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HOUSE BILL NO. 1130

Offered January 12, 2012

A *BILL to amend and reenact §§ 51.1-145, 51.1-201, 51.1-202, 51.1-212, 51.1-213, 51.1-601.1, 51.1-602, 51.1-608, 51.1-609, 51.1-611, 51.1-1100, 51.1-1400, and 51.1-1405 of the Code of Virginia and to amend the Code of Virginia by adding in Title 51.1 a chapter numbered 1.1, consisting of a section numbered 51.1-170, relating to the Virginia Retirement System; optional hybrid retirement program for state.*

Patrons—Howell, W.J. and Jones

Referred to Committee on Appropriations

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-145, 51.1-201, 51.1-202, 51.1-212, 51.1-213, 51.1-601.1, 51.1-602, 51.1-608, 51.1-609, 51.1-611, 51.1-1100, 51.1-1400, and 51.1-1405 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Title 51.1 a chapter numbered 1.1, consisting of a section numbered 51.1-170, as follows:

§ 51.1-145. Employer contributions.

A. The total annual employer contribution for each employer, expressed as a percentage of the annual membership payroll, shall be determined in a manner so as to remain relatively level from year to year. Each employer shall contribute an amount equal to the sum of the normal contribution, any accrued liability contribution, and any supplementary contribution. The contribution rates for each employer shall be determined after each valuation and shall remain in effect until a new valuation is made. All contribution rates shall be computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board.

B. The normal employer contribution for any period shall be determined as a percentage, equal to the normal contribution rate, of the total covered compensation of the members employed during the period.

C. The normal contribution rate for any employer shall be determined as the percentage represented by the ratio of (i) the annual normal cost to provide the benefits of the retirement system with respect to members employed by the employer in excess of the members' contributions to (ii) the total annual compensation of the members.

D. The accrued liability contribution for any employer for any period shall be determined as a percentage, equal to the accrued liability contribution rate, of the total compensation of the members during the period.

E. The accrued liability contribution rate for any employer shall be a percentage of the total annual compensation of the members, determined so that a continuation of annual contributions by the employer at the same percentage of total annual compensation over a period of 40 years will be sufficient to amortize the unfunded accrued liability with respect to the employer.

F. The unfunded accrued liability with respect to any employer as of any valuation date shall be determined as the excess of (i) the then present value of the benefits to be provided under the retirement system in the future to members and former members over (ii) the sum of the assets of the retirement system then currently in the members' contribution account and in the employer's retirement allowance account, plus the then present value of the stipulated contributions to be made in the future by the members, plus the then present value of the normal contributions expected to be made in the future by the employer.

G. The supplementary contribution for any employer for any period shall be determined as a percentage, equal to the supplementary contribution rate, of the total compensation of the members employed during the period.

H. Until July 1, 1997, the supplementary contribution rate for any employer shall be determined as the percentage represented by the ratio of (i) the average annual amount of post-retirement supplements, as provided for in this chapter, which is anticipated to become payable during the period to which the rate will be applicable with respect to former members to (ii) the total annual compensation of the members.

I. The Board shall certify to each employer the applicable contribution rate and any changes in the rate.

J. The employer contribution for the year shall be increased to the extent necessary to overcome any insufficiency if the contributions for any employer, when combined with the amount of the retirement allowance account of the employer, are insufficient to provide the benefits payable during the year.

K. The appropriation bill which is submitted to the General Assembly by the Governor prior to each

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59 regular session that begins in an even-numbered year shall include the contributions which will become
60 due and payable to the retirement allowance account from the state treasury during the following
61 biennium. The amount of the contributions shall be based on the contribution rates certified by the
62 Board pursuant to subsection I of this section that are applicable to the Commonwealth as an employer
63 and the anticipated compensation during the biennium of the members of the retirement system on
64 behalf of whom the Commonwealth is the employer.

