 2 of § 51.1-216 who has less than ~~twenty-five~~ 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~~ 50th birthday on which he would have completed a total of ~~twenty-five~~ 25 years of creditable service. *If the individual commenced employment with no prior service credit on or after July 1, 2010, and 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 55th birthday on which he would have completed a total of 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~~ 65th birthday, an annual allowance equal to \$9,264. Beginning July 1, 2001, and biennially thereafter, such allowance shall be reviewed and adjusted by the

551 Board to an amount recommended by the actuary of the Virginia Retirement System based upon  
552 increases in Social Security benefits in the interim. This subsection shall not apply to the following: (i)  
553 any member who qualifies for retirement under subsection C of § 51.1-216 and is credited with less than  
554 twenty years' service rendered in a hazardous position or (ii) any member employed initially on or after  
555 July 1, 1974, who is credited with less than ~~twenty~~ 20 years' service rendered in a hazardous position.

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

559 D. No person shall be eligible to receive any of the allowances provided in this section if he receives  
560 retirement benefits under Chapter 2 (§ 51.1-200 et seq.) of Title 51.1 or under § 51.1-138. No person  
561 shall receive any allowance pursuant to subdivision A 1 (i) if he has received an allowance pursuant to  
562 subsection B of § 51.1-206 or subsection B of § 51.1-217, unless, after receiving the allowance pursuant  
563 to subsection B of § 51.1-206 or subsection B of § 51.1-217, he becomes employed or reemployed as an  
564 employee defined in § 51.1-212, and thereafter earns five or more years of creditable service (a) as a  
565 member in the retirement system established by this chapter, (b) as a member in the retirement system  
566 established by Chapter 2 (§ 51.1-200 et seq.) of Title 51.1, or (c) while earning the benefits permitted by  
567 § 51.1-138.

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