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HOUSE BILL NO. 1795

Offered January 12, 2011

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A *BILL to amend and reenact §§ 2.2-3204, 51.1-142.2, 51.1-155.1, 51.1-155.2, 51.1-162, 51.1-512.1, 51.1-1112, 51.1-1123, and 51.1-1128 of the Code of Virginia, relating to plan changes for a person who becomes a member of the Virginia Retirement System on or after July 1, 2010.*

Patron—Tata

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3204, 51.1-142.2, 51.1-155.1, 51.1-155.2, 51.1-162, 51.1-512.1, 51.1-1112, 51.1-1123, and 51.1-1128 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3204. Retirement program.

A. In lieu of the transitional severance benefit provided in § 2.2-3203, any otherwise eligible employee who, on the date of involuntary separation, is also (i) a vested member of the Virginia Retirement System, the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System and (ii) at least fifty years of age, may elect to have the Commonwealth purchase on his behalf years to be credited to either his age or creditable service or a combination of age and creditable service, except that any years of credit purchased on behalf of a member of the Virginia Retirement System, the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System who is eligible for unreduced retirement shall be added to his creditable service and not his age. *If the otherwise eligible employee is (a) a person who becomes a member on or after July 1, 2010, (b) not a member of the State Police Officers' Retirement System or the Virginia Law Officers' Retirement System, and (c) a person to whom the provisions of subdivision B 3 of § 51.1-153 do not apply, then he must be at least sixty years of age on the date of involuntary separation to be eligible for the retirement program provided in this subsection.* The cost of each year of age or creditable service purchased by the Commonwealth shall be equal to fifteen percent of the employee's present annual compensation. The number of years of age or creditable service to be purchased by the Commonwealth shall be equal to the quotient obtained by dividing ~~(i)~~ (1) the cash value of the benefits to which the employee would be entitled under subsections A and D of § 2.2-3203 by ~~(ii)~~ (2) the cost of each year of age or creditable service. Partial years shall be rounded up to the next highest year. Deferred retirement under the provisions of subsection C of §§ 51.1-153, 51.1-205, and 51.1-216, and disability retirement under the provisions of § 51.1-156 et seq. and § 51.1-209, shall not be available under this section.

B. In lieu of the (i) transitional severance benefit provided in § 2.2-3203 and (ii) the retirement program provided in subsection A, any employee who is otherwise eligible may take immediate retirement pursuant to § 51.1-155.1.

C. 1. *The retirement allowance for a person who (i) is not a member of the State Police Officers' Retirement System or the Virginia Law Officers' Retirement System, (ii) becomes a member on or after July 1, 2010, electing to retire under this section, and (iii) by adding years to his age is between ages sixty and the age at his "normal retirement date" as defined in § 51.1-124.3 shall be reduced on the actuarial basis provided in subdivision A 3 of § 51.1-155, unless the provisions of subdivision B 3 of § 51.1-153 apply to him.*

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

§ 51.1-142.2. Prior service or membership credit for certain members; service credit for accumulated sick leave.

Certain members may purchase credit for service as provided in this section.

A. Except as provided in subdivisions 1 and 2, in order to receive credit for the service made available in subsection B, a member in service shall be required to make a payment for each year, or portion thereof, to be credited at the time of purchase, equal to five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing the service made available in subsection B through a pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five percent of his creditable compensation.

1. (For applicability date, see Editor's note) A person who becomes a member on or after July 1, 2010, shall pay an amount equal to a rate approximating the normal cost for the retirement program

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59 under which the member is covered, with such rate for each retirement program to be determined by the
60 Board, and reviewed by the Board no less than every six years. However, if the member does not
61 purchase, or enter into a purchase of service contract for the service made available in subsection B
62 within one year from his first date of hire or within one year of the final day of any leave of absence
63 under subdivision B 2, as applicable, then, for each year or portion thereof to be credited at the time of
64 purchase, the member shall pay an amount equal to the actuarial equivalent cost.

65 2. If a member other than a member described in subdivision 1 does not purchase, or enter into a
66 purchase of service contract for, the service made available in subsection B within three years from his
67 first date of hire or within three years of the final day of any leave of absence under subdivision B 2, as
68 applicable, then, for each year or portion thereof to be credited at the time of purchase, the member
69 shall pay an amount equal to the actuarial equivalent cost.