65 L. In the case of all teachers whose compensation is paid exclusively out of funds derived from local
66 revenues and appropriations from the general fund of the state treasury, the Commonwealth shall
67 contribute to the extent specified in the appropriations act. In the case of any teacher whose
68 compensation is paid out of funds derived in whole or in part from any special fund or from a
69 contributor other than the Commonwealth or a political subdivision thereof, contributions shall be paid
70 out of the special fund or by the other contributor in proportion to that part of the compensation derived
71 therefrom. In the case of all state employees whose compensation is paid exclusively by the
72 Commonwealth out of the general fund of the state treasury, the Commonwealth shall be the sole
73 contributor, and all contributions shall be paid out of the general fund. In the case of a state employee
74 whose compensation is paid in whole or in part out of any special fund or by any contributor other than
75 the Commonwealth, contributions on behalf of the employee shall be paid out of the special fund or by
76 the other contributor in proportion to that part of the employee's compensation derived therefrom. The
77 governing body of each political subdivision is hereby authorized to make appropriations from the funds
78 of the political subdivision necessary to pay its proportionate share of contributions on behalf of every
79 state employee whose compensation is paid in part by the political subdivision. In the case of each
80 person who has elected to remain a member of a local retirement system, the Commonwealth shall
81 reimburse the local employer an amount equal to the product of the compensation of the person and the
82 employer contribution rate as used to determine the employer contribution for state employees under this
83 section. Each employer shall keep such records and periodically furnish such information as the Board
84 may require and shall inform new employees of their duties and obligations in connection with the
85 retirement system.

86 M. The employer contribution rate established for each employer may include the cost to administer
87 any defined contribution plan administered by the Virginia Retirement System and available to the
88 employer. The portion of such contribution designated to cover administrative costs of the defined
89 contribution plans shall not be deposited into the trust fund established for the defined benefit plans but
90 shall be separately accounted for and used solely to defray the administrative costs associated with the
91 various defined contributions plans. This provision shall supplement the authority of the Board under
92 §§ 51.1-124.22 and 51.1-602 to charge and collect administrative fees to employers whose employees
93 have available the various defined contribution plans administered by the Virginia Retirement System.

94 N. *The employer contribution rate established for each employer may include the annual rate of*
95 *contribution payable by such employer with respect to employees enrolled in the optional hybrid*
96 *retirement program established under § 51.1-170.*

97 CHAPTER 1.1.

98 OPTIONAL HYBRID RETIREMENT PROGRAM.

99 § 51.1-170. Optional hybrid retirement program.

100 A. For purposes of this section, "optional hybrid retirement program" or "program" means a hybrid
101 retirement program covering any (i) state employee, as defined in § 51.1-124.3, who is a member
102 covered by the defined benefit plan under Chapter 1 (§ 51.1-124.1 et seq.), (ii) member of the State
103 Police Officers' Retirement System under Chapter 2 (§ 51.1-200 et seq.), or (iii) member of the Virginia
104 Law Officers' Retirement System under Chapter 2.1 (§ 51.1-211 et seq.).

105 The Board shall maintain this optional hybrid retirement program, and any employer is authorized to
106 make contributions under such program for the benefit of its employees participating in such program.
107 Every person who is eligible for participation in this optional hybrid retirement program and who is not
108 a member of a retirement plan administered by the Virginia Retirement System the first time he is hired
109 on or after January 1, 2014, in a covered position, shall make an irrevocable election to participate in
110 either (a) the otherwise applicable defined benefit retirement plan established by this title and
111 administered by the Virginia Retirement System or (b) this optional hybrid retirement program.

112 Such election shall be exercised no later than 60 days from the time of the employee's entry upon the
113 performance of his duties. If an election is not made within the specified time period, such employee
114 shall be deemed to have elected to participate in the otherwise applicable defined benefit retirement
115 plan established by this title and administered by the Virginia Retirement System.

116 A person who participates in the otherwise applicable defined benefit retirement plan established by
117 this title and administered by the Virginia Retirement System under this chapter may make an
118 irrevocable election to participate in the optional hybrid retirement program. Such election shall be
119 exercised no later than April 30, 2014. If an election is not made by April 30, 2014, such employee
120 shall be deemed to have elected not to participate in the optional hybrid retirement program and shall

continue to participate in his current retirement plan.

