

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 51.1-138 of the Code of Virginia, relating to the Virginia Retirement*
3 *System; benefits for certain local law-enforcement employees.*

4 [H 438]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 51.1-138 of the Code of Virginia is amended and reenacted as follows:**

8 § 51.1-138. Benefits.

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

11 B. By resolution legally adopted and approved by the Board, the employer may elect to provide
12 benefits equivalent to those provided under the State Police Officers' Retirement System, as set out in
13 Chapter 2 (§ 51.1-200 et seq.) of this title except for § 51.1-209, and except that the employer may elect
14 to establish the retirement allowance pursuant to the allowance provided in clause (i) or (ii) in
15 subsection A of § 51.1-206, in lieu of the benefits that would otherwise be provided hereunder for any
16 employees who are employed in (i) law-enforcement positions comparably hazardous to that of a state
17 police officer, including any sworn law-enforcement officer who has the duty and obligation to enforce
18 the penal and traffic laws of this Commonwealth as directed by his superior officer, if so certified by his
19 appointing authority, (ii) positions as full-time salaried fire fighters, (iii) positions as full-time salaried
20 emergency medical technicians, or (iv) positions as regional jail superintendents and jail officers of
21 regional jail farms, regional jails or jail authorities, as approved by the respective jail board or authority
22 and by the participating political subdivisions of such entities. Sheriffs of political subdivisions and
23 superintendents of regional jails which participate in the retirement system shall receive benefits
24 equivalent to those of state police officers, except for the benefits provided under § 51.1-209, regardless
25 of whether the employer has elected to provide equivalent benefits as set out in this subsection.

26 C. Each employer providing the benefits of subsection B for its employees prior to July 1, 1990,
27 may elect to provide for the early retirement of employees as set forth in this subsection in lieu of the
28 early retirement and death before retirement provisions of the State Police Officers' Retirement System.
29 Such election must be made to the Board in writing prior to July 1, 1990. Any member in service on or
30 after his fifty-fifth birthday with five or more years of creditable service (i) while earning the benefits
31 permitted by this section, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200
32 et seq.) of this title, or (iii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211
33 et seq.) of this title may retire upon written notification to the Board setting forth at what time the
34 retirement is to become effective. The effective date shall be after his last day of service but shall not be
35 more than 90 days prior to the filing of such notice. The member shall receive an allowance that shall
36 be determined in the same manner as for retirement at an employee's normal retirement with creditable
37 service and average final compensation being determined as of the date of his actual retirement. If the
38 member has less than 30 years of service at retirement, the amount of the retirement allowance shall be
39 reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the
40 earlier of (a) the member's normal retirement date or (b) the first date on or after the member's fifty-fifth
41 birthday on which the member would have completed a total of 30 years of creditable service. Effective
42 December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is credited with
43 five or more years of creditable service rendered under this chapter and earning the benefits permitted
44 by this section, Chapter 2 (§ 51.1-200 et seq.), or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not
45 be subject to the vesting requirements of this section, and §§ 51.1-205 and 51.1-216.

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

52 D. Beginning July 1, 2008, each county and city participating in the Virginia Retirement System
53 shall provide the benefit coverage described in subsection B to each deputy sheriff, regardless of
54 whether the deputy sheriff's salary is funded or reimbursed in whole or in part by the Compensation
55 Board.

56 E. Notwithstanding the provisions of subsection C, beginning July 1, 2009, the City of Danville shall

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57 provide to each deputy sheriff the benefit coverage described in subsection B.

58 F. Beginning July 1, 2009, each regional jail board and regional jail authority participating in the
59 Virginia Retirement System and each county and city participating in such board or authority shall
60 provide the benefit coverage described in subsection B to each sworn officer of a regional jail,
61 regardless of whether the regional jail officer's salary is funded or reimbursed in whole or in part by the
62 State Compensation Board.

63 G. Beginning July 1, 2010, any county or city that (i) participates in the Virginia Retirement System
64 pursuant to Chapter 1 (§ 51.1-124.1 et seq.), (ii) has in effect a retirement supplement for deputy sheriffs
65 (in addition to the annual retirement allowance provided under the Virginia Retirement System) that
66 exceeds the allowance set forth in subsection B of § 51.1-206 hereof, and (iii) provides the same level
67 of retirement benefits to all of its deputy sheriffs, may, by resolution legally adopted, elect to provide
68 the benefits coverage under subsection B hereof except for the allowance described in subsection B of
69 § 51.1-206. Notwithstanding any other provision of law, the additional costs of such election shall be
70 borne solely by such county or city.

71 H. *If an employee (i) is in a position covered by the additional benefits under this section for at*
72 *least five years, (ii) is separated from the position because of a disability that entitles him to the*
73 *disability retirement benefits pursuant to § 51.1-156, and (iii) accepts a position with the same employer*
74 *that is not covered by the benefits under this section but whose salary and benefits are not less than*
75 *those of the position from which he is separated, then, at the sole discretion of the employer, the*
76 *employee may continue to be covered under the benefits permitted by this section in his new position.*

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