70 3. When a member requests credit for a portion of the period, the most recent portion shall be
71 credited. Payment may be made in a lump sum at the time of purchase or by an additional payroll
72 deduction. Only one additional deduction shall be permitted at any time. Should the additional deduction
73 be terminated prior to purchasing the entire period that might otherwise be credited, the member shall be
74 credited with the number of additional months of service for which full payment is made. If the
75 additional deduction is continued beyond the point at which the entire period has been purchased, the
76 member shall be credited with no more than the entire period that might otherwise have been credited
77 and the excess amount deducted shall be refunded to the member.

78 Any employer may elect to pay an equivalent amount in lieu of all member contributions required of
79 its employees for the purpose of service credit pursuant to this section. These contributions shall not be
80 considered wages for purposes of Chapter 7 (§ 51.1-700 et seq.) of this title, nor shall they be
81 considered to be salary for purposes of this chapter.

82 B. 1. Any member in service may purchase prior service credit for (i) active duty military service in
83 the armed forces of the United States, provided that the discharge from a period of active duty status
84 with the armed forces was not dishonorable, (ii) creditable service of another state or of a political
85 subdivision or public school system of this or another state, as certified by such state, political
86 subdivision or public school system, (iii) creditable service of a political subdivision of this state not
87 credited to the member under an agreement as provided for in § 51.1-143.1, as certified by such political
88 subdivision, (iv) civilian service of the United States, (v) creditable service at a private institution of
89 higher education if the private institution is merged with a public institution of higher education and
90 graduates of the private institution are then issued new degrees from the public institution, or (vi) any
91 period of time when the member was employed by a participating employer and not otherwise eligible
92 to participate in the retirement system because the member was not an employee as defined in
93 § 51.1-124.3.

94 For purposes of this subsection "active duty military service" means full-time service of at least 180
95 consecutive days in the United States Army, Navy, Air Force, Marines, Coast Guard, or reserve
96 components thereof.

97 2. Any member (i) granted a leave of absence for educational purposes may purchase service credit
98 for such leave of absence; or (ii) granted any unpaid leave of absence due to the birth or adoption of a
99 child may purchase up to one year of service credit per occurrence of leave.

100 C. Any member in service may purchase service credit for creditable service lost from ceasing to be
101 a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated
102 contributions. Notwithstanding any other provision in this section, the cost to purchase such service shall
103 be five percent of his creditable compensation or five percent of his average final compensation,
104 whichever is greater, unless the member in service is purchasing such service through a pre-tax or
105 post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall
106 be five percent of his creditable compensation. If the member purchases or enters into a contract to
107 purchase such service within three years of the date he became eligible to purchase the service, then the
108 service may be purchased in a lump sum at the time of purchase or through an additional payroll
109 deduction. Any purchase of such service made at a time later than such period shall be made in a lump
110 sum at the time of purchase.

111 D. Any member in service may purchase service credit for accumulated sick leave on his effective
112 date of retirement based upon such sums as the employer may provide as payment for any unused sick
113 leave balances. The cost of service credit purchased under this subsection shall be the actuarial
114 equivalent cost of such service.

115 E. Any member receiving work-related disability benefits under Article 4 (§ 51.1-1119 et seq.) of
116 Chapter 11 may, in a manner prescribed by the Board, purchase service credit for service that is not
117 reported to the retirement system by the member's employer while the member is receiving short-term
118 disability benefits. Notwithstanding any other provision in this section, the cost to purchase such service
119 shall be five percent of the member's creditable compensation.

120 EF. In any case where member and employer contributions, as required under this chapter, were not

made because of an error in the payroll, personnel, or other classification system of an employer participating in the retirement system, service that has not been credited because of such error may be purchased on the following basis:

1. The most recent three years of service shall be purchased, using applicable member and employer contribution rates and creditable compensation in effect for such period, in a manner and cost prescribed by the Board; and

2. All other years of service the employer shall purchase at an actuarial equivalent cost.

FG. The service credit to be credited to a member under this section shall be calculated at the ratio of one year, or portion thereof, of service credit to one year, or portion thereof, of service purchased, except for part-time service purchased under clause (vi) of subdivision B 1 which shall be calculated at the ratio of one month of service credit for each 173 hours of service as certified by the employer and as purchased by the member. Up to a maximum of four years of service credit may be purchased for each of clauses (i) through (vi) of subdivision B 1 and ~~clause clauses~~ (i) and (ii) of subdivision B 2. In addition, a member in service may purchase service credit for every year or portion thereof for service lost from cessation of membership as described in subsection C.

Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, the service credit made available under this section may not be purchased if, before being purchased or at the time of such purchase pursuant to this section, the service to be purchased is service that is included in the calculation of any retirement allowance received or to be received by the member from this or another retirement system.

GH. Any member may receive credit at no cost for service rendered in the armed forces of the United States provided (i) the member was on leave of absence from a covered position, (ii) the discharge from a period of active duty with the armed forces was not dishonorable, (iii) the member has not withdrawn his accumulated contributions, (iv) the member is not disabled or killed while on leave without pay while performing active duty military service in the armed forces of the United States, and (v) the member reenters service in a covered position within one year after discharge from the armed forces. In order to receive such service, the member must complete such forms and other requirements as are required by the Board and the retirement system.

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

A. Members of the retirement system (i) whose positions are described by subdivision 1 (except members of the Judicial Retirement System (§ 51.1-300 et seq.)), 2 (except members of the Judicial Retirement System (§ 51.1-300 et seq.)), 3, 4 (except officers elected by popular vote), 7, 13, 14, 15, 16, 17, or 20 of § 2.2-2905; (ii) who are agency heads appointed by a state board, state commission, or state council; or (iii) who are school division superintendents appointed by a school board pursuant to § 22.1-60, and (a) who are involuntarily separated from state service and (b) who have 20 or more years of creditable service at the date of separation, may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155, *upon attaining age 60 if the member is a person who becomes a member on or after July 1, 2010, and upon attaining age 50 for any other member.*

B. Any member of the retirement system who (i) serves as chief executive officer of an interstate commission pursuant to Virginia's participation in such commission; (ii) is involuntarily separated from service; and (iii) has 20 or more years of creditable service at the date of separation, may retire without the reduction in retirement allowance required by § 51.1-155 A 2 *upon attaining age 60 if the member is a person who becomes a member on or after July 1, 2010, and upon attaining age 50 for any other member.*

C. For the purposes of this section, "involuntary separation" means any dismissal, requested resignation, or failure to obtain reappointment, except in case of a conviction for a felony or crime involving moral turpitude or dishonesty.

D. Any state employee who retires under the provisions of this section on or after January 1, 1994, shall be eligible to participate in the state health insurance program as provided in § 2.2-2818 and receive group life insurance benefits as provided in § 51.1-505.

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

A. Members of the retirement system who (i) are appointed county administrator pursuant to § 15.2-406 or 15.2-1540, urban county executive pursuant to § 15.2-804, county executive pursuant to § 15.2-509, county manager pursuant to § 15.2-609 or 15.2-702, county administrator or city or town manager pursuant to Chapter 15 (§ 15.2-1500 et seq.) of Title 15.2 or county, city or town attorney pursuant to § 15.2-1542; (ii) are involuntarily separated from service; and (iii) have 20 or more years of creditable service at the date of separation, may retire without the reduction in retirement allowance required by subdivisions A 2 and A 3 of § 51.1-155 *upon attaining age 60 if the member is a person who becomes a member on or after July 1, 2010, and upon attaining age 50 for any other member.*

B. For the purposes of this section, "involuntary separation" means any dismissal, requested

182 resignation, or failure to obtain reappointment, except in case of a conviction for a felony or crime
183 involving moral turpitude or dishonesty.

184 C. The cost of this provision shall be borne by the locality.

185 § 51.1-162. Death before retirement.

186 A. If a member dies before retirement, and if no benefits are payable under subsection B, the amount
187 of his accumulated contributions shall be paid to the designated beneficiary or to a surviving relative
188 according to the order of precedence set forth in this section. This amount shall be reduced by the
189 amount of any retirement allowance previously received by the member under this chapter or the
190 abolished system. Each member shall designate who is to receive a refund of accumulated contributions
191 credited to his account in the event of the death of the member prior to retirement. The designation
192 must be made in a manner prescribed by the Board.