B. Employer contributions to optional hybrid retirement program.

1. The employer shall make contributions to the defined benefit component of the program in accordance with § 51.1-145.

2. The employer shall make a contribution to the defined contribution component of the program on behalf of an employee participating in the program in the amount of one percent of creditable compensation. In addition, the employer shall make a matching contribution on behalf of the employee based on the employee's voluntary contributions under the defined contribution component of the program to the deferred compensation plan established under § 51.1-602, up to a maximum of 2.5 percent of creditable compensation for the payroll period, as follows: (i) 100 percent of the first one percent of creditable compensation contributed by the employee to the defined contribution component of the program under subdivision C 2 for the payroll period, and (ii) 50 percent of the next three percent of creditable compensation contributed by the employee to the defined contribution component of the program under subdivision C 2 for the payroll period. The matching contribution by the employer shall be made to the appropriate cash match plan established for the employee under § 51.1-608.

3. The total amount contributed by the employer under subdivision 2 shall vest to the employee's benefit according to the following schedule:

- a. Upon completion of one year of continuous participation in the program, 20 percent.
- b. Upon completion of two years of continuous participation in the program, 40 percent.
- c. Upon completion of three years of continuous participation in the program, 60 percent.
- d. Upon completion of four years of continuous participation in the program, 80 percent.
- e. Upon completion of five years of continuous participation in the program, 100 percent.

If an employee terminates employment with an employer prior to achieving 100 percent vesting, contributions made by an employer on behalf of the employee under subdivision 2 that are not vested, shall be forfeited. The Board may establish a forfeiture account and may specify the uses of the forfeiture account.

4. An employee may direct the investment of contributions made by an employer under subdivision 2.

5. No loans or hardship distributions shall be available from contributions made by an employer under subdivision 2.

C. Employee contributions to optional hybrid retirement program.

1. An employee participating in the optional hybrid retirement program shall, pursuant to procedures established by the Board, make mandatory contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code (i) to the defined benefit component of the program in the amount of four percent of creditable compensation in lieu of the amount described in subsection A of § 51.1-144 and (ii) to the defined contribution component of the program in the amount of two percent of creditable compensation.

2. An employee participating in the optional hybrid retirement program may also make voluntary contributions to the defined contribution component of the program, in increments of half percentages of creditable compensation, of up to four percent of creditable compensation or the limit on elective deferrals pursuant to § 457(b) of the Internal Revenue Code, whichever is less. The contribution by the employee shall be made to the appropriate deferred compensation plan established by the employee under § 51.1-602.

3. No loans or hardship distributions shall be available from contributions made by an employee under this subsection.

D. Service retirement and service retirement allowance under defined benefit component; no disability retirement.

1. The amount of the service retirement allowance under the defined benefit component of the program shall be governed by § 51.1-155, except that the allowance shall equal one percent of a member's average final compensation multiplied by the amount of his creditable service while in the program.

2. No member shall retire for disability under the defined benefit component of the program.

3. In all other respects, administration of the defined benefit component of the program shall be governed by the provisions of Chapter 1 (§ 51.1-124.1 et seq.).

E. With respect to any employee who elects, pursuant to subsection A, to participate in the otherwise applicable defined benefit retirement plan established by this title and administered by the Virginia Retirement System, the employer 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 employee.

F. 1. The Board shall develop policies and procedures for administering the optional hybrid retirement program it maintains, including the establishment of guidelines for employee elections and deferrals under the program.

182 2. No employee who is an active member in the optional hybrid retirement program maintained by
183 the Board shall also be an active member of any other optional retirement plan maintained under the
184 provisions of Chapter 1 (§ 51.1-124.1 et seq.).

185 3. If a member of the optional hybrid retirement program maintained under this section is at any
186 time in service as an employee in a position covered for retirement purposes under the provisions of
187 Chapter 1 (§ 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
188 seq.), his benefit payments under the optional hybrid retirement program maintained under this section
189 shall be suspended while so employed, provided, however, reemployment shall have no effect on a
190 payment under the defined contribution component of the program if the benefit is being paid in an
191 annuity form under an annuity contract purchased with the member's account balance.

192 4. Any administrative fee imposed pursuant to subdivision A 13 of § 51.1-124.22 on any employer for
193 administering and overseeing the optional hybrid retirement program established pursuant to this section
194 shall be charged for each employee participating in such program and shall be for costs incurred by the
195 Virginia Retirement System that are directly related to the administration and oversight of such
196 program.

