Virginia Retirement System
2012 Fiscal Impact Statement
Revised

1. **Bill Number:** SB 498

House of Origin	☐	Introduced	☐	Substitute	☐	Engrossed
Second House	☐	In Committee	X	Substitute	☐	Enrolled

2. **Patron:** Patron Prior to Substitute--Watkins

3. **Committee:** Appropriations

4. **Title:** Virginia Retirement System; modifies several provisions of defined benefit retirement plan; adds optional defined contribution retirement program

5. **Summary:** Virginia Retirement System (VRS); The substitute bill modifies several provisions of the existing defined benefit retirement plan and creates an optional defined contribution retirement program for state employees beginning January 1, 2014. Beginning January 1, 2013, the substitute bill changes the calculation of average final compensation to cover a period of 60 months rather than 36 months. Under current law, the use of a 60-month period applies only to those employees hired on or after July 1, 2010. However, current employees affected by this change in average final compensation may use the 36-month period of calculation for compensation received prior to January 1, 2013, if it is greater than the 60-month period of calculation. Effective January 1, 2013, except for employees who are within five years of their unreduced retirement date at that time, the bill restricts payment of the initial cost of living adjustment (COLA) to one full calendar year after those retirees who retired with a reduced retirement benefit would have reached age or age and service requirements for an unreduced benefit. The bill also reduces the COLA to the first two percent of inflation plus one-half of the next two percent, for a maximum total of three percent. Under current law for Plan 1 employees (those hired or with service prior to July 1, 2010), the COLA is the first three percent of inflation plus one-half of the next four percent, for a maximum total of five percent. Further, current law for Plan 2 members (employees hired on or after July 1, 2010) provides for the first two percent of inflation plus one half of the next eight percent, for a maximum COLA benefit of six percent. COLAs for current retirees will not be affected. Finally, for state and local employees hired on or after January 1, 2013, other than hazardous duty employees and judges, the bill reduces the multiplier from 1.7 to 1.6. The lower multiplier will also apply to members in hazardous duty positions hired on or after January 1, 2013 in any locality that has not adopted enhanced benefits (LEOS) for its hazardous duty employees under the provisions of § 51.1-138 of the Code of Virginia.

6. **Budget Amendment Necessary**: Yes. While this bill does have significant costs associated with systems development, these cannot be ascertained at this time. The ability to accurately predict costs is complicated because VRS is replacing its current technology systems. As a result, legislative changes will likely need to be made to both the current and the future systems, depending on the effective date of the legislation. The introduction of significant changes at this

time will likely cause a delay in the overall project schedule, resulting in additional payments to the vendor. Further, the cost for implementing a single piece of legislation cannot be calculated precisely due to economies of scale. The actual cost to implement all legislation enacted during a given session will more than likely be less than the sum of the costs attributed to individual bills. Therefore, VRS is not providing specific systems costs for this bill, but will calculate the total for all VRS bills once they have been acted upon favorably in both houses and prior to the conference committee report.

Additional estimated costs to implement this bill that are not related to systems development are approximately $877,795. These estimated costs include revising and reprinting all VRS publications and the web site, legal and compliance costs, additional positions for the customer contact center due to increased call volume, training and design personnel, third party administrator costs, and RFP costs. There would be additional costs for employer representatives to educate and update employers on the new provisions and for an anticipated increase in calls to the customer contact center. The changes in the substitute bill do not materially affect the cost estimates.

7. Fiscal Impact Estimates:

a. The proposed provisions set forth in the substitute bill with regard to defined benefit changes (originally introduced in HB1129) are outlined below:

The following tables do not reflect the impact of applicable defined benefit plan design changes on political subdivisions.

Table 1 shows the reduction in contribution rates associated with incorporating the following plan provision changes effective January 1, 2013.

- Reduce benefit multiplier to 1.6% for State, Teachers, and applicable Local members.
- Change average final compensation to highest consecutive 60 months of compensation.
- Cap cost-of-living increases to 3%. Grandfather members within 5 years of eligibility for unreduced retirement benefit.
- Defer cost-of-living increases for those retiring prior to unreduced retirement date until one year after attaining unreduced retirement eligibility. Grandfather members within 5 years of eligibility for unreduced retirement benefit.