193 If no designation has been made, or the death of the designated person occurs prior to the death of
194 the member and another designation has not been made, the proceeds shall be paid to the persons
195 surviving at the death of the member in the following order of precedence:

196 First, to the spouse of the member;

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

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

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

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

204 B. If a member dies in service, including a member who is on leave without pay while performing
205 active duty military service in the armed forces of the United States, and if no benefits are payable
206 under subsection C of this section, a retirement allowance shall be paid to the person or persons
207 designated as provided in subsection A of this section if the person is the member's (i) surviving spouse,
208 (ii) minor child, or (iii) parent(s). If no designation has been made, or if the death of the designated
209 person occurs prior to the death of the member and another designation has not been made, a retirement
210 allowance shall be paid in the following order of precedence to the member's (a) surviving spouse, (b)
211 minor children, or (c) parent(s). The retirement allowance shall be paid to the first person qualifying in
212 the orders of precedence set out in this subsection. If more than one minor child survives the deceased
213 member, the allowance shall be divided among them in a manner determined by the Board. If more than
214 one parent survives the deceased member, the allowance shall be divided among them in a manner
215 determined by the Board. The retirement allowance shall be continued during the lifetime of the person
216 or in the case of a minor child until the child dies or attains the age of majority, whichever occurs first.
217 The retirement allowance shall equal the deceased retirement allowance that would have been payable
218 under the joint and survivor option so that the same amount would be continued to such person after the
219 member's death. If the member dies prior to his fifty-fifth birthday, then, for purposes of this subsection,
220 the member shall be presumed to be age fifty-five on his date of death. *However, if the member who*
221 *dies in service is a person who became a member on or after July 1, 2010, and he dies prior to his*
222 *sixtieth birthday, then, for purposes of this subsection, the member shall be presumed to be age sixty on*
223 *his date of death.* When determining the allowance that would have been payable to the member had the
224 member retired on the date of his death, the provisions of subdivision A 4 of § 51.1-155 shall not apply.
225 If the person elects in writing, the amount of the member's accumulated contributions or lump sum
226 payment shall be paid to him exclusively, in lieu of any other benefits under this section. This amount
227 shall be reduced by the amount of any retirement allowance previously received by the member under
228 this chapter.

229 C. If a member dies in service from a cause compensable under the Virginia Workers' Compensation
230 Act (§ 65.2-100 et seq.), a retirement allowance shall be paid to the member's surviving spouse. If no
231 compensation is finally awarded under the Virginia Workers' Compensation Act due to legal proceedings
232 or otherwise resulting in settlement from the persons causing such death, the Virginia Workers'
233 Compensation Commission shall determine whether the member's death was from a cause compensable
234 under the Virginia Workers' Compensation Act. If the member leaves no surviving spouse or the
235 surviving spouse dies, any minor children of the deceased member shall be paid an allowance until the
236 children die or attain the age of majority, whichever occurs first. If more than one minor child survives
237 the deceased member, the allowance shall be divided in a manner determined by the Board. If the
238 deceased member leaves neither surviving spouse nor minor child, the allowance, divided in a manner
239 determined by the Board, shall be paid to the member's parents during their lives.

240 The retirement allowance payable hereunder to a qualifying survivor shall be the annual amount
241 which when added to the compensation payable under the Virginia Workers' Compensation Act for the
242 death of the member equals fifty percent of the member's average final compensation if the survivor
243 does not qualify for death benefits under the provisions of the Social Security Act in effect on the date

of the death of the member. If the survivor qualifies for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member, the allowance payable from the retirement system when added to the compensation payable under the Virginia Workers' Compensation Act shall equal thirty-three and one-third percent of the member's average final compensation.

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

§ 51.1-512.1. Optional life insurance for the spouse and minor dependents of employees.

A. The Board shall, under the terms and conditions specified by the Board, make available to any active insured employee optional life, accidental death, and dismemberment insurance on the employee's spouse and minor dependents in the following amounts:

1. For the spouse of an active insured employee: an amount up to fifty percent of the maximum amount of optional insurance available to the employee under § 51.1-512.