197 5. The creditable compensation for any employee on whose behalf employee or employer
198 contributions are made into the optional hybrid retirement program shall not exceed the limit on
199 compensation as adjusted by the Commissioner of the Internal Revenue Service pursuant to the
200 transition provisions applicable to eligible participants under state and local governmental plans under
201 § 401(a)(17) of the Internal Revenue Code as amended in 1993 and as contained in § 13212(d)(3) of the
202 Omnibus Budget Reconciliation Act of 1993 (P.L. 103-66).

203 6. The Board may contract with private corporations or institutions, subject to the standards set forth
204 in § 51.1-124.30, to provide investment products as well as any other goods and services related to the
205 administration of the optional hybrid retirement program. The Virginia Retirement System is hereby
206 authorized to perform related services, including but not limited to, providing consolidated billing,
207 individual and collective recordkeeping and accountings, and asset purchase, control, and safekeeping.

208 § 51.1-201. Definitions.

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

210 "Employee" means a state police officer.

211 "Member" means any person included in the membership of the retirement system as provided in this
212 chapter, except that any person participating in the optional hybrid retirement program established
213 pursuant to § 51.1-170 shall not be considered a member.

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

215 "Retirement system" means the State Police Officers' Retirement System.

216 § 51.1-202. Membership in retirement system.

217 Membership in the retirement system shall be compulsory for all state police officers. However, such
218 compulsory membership requirement shall be deemed to have been met by any employee participating in
219 the optional hybrid retirement program described under § 51.1-170.

220 § 51.1-212. Definitions.

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

222 "Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii)
223 campus police officer appointed under the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23, (iii)
224 conservation police officer in the Department of Game and Inland Fisheries appointed under the
225 provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Department of
226 Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.), (v)
227 law-enforcement officer employed by the Virginia Marine Resources Commission as described in
228 § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers
229 employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) any parole officer
230 appointed pursuant to § 53.1-143, and (viii) any commercial vehicle enforcement officer employed by
231 the Department of State Police.

232 "Member" means any person included in the membership of the Retirement System as provided in
233 this chapter, except that any person participating in the optional hybrid retirement program established
234 pursuant to § 51.1-170 shall not be considered a member.

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

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

237 § 51.1-213. Membership in Retirement System.

238 Membership in the Retirement System shall be compulsory for all employees. However, such
239 compulsory membership requirement shall be deemed to have been met by any employee participating in
240 the optional hybrid retirement program described under § 51.1-170.

241 § 51.1-601.1. Participation in plan by certain employees.

242 All employees of the Commonwealth and its agencies commencing employment or who are
243 reemployed on or after January 1, 2008, in a position covered by the Virginia Retirement System, and

who have not elected to participate in a plan established pursuant to (i) § 403(b) of the Internal Revenue Code of 1986, as amended, *or* (ii) § 51.1-170, shall participate in the plan described in § 51.1-602, unless such employee elects, in a manner prescribed by the Board, not to participate in such plan. The amount of the deferral for any such employee participating in the plan shall equal, on a semimonthly basis, \$20 of otherwise payable compensation, unless the employee elects to defer a different amount.

§ 51.1-602. Deferred compensation plan for employees of the Commonwealth; administered by the Board.

A. The Board shall establish and administer a deferred compensation plan for employees of the Commonwealth and its agencies. The Virginia Retirement System Director shall be the chief administrative officer of the plan. The Board may contract with private corporations or institutions subject to the standards set forth in § 51.1-124.30 to provide investment products as well as any other goods and services related to the administration of the deferred compensation plan. The Virginia Retirement System is hereby authorized to perform related services including, but not limited to, providing consolidated billing, individual and collective record keeping and accountings, and asset purchase, control, and safekeeping. In accordance with such plan, and upon contract or agreement with an eligible employee, deferrals of compensation may be accomplished by payroll deductions made by the appropriate officer of the Commonwealth, with such funds being thereafter held and administered in accordance with the plan. Administrative fees related to the VRS program oversight that otherwise would be charged to an employee participating in the plan shall be paid by the participating employer under procedures established by the Board. Any political subdivision participating in the plan pursuant to § 51.1-603.1 may collect the administrative fee imposed by the Virginia Retirement System from employees participating in the plan.

B. If it deems it advisable, the Board may create a trust or other special fund for the segregation of the funds or assets resulting from compensation deferred at the request of employees of the Commonwealth or its agencies and for the implementation of such program.