TABLE 1

	Change in Projected Contribution Rate Due to Changes in Benefit Provisions											
Fiscal Year	2013	2014	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
State	0.00%	0.00%	1.03%	1.03%	1.22%	1.21%	1.30%	1.30%	1.32%	1.32%	1.34%	1.34%
Teachers	0.00%	0.00%	1.34%	1.34%	1.35%	1.35%	1.35%	1.35%	1.29%	1.29%	1.26%	1.26%
SPORS	0.00%	0.00%	1.40%	1.38%	1.57%	1.62%	1.81%	1.75%	1.80%	1.82%	1.77%	1.79%
VALors	0.00%	0.00%	1.21%	1.20%	1.19%	1.20%	1.18%	1.17%	1.12%	1.12%	1.05%	1.05%
JRS	0.00%	0.00%	1.44%	1.52%	1.46%	1.54%	1.36%	1.31%	1.27%	1.22%	1.07%	1.14%

Table 2 shows the projected savings from the General Fund for the defined benefit plan changes included in the substitute bill.

General Fund												($Millions)
	TABLE 2											
	Projected Savings by Biennium Due to Changes in Defined Benefit Provisions											
	FY 13/14	FY 15/16	FY 17/18	FY 19/20	FY 21/22	FY 23/24	FY 25/26	FY 27/28	FY 29/30	FY 31/32	FY 33/34	22 Year Total
State	-	31.71	37.47	40.16	40.79	41.31	37.57	35.02	33.11	30.55	28.60	356.30
Teachers	-	69.55	70.35	70.11	67.11	65.35	61.99	54.24	47.71	45.78	42.56	594.75
SPORS	-	2.36	2.71	3.02	3.07	3.02	2.76	2.62	2.41	2.14	1.88	25.98
VaLORS	-	7.51	7.46	7.35	7.00	6.56	5.85	4.89	4.14	3.49	2.94	57.20
JRS	-	1.84	1.86	1.66	1.54	1.38	1.23	0.93	0.77	0.73	0.64	12.58
Total	-	112.97	119.85	122.30	119.51	117.62	109.40	97.70	88.15	82.69	76.63	1,046.82

Table 3 shows the projected savings from the non-general fund or local monies for the defined benefit plan changes included in the substitute bill.

Non-General Fund / Local												($Millions)
	TABLE 3											
	Projected Savings by Biennium Due to Changes in Defined Benefit Provisions											
	FY 13/14	FY 15/16	FY 17/18	FY 19/20	FY 21/22	FY 23/24	FY 25/26	FY 27/28	FY 29/30	FY 31/32	FY 33/34	22 Year Total
State	-	38.32	45.29	48.54	49.29	49.93	45.40	42.32	40.02	36.92	34.57	430.60
Teachers	-	115.33	116.65	116.26	111.28	108.35	102.79	89.93	79.12	75.90	70.57	986.19
SPORS	-	0.39	0.45	0.50	0.51	0.50	0.46	0.44	0.40	0.36	0.31	4.32
VaLORS	-	0.68	0.68	0.67	0.64	0.60	0.53	0.44	0.38	0.32	0.27	5.20
JRS	-	-	-	-	-	-	-	-	-	-	-	-
Total	-	154.73	163.07	165.97	161.72	159.38	149.18	133.13	119.92	113.50	105.72	1,426.31

Table 4 shows the projected savings from total funds for defined benefit changes.

Total Funds												($Millions)
	TABLE 4											
	Projected Savings by Biennium Due to Changes in Defined Benefit Provisions											
	FY 13/14	FY 15/16	FY 17/18	FY 19/20	FY 21/22	FY 23/24	FY 25/26	FY 27/28	FY 29/30	FY 31/32	FY 33/34	22 Year Total
State	-	70.03	82.76	88.70	90.08	91.24	82.97	77.34	73.13	67.47	63.17	786.90
Teachers	-	184.88	187.00	186.37	178.39	173.70	164.78	144.17	126.83	121.68	113.13	1,580.95
SPORS	-	2.75	3.16	3.52	3.58	3.52	3.21	3.06	2.81	2.50	2.19	30.30
VaLORS	-	8.19	8.14	8.02	7.63	7.16	6.38	5.34	4.52	3.81	3.21	62.40
JRS	-	1.84	1.86	1.66	1.54	1.38	1.23	0.93	0.77	0.73	0.64	12.58
Total	-	267.70	282.92	288.27	281.24	277.00	258.58	230.83	208.07	196.18	182.35	2,473.13

b. The proposed provisions set forth in the substitute bill with regard to a new optional defined contribution retirement plan (originally introduced in HB1130) are outlined below:

The substitute provides that the new optional defined contribution (DC) plan will be available beginning January 1, 2014. As such the cost/savings would be minimal in FY2014. This fiscal impact statement shows the impact on total funds, general funds, and non-general funds.

Table 1 is a 10-year projection of the estimated increases in contribution rates assuming 20% of new hires during each of the first 20 years of the plan's implementation and 5% of current non-vested employees elect the new defined contribution plan.

Change in projected contribution rates due to addition of Optional Defined Contribution Plan										
	TABLE 1									
	Effect when Contributing Minimum Contribution to DC Plan									
Fiscal Year	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
State	0.17%	0.17%	0.49%	0.49%	0.72%	0.72%	0.89%	0.89%	0.83%	0.83%
SPORS	0.20%	0.29%	0.57%	0.66%	1.02%	1.09%	1.34%	1.41%	1.21%	1.27%
VALors	0.28%	0.25%	0.81%	0.77%	1.13%	1.10%	1.24%	1.23%	1.05%	1.03%
	Effect when Contributing Maximum Contribution to DC Plan									
Fiscal Year	2015	2016	2017	2018	2019	2020	2021	2022	2023	2024
State	0.19%	0.19%	0.54%	0.54%	0.82%	0.82%	1.04%	1.04%	1.05%	1.05%
SPORS	0.20%	0.29%	0.57%	0.66%	1.02%	1.00%	1.52%	1.50%	1.38%	1.44%
VALors	0.26%	0.28%	0.86%	0.82%	1.25%	1.19%	1.44%	1.41%	1.29%	1.28%

Table 2 shows the estimated (cost)/savings from the Total Fund over the next 20 years by biennium

Projected Savings by Biennium - Total Fund										($Millions)
	TABLE 2									
	Assuming Minimum Contribution to DC									
	FY 15/16	FY 17/18	FY 19/20	FY 21/22	FY 23/24	FY 25/26	FY 27/28	FY 29/30	FY 31/32	FY 33/34
State	$ (11.67)	$ (33.35)	$ (49.33)	$ (60.60)	$ (56.54)	$ (49.20)	$ (34.23)	$ (17.24)	$ 1.37	$ 22.46
SPORS	$ (0.48)	$ (1.22)	$ (2.09)	$ (2.73)	$ (2.46)	$ (2.21)	$ (1.57)	$ (0.91)	$ 0.07	$ 1.46
VALors	$ (1.83)	$ (5.41)	$ (7.61)	$ (8.42)	$ (7.08)	$ (5.25)	$ (2.89)	$ (0.81)	$ 1.85	$ 4.31
Total	$ (13.98)	$ (39.97)	$ (59.03)	$ (71.74)	$ (66.08)	$ (56.65)	$ (38.70)	$ (18.96)	$ 3.29	$ 28.22
	Assuming Maximum Contribution to DC									
	FY 15/16	FY 17/18	FY 19/20	FY 21/22	FY 23/24	FY 25/26	FY 27/28	FY 29/30	FY 31/32	FY 33/34
State	$ (12.77)	$ (36.58)	$ (55.57)	$ (70.73)	$ (71.44)	$ (69.41)	$ (60.37)	$ (49.63)	$ (37.49)	$ (23.33)
SPORS	$ (0.48)	$ (1.22)	$ (2.00)	$ (2.99)	$ (2.80)	$ (2.62)	$ (2.20)	$ (1.59)	$ (0.73)	$ 0.42
VALors	$ (1.83)	$ (5.74)	$ (8.33)	$ (9.71)	$ (8.75)	$ (7.52)	$ (5.98)	$ (4.32)	$ (2.44)	$ (0.68)
Total	$ (15.08)	$ (43.54)	$ (65.90)	$ (83.42)	$ (82.99)	$ (79.55)	$ (68.56)	$ (55.53)	$ (40.65)	$ (23.59)

Table 3 shows the estimated (cost)/savings from the General Fund related to implementation of the new optional defined contribution plan over the next 20 years by biennium.