2. For any minor dependent of an active insured employee in increments specified by the Board. The Board shall adjust these amounts periodically to account for changes in the purchasing power of money over time.

B. All optional insurance on an employee's spouse shall cease upon the earliest of (i) the date the employee's basic coverage ceases, (ii) the entry of a final divorce decree terminating the marriage of the employee and the employee's spouse, or (iii) the date the insurance being continued in retirement terminates pursuant to subsections C and D. All optional insurance on an employee's minor dependent shall cease upon the earliest of (i) (a) the minor dependent attains the age of twenty-one, unless the minor dependent is a full-time college student, then age twenty-five or unless the minor dependent is under a mental or physical disability, in which event coverage shall not terminate until three months following cessation of the disability, (ii) (b) marriage of the minor dependent, or (iii) (c) the date the employee's basic coverage ceases.

C. Subject to foregoing limitations, the optional amount of life insurance in force on the spouse or minor dependent of an employee who retires for disability on an immediate retirement allowance may be continued, subject to payment of any required premium by the employee, during continuance of such disability but not beyond the end of the month in which the employee attains age sixty-five employee's normal retirement date occurs.

D. Subject to the foregoing limitations, the optional amount of life insurance in force on the spouse or minor dependent of an employee who retires for service on an immediate retirement allowance, or for an employee who retired for disability on an immediate retirement allowance who attains age sixty-five when his normal retirement date occurs, may be continued, subject to payment of any required premium by the employee, and provided the employee had such spouse or dependent insurance for a period of at least sixty continuous months prior to retirement, or prior to reaching age sixty-five normal retirement date for a disability retirement. Life insurance on the spouse that is eligible to be continued shall be an amount specified by the Board and available to the retiree under § 51.1-512 and shall begin to reduce when the retiree attains age sixty-five retiree's normal retirement date occurs under the terms and conditions specified by the Board. Life insurance on dependent children that is eligible to be continued shall be in increments as specified by the Board. The Board shall adjust these amounts periodically to account for changes in the purchasing power of money over time. All optional life insurance on a retiree's spouse or dependent ceases at the earliest of (i) the retiree attaining age eighty, (ii) the death of the retiree, (iii) for a spouse, the entry of a final divorce decree terminating the marriage of the retiree and the retiree's spouse, (iv) for a minor insured dependent, the date the dependent attains the age of twenty-one, unless the minor insured dependent is a full-time college student, then the date the dependent attains age twenty-five, unless the minor insured dependent is under a mental or physical disability, in which case coverage shall not terminate until three months following cessation of the disability, or (v) for a minor insured dependent, the date of his marriage. All accidental death and dismemberment insurance ceases at retirement.

E. The cost of the optional insurance shall be determined periodically by the Board on the basis it considers appropriate. The Board may discontinue the optional insurance plan at any time upon determination that employee participation is not sufficient to continue the plan on a sound actuarial basis.

F. The amount of optional life, accidental death, and dismemberment insurance in force on an employee's spouse or minor dependent at the date of his or her death shall be paid as provided in this chapter. All accidental death and dismemberment insurance ceases at retirement. The amount of optional life insurance in force on the retiree's spouse or minor dependent at the date of his death shall be paid as provided in this chapter.

G. The Board shall determine the form and content of the accounting reports to be made by the

305 insurance company with respect to the optional insurance. Any expenses incurred by the Retirement
306 System for operating and administering the optional insurance programs provided in this section may be
307 recovered by the Board from the advance premium deposit reserve required by subsection B of
308 § 51.1-514.

309 H. As used in this section, an employee's "minor dependent" means a child member of the
310 employee's or retiree's family who is eligible for coverage under the family membership program offered
311 under policies and procedures of the Department of Human Resource Management governing health
312 insurance plans administered pursuant to § 2.2-1204 or § 2.2-2818.

313 I. The provisions of this chapter applicable to the provision of group insurance policies to insure
314 eligible employees or retirees shall apply to optional insurance insuring the spouses and minor
315 dependents of eligible employees or retirees pursuant to this section, with the respective differences
316 having been considered.