C. The ~~Department of Accounts Board~~ shall be ~~responsible~~ *develop policies and procedures* for the (i) accounting and reconciliations associated with employees' contributions to the plan through payroll deductions and (ii) timely transfer of withheld funds to the private corporation or institution designated by the Board pursuant to subsection A, *including employees of*. ~~However, any state agency that has decentralized its payroll function and any political subdivision of the Commonwealth participating in the plan pursuant to § 51.1-603.1 shall be responsible for the (i) accounting and reconciliations associated with their employees' contributions to the plan through payroll deductions and (ii) timely transfer of withheld funds to the private corporation or institution designated by the Board pursuant to subsection A.~~

§ 51.1-608. Cash match plan for employees of the Commonwealth; administered by the Board.

A. The Board shall establish and administer a cash match plan for employees of the Commonwealth and its agencies. The Virginia Retirement System Director shall be the chief administrative officer of the plan. The Board may contract with private corporations or institutions subject to the standards set forth in § 51.1-124.30 to provide investment products as well as any other goods and services related to the administration of the cash match plan. The Virginia Retirement System is hereby authorized to perform related services including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, and asset purchase, control, and safekeeping. Administrative fees related to the Virginia Retirement System Program oversight shall be paid by the participating employer under procedures established by the Board.

B. If it deems it advisable, the Board may create a trust or other special fund for the segregation of the funds or assets resulting from contributions made on behalf of qualified participants.

C. The ~~Department of Accounts Board~~ shall be ~~responsible~~ *develop policies and procedures* for the timely transfer of the matching contributions to the private corporation or institution designated by the Board pursuant to subsection A. ~~However, any state agency that has decentralized its payroll function and, including the contributions of any political subdivision of the Commonwealth participating in the plan pursuant to § 51.1-611 shall be responsible for the timely transfer of matching contributions to the private corporation or institution designated by the Board pursuant to subsection A.~~

D. Alternatively, agencies of the Commonwealth that sponsor or maintain programs described in § 403 (b) of the Internal Revenue Code of 1986, as amended, may establish separate cash match plans with the consent of the Board in lieu of participation in the plan established pursuant to this section.

§ 51.1-609. Contributions on behalf of qualified participants.

A. A participating employer or, on behalf of the Commonwealth, the Department of Accounts or any agency of the Commonwealth not covered under the central payroll system, shall transfer funds from its appropriations to the private corporation or institution designated to hold investments under the plan or plans adopted or established by the participating employer pursuant to § 401 (a) or § 403 (b) of the Internal Revenue Code of 1986, as amended. The funds shall be held, administered and invested as

305 provided for in the applicable document adopted for the administration of such contributions.

306 B. The amount credited on behalf of a qualified participant pursuant to this section shall not exceed,
307 on a semimonthly basis, the lesser of ~~fifty dollars~~ \$50 or ~~fifty~~ 50 percent of the amount that the
308 qualified participant voluntarily contributes to the deferred compensation plan established under this
309 chapter or to a plan established pursuant to § 403 (b) of the Internal Revenue Code of 1986, as
310 amended, unless otherwise determined by the General Assembly through the appropriations process. The
311 amount credited pursuant to this section on behalf of a qualified participant who is an employee of a
312 participating employer other than the Commonwealth shall be a discretionary amount determined by the
313 participating employer's governing body from time to time.

314 C. *No amount shall be credited pursuant to subsection B on behalf of a qualified participant who is*
315 *a state employee participating in the optional hybrid retirement program under Chapter 1.1 (§ 51.1-170)*
316 *if the qualified participant has not contributed the maximum amount of voluntary contributions under*
317 *subdivision C 2 of § 51.1-170.*

318 § 51.1-611. Participation by employees of political subdivisions in cash match plan of Virginia
319 Retirement System.

320 The Virginia Retirement System may enter into an agreement with any political subdivision of the
321 Commonwealth to permit participation by the political subdivision's employees in the cash match plan
322 established and administered by the Board pursuant to ~~§ 51.1-607~~ 51.1-608.

323 § 51.1-1100. Definitions.

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

325 "Act" means the Virginia Workers' Compensation Act (§ 65.2-100 et seq.).

326 "Company" means an insurance company issuing a long-term disability insurance policy purchased
327 by the Board pursuant to this chapter.

328 "Disability" means a partial disability or total disability.