Projected Savings by Biennium - General Fund										($Millions)
	TABLE 3									
	Assuming Minimum Contribution to DC									
	FY 15/16	FY 17/18	FY 19/20	FY 21/22	FY 23/24	FY 25/26	FY 27/28	FY 29/30	FY 31/32	FY 33/34
State	$ (5.28)	$ (15.10)	$ (22.34)	$ (27.44)	$ (25.60)	$ (22.28)	$ (15.50)	$ (7.81)	$ 0.62	$ 10.17
SPORS	$ (0.41)	$ (1.04)	$ (1.79)	$ (2.34)	$ (2.11)	$ (1.89)	$ (1.35)	$ (0.78)	$ 0.06	$ 1.25
VALors	$ (1.68)	$ (4.96)	$ (6.98)	$ (7.72)	$ (6.49)	$ (4.81)	$ (2.65)	$ (0.75)	$ 1.69	$ 3.95
Total	$ (7.37)	$ (21.10)	$ (31.11)	$ (37.49)	$ (34.20)	$ (28.98)	$ (19.50)	$ (9.33)	$ 2.37	$ 15.37
	Assuming Maximum Contribution to DC									
	FY 15/16	FY 17/18	FY 19/20	FY 21/22	FY 23/24	FY 25/26	FY 27/28	FY 29/30	FY 31/32	FY 33/34
State	$ (5.78)	$ (16.56)	$ (25.16)	$ (32.02)	$ (32.35)	$ (31.43)	$ (27.33)	$ (22.47)	$ (16.97)	$ (10.56)
SPORS	$ (0.41)	$ (1.04)	$ (1.71)	$ (2.56)	$ (2.40)	$ (2.24)	$ (1.89)	$ (1.36)	$ (0.62)	$ 0.36
VALors	$ (1.68)	$ (5.26)	$ (7.63)	$ (8.90)	$ (8.02)	$ (6.90)	$ (5.48)	$ (3.96)	$ (2.24)	$ (0.62)
Total	$ (7.87)	$ (22.87)	$ (34.51)	$ (43.49)	$ (42.77)	$ (40.57)	$ (34.71)	$ (27.79)	$ (19.84)	$ (10.83)

Table 4 shows the estimated (cost)/savings from the Non-General Fund related to implementation of the new optional defined contribution plan over the next 20 years by biennium

Projected Savings by Biennium - Non-General Fund										($Millions)
	TABLE 4									
	Assuming Minimum Contribution to DC									
	FY 15/16	FY 17/18	FY 19/20	FY 21/22	FY 23/24	FY 25/26	FY 27/28	FY 29/30	FY 31/32	FY 33/34
State	$ (6.39)	$ (18.25)	$ (26.99)	$ (33.16)	$ (30.94)	$ (26.92)	$ (18.73)	$ (9.44)	$ 0.75	$ 12.29
SPORS	$ (0.07)	$ (0.17)	$ (0.30)	$ (0.39)	$ (0.35)	$ (0.31)	$ (0.22)	$ (0.13)	$ 0.01	$ 0.21
VALors	$ (0.15)	$ (0.45)	$ (0.63)	$ (0.70)	$ (0.59)	$ (0.44)	$ (0.24)	$ (0.07)	$ 0.15	$ 0.36
Total	$ (6.61)	$ (18.87)	$ (27.93)	$ (34.25)	$ (31.88)	$ (27.67)	$ (19.20)	$ (9.63)	$ 0.91	$ 12.86
	Assuming Maximum Contribution to DC									
	FY 15/16	FY 17/18	FY 19/20	FY 21/22	FY 23/24	FY 25/26	FY 27/28	FY 29/30	FY 31/32	FY 33/34
State	$ (6.99)	$ (20.02)	$ (30.41)	$ (38.70)	$ (39.10)	$ (37.98)	$ (33.03)	$ (27.16)	$ (20.51)	$ (12.77)
SPORS	$ (0.07)	$ (0.17)	$ (0.28)	$ (0.43)	$ (0.40)	$ (0.37)	$ (0.31)	$ (0.23)	$ (0.10)	$ 0.06
VALors	$ (0.15)	$ (0.48)	$ (0.69)	$ (0.81)	$ (0.73)	$ (0.63)	$ (0.50)	$ (0.36)	$ (0.20)	$ (0.06)
Total	$ (7.21)	$ (20.67)	$ (31.39)	$ (39.94)	$ (40.22)	$ (38.98)	$ (33.85)	$ (27.74)	$ (20.82)	$ (12.76)