317 § 51.1-1112. Long-term disability benefit.

318 A. Except as provided in subsection D of § 51.1-1103, long-term disability benefits for participating
319 employees shall commence upon the expiration of the maximum period for which the participating
320 employee is eligible to receive short-term disability benefits under § 51.1-1110.

321 B. Except as provided in subsection D and § 51.1-1131, long-term disability benefits shall provide
322 income replacement in an amount equal to 60 percent of a participating employee's creditable
323 compensation.

324 C. Creditable compensation during periods an employee receives long-term disability benefits shall (i)
325 not include salary increases awarded during the period covered by long-term disability benefits and (ii)
326 be increased annually by an amount recommended by the actuary of the Virginia Sickness and Disability
327 Program and approved by the Board.

328 D. An employee's disability credits shall be used, on a day-for-day basis, to extend the period an
329 employee receives long-term disability benefits paid at 100 percent of replacement of creditable
330 compensation.

331 E. Long-term disability benefits shall be payable only during periods of (i) total disability or (ii)
332 partial disability.

333 F. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply
334 for Social Security disability benefits.

335 G. An employee who is approved for disability benefits on or after ~~age 60~~ *the date that is five years*
336 *prior to his normal retirement date* shall be eligible for ~~up to a maximum of~~ five years of disability
337 benefits before the employee is required to retire under a service retirement. The five years includes
338 short-term disability and long-term disability.

339 § 51.1-1123. Supplemental long-term disability benefit.

340 A. Supplemental long-term disability benefits for participating employees shall commence upon the
341 expiration of the maximum period for which the participating employee is eligible to receive short-term
342 disability benefits under § 51.1-1121.

343 B. Except as provided in subsection D and § 51.1-1131, supplemental long-term disability benefits
344 shall provide income replacement in an amount equal to 60 percent of a participating employee's
345 creditable compensation.

346 C. Creditable compensation during periods an employee receives supplemental long-term disability
347 benefits shall (i) not include salary increases awarded during the period covered by long-term disability
348 benefits and (ii) be increased annually by an amount recommended by the program actuary and
349 approved by the Board.

350 D. An employee's disability credits shall be used, on a day-for-day basis, to extend the period an
351 employee receives supplemental long-term disability benefits paid at 100 percent of replacement of
352 creditable compensation.

353 E. Payments of supplemental long-term disability benefits payable under this article shall be reduced
354 by an amount equal to any benefits paid to the employee under the Act, for which the employee is
355 entitled to receive under the Act, excluding any benefit for medical, legal or rehabilitation expenses.

356 F. Supplemental long-term disability benefits shall be payable only during periods of total and partial
357 disability.

358 G. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply
359 for Social Security disability benefits.

360 H. An employee who is approved for disability benefits on or after ~~age 60~~ *the date that is five years*
361 *prior to his normal retirement date* shall be eligible for ~~up to a maximum of~~ five years of disability
362 benefits before the employee is required to retire under a service retirement. The five years includes
363 short-term disability and long-term disability.

364 § 51.1-1128. Service retirement of participating full-time employees receiving supplemental disability
365 benefits.

366 A. Upon the last to occur of (i) the normal retirement date of a participating full-time employee

receiving disability benefits who is a vested member of the retirement system or (ii) the date of cessation of benefits payable under the Act, the employee shall be eligible for normal retirement under subsection A of § 51.1-153. Such employee shall be authorized to elect any option for the payment of his retirement allowance provided under subsection A of § 51.1-165.

B. The retirement allowance for a participating full-time employee taking normal retirement pursuant to this section shall be determined as provided in subdivision A 1 of § 51.1-155, provided that the employee's average final compensation shall be equal to his creditable compensation on the date of the commencement of the disability increased by an amount recommended by the actuary of the Virginia Retirement System, and approved by the Board, from the date of the commencement of the disability to the date of retirement.

C. The creditable service of a participating full-time employee taking normal retirement pursuant to this section shall include periods during which the employee received supplemental disability benefits, *provided that such creditable service shall not include periods for which (i) the employee received supplemental short-term disability benefits, (ii) the employer did not report such creditable service to the retirement system, and (iii) the employee did not purchase such creditable service.*