329 "Disability benefit" means income replacement payments payable to a participating employee under a
330 short-term or long-term disability benefit program pursuant to this chapter. Disability benefits do not
331 include benefits payable under the Act.

332 "Eligible employee" means (i) a state employee as defined in § 51.1-124.3 who is a member of the
333 retirement system, *including the optional hybrid retirement program described in § 51.1-170*, (ii) an
334 employee as defined in § 51.1-201, (iii) an employee as defined in § 51.1-212, or (iv) a qualifying
335 part-time employee. Any person participating in a plan established pursuant to §§ 51.1-126, 51.1-126.1,
336 51.1-126.4, 51.1-126.5, 51.1-502.1, or § 51.1-502.3 shall not be an eligible employee. Employees of the
337 University of Virginia Medical Center covered under the basic insurance policies purchased by the
338 Medical Center shall not be considered eligible employees under this chapter, unless the University of
339 Virginia Board of Visitors, or a duly authorized agent or representative of the Board of Visitors,
340 purchases such insurance policies from the Virginia Retirement System.

341 "Existing employee" means an employee who elected to participate in the Virginia Sickness and
342 Disability Program.

343 "Partial disability" exists during the first ~~twenty-four~~ 24 months following the occurrence or
344 commencement of an illness or injury when an employee is earning less than ~~eighty~~ 80 percent of his
345 predisability earnings and, as a result of an injury or illness, is (i) able to perform one or more, but not
346 all, of the essential job functions of his own job on an active employment or a part-time basis or (ii)
347 able to perform all of the essential job functions of his own job only on a part-time basis.

348 "Participating employee" means any eligible employee required or electing to participate in the
349 program.

350 "Program" means the program providing sick leave, family and personal leave, short-term disability,
351 and long-term disability benefits for participating employees established pursuant to this chapter.

352 "Qualifying part-time employee" means any person who would qualify as a state employee as defined
353 in § 51.1-124.3 but, rather than being regularly employed full time on a salaried basis, is regularly
354 employed part time for at least ~~twenty~~ 20 hours but less than ~~forty~~ 40 hours per week on a salaried
355 basis.

356 "State service" means the employee's total period of state service as an eligible employee, including
357 all periods of classified full-time and classified part-time service and periods of leave without pay, but
358 not including periods during which the employee did not meet the definition of an eligible employee.

359 "Total disability" exists (i) during the first ~~twenty-four~~ 24 months following the occurrence or
360 commencement of an illness or injury if an employee is unable to perform all of his essential job
361 functions or (ii) after ~~twenty-four~~ 24 months following the occurrence or commencement of an illness or
362 injury if an employee is unable to perform any job for which he is reasonably qualified based on his
363 training or experience and earning less than ~~eighty~~ 80 percent of his predisability earnings.

364 "Work-related injury" means an injury, as such term is defined in § 65.2-101, to a participating
365 employee for which benefits are payable under the Act and the Commonwealth is the employer for
366 purposes of the Act.

In addition to the definitions listed above, the definitions listed in § 51.1-124.3 shall apply to this chapter except as otherwise provided.

§ 51.1-1400. Health insurance credits for retired state employees.

A. The Commonwealth shall provide a credit toward the cost of health insurance coverage for any former state employee, as defined in § 2.2-2818, who retired under the Virginia Retirement System, State Police Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or any retirement system authorized pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, ~~or~~ 51.1-126.7, *or 51.1-170* and who (i) rendered at least 15 years of total creditable service under the Retirement System or (ii) rendered service as a temporary employee of the General Assembly in 1972 and became a member of the retirement system from 1972 to 1985 immediately following such temporary service. The amount of each monthly health insurance credit payable under this section shall be \$4 per year of creditable service, which amount shall be credited monthly to any retired state employee participating in the state retiree health benefits program pursuant to § 51.1-1405 or an alternative personal health insurance plan as provided herein. However, such credit shall not exceed the health insurance premium for retiree-only coverage as provided under such alternative personal health insurance plan. Any (i) employee participant pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, ~~or~~ 51.1-126.7, *or 51.1-170* receiving long-term disability, or (ii) retired state employee retired under the provisions of § 51.1-156 or 51.1-307, or (iii) any participating employee receiving long-term disability pursuant to § 51.1-1112 or 51.1-1123 shall receive a maximum monthly credit which is the greater of (i) \$120, (ii) \$4 per year for each year of creditable service at the time of disability retirement, or (iii) \$4 per year for each year of creditable service at the time of eligibility for long-term disability. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.3 et seq.), *1.1 (§ 51.1-170 et seq.)*, 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) ~~of this title~~ who elects to defer his retirement pursuant to subsection C of § 51.1-153, subsection C of § 51.1-205 or subsection C of § 51.1-305 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

B. For those retired state employees:

1. Participating in the state retiree health benefits program, such credit shall be applied to the monthly premium deducted from benefits payable to retired state employees in accordance with Chapters 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), and 3 (§ 51.1-300 et seq.) ~~of this title~~. In the event that either no benefit is payable or the benefit payable is insufficient to deduct the entire health care premium, the payment of the credit shall be determined in the manner prescribed by the Virginia Retirement System. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System.

2. Not electing or eligible to participate in the state retiree health benefits program and who purchase an alternative personal health insurance policy from a carrier or organization of his own choosing, such retirees shall be eligible to receive a credit in the amount specified in subsection A. Eligibility for the credit and payment for the credit shall be determined in a manner prescribed by the Virginia Retirement System.

C. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), *1.1 (§ 51.1-170 et seq.)*, 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) ~~of this title~~ who (i) rendered at least 15 years of total creditable service as a state employee as defined in § 2.2-2818 and (ii) after terminating state service, was employed by a local government that does not elect to provide a health insurance credit under § 51.1-1401 or 51.1-1402, shall be eligible for the credit provided by subsection A, provided that the retired employee is participating in a health insurance plan. The Commonwealth shall be charged with the credit as provided for in subsection D. In such case, the health insurance credit shall be determined based upon the amount of state service or service as a teacher, whichever is greater.

D. The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided by this section to reflect the cost of such credits in the employer contribution rate pursuant to § 51.1-145, and prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administration of the health insurance credit program provided for in this section shall be recovered from the health insurance credit trust fund.

E. Notwithstanding anything contained in this section to the contrary, the Virginia Commonwealth University Health System Authority shall pay the cost of coverage for employees of such Authority who (i) retired under the Virginia Retirement System or any retirement system authorized pursuant to § 23-50.16:24.1, 51.1-126, 51.1-126.1, or former § 51.1-126.2; (ii) were employed by such Authority prior to July 1, 1998, and were not subsequently rehired by such Authority on or after July 1, 1998; and (iii) served no less than 15 years of creditable service as regularly employed full-time employees of such Authority or the Commonwealth.

§ 51.1-1405. Participation in the state retiree health benefits program.

428 A. As used in this section, unless the context requires a different meaning:

429 "Involuntarily separated" means separated from state service as the result of any dismissal, requested
430 resignation, or failure to obtain reappointment, excluding a separation resulting from a conviction for a
431 felony or crime involving moral turpitude or dishonesty or a separation related to the job performance or
432 misconduct of the state employee.

433 "Retiree health benefits program" or "program" means the plan for providing health insurance
434 coverage for retired state employees provided pursuant to subsection E of § 2.2-2818.

435 "State employee" means the same as that term is defined in § 2.2-2818.

436 "State retiree" means a state employee retired under the Virginia Retirement System, State Police
437 Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or
438 any retirement system authorized pursuant to § 51.1-126, ~~or~~ 51.1-126.5, *or* 51.1-170, who is eligible to
439 receive a monthly retirement annuity from that retirement system.

440 B. A state retiree shall be eligible to participate in the retiree health benefits program only if he
441 makes an election to participate in the program within ~~thirty-one~~ 31 days following the date of
442 termination of employment with the Commonwealth. A retired state employee who fails to elect to
443 participate in the state health plan within ~~thirty-one~~ 31 days of the effective date of retirement, or who,
444 once having elected to participate, discontinues participation, is barred from participating in the state
445 health plan thereafter.

446 C. Any state retiree who was involuntarily separated who on July 1, 1999, is participating in the
447 retiree health benefits program and is receiving monthly retirement annuity payments may elect, by
448 notifying the Virginia Retirement System and the Department of Human Resource Management before
449 September 1, 1999, to cease receiving monthly retirement annuity payments until reapplying for such
450 benefits at a later date and to continue participation in the retiree health benefits program.

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