All charts contain two scenarios: the first assumes the employer match to the DC plan is based on the minimum required amount of 5.0%, while the second scenario assumes the maximum 8.5% employer match is contributed to the DC plan. Payroll growth is assumed to remain flat throughout the projection period.

Note that the optional defined contribution is also available to Judicial members. Cost information has not been provided for this group, but due to the relative size, approximately 400 employees, cost implications would be expected to be smaller in magnitude than those shown above.

8. **Fiscal Implications:**

a. Defined Benefit Plan Changes. Some of the defined benefit plan design changes apply only to new hires as of January 1, 2013. As a result, the reductions in costs associated with these defined benefit plan design changes will only be fully realized many years into the future. For example, for current employees, initially the 36-month AFC will apply. As pay increases take effect over time, the 36-month AFC will "wear away" and the 60-month AFC will eventually be applicable to all affected employees. Similarly, the 1.6 multiplier is only applicable to new hires as of January 1, 2013. In time, the 1.6 multiplier will apply to all active employees subject to the lower multiplier, but this could take many years. The savings from the COLA modifications should be evident in the shorter term. While the COLA provisions do not apply to employees within five years of eligibility for an unreduced benefit, the failure to provide a "grandfather" provision would likely lead to a sharp short-term increase in retirements of experienced employees, which might have a negative impact on productivity state-wide.

b. Optional Defined Contribution Plan. Since the optional defined contribution Program will cover mostly new hires, the employee population covered by the defined contribution (DC) plan will be very slow in developing. As a result, it will take many years before employers may begin to realize any of the benefits, particularly those related to cost saving, anticipated by creating a DC plan.

There are two separate issues to consider in amortizing the unfunded liability of the defined benefit (DB) plan after implementation of the optional defined contribution retirement program: (1) the future payroll for the DB plan, which will be the basis on which contribution rates will be paid; and (2) the amortization period.

As fewer new hires join the current DB plan, the payroll base under this plan would begin to decline immediately. Since the payroll base is used to fund the DB system's unfunded accrued liabilities (UAL), the financial burden as a percent of payroll will increase. To comply with Governmental Accounting Standards Board (GASB) Statements 25 and 27, the DB plan would be required to change to a decreasing payroll growth assumption in financing the UAL or move to a level dollar approach from the level percent of increasing payroll currently used. (Level dollar means the same dollar amount is paid each year in the future to amortize the unfunded liability. This is like the typical mortgage payment with equal payments for the term of the loan.) However, the substitute bill provides that the employer may make a contribution (an employer surcharge) to the defined benefit plans toward the amortization of the unfunded liability with respect to employees enrolled in the optional defined contribution plan. Since unfunded contributions are expected to be made on the entire payroll including employees enrolled in the defined contribution plan, a significant decrease in the growth of the payroll base used to amortize the UAL is not expected. As a result, the actuary does not recommend a change to the current payroll growth assumption of 3 percent per year. If the defined contribution plan is adopted, VRS will monitor future experience, including the success in implementing the employer surcharge, to evaluate what impact, if any, the defined contribution plan is having on the DB plan's payroll growth and any necessary recommended changes.

Below is an illustration of VRS' understanding of how the additional contribution on the payroll of employees enrolled in the DC plan would work. Under this approach, the total employer contribution – DC plan plus additional DB – with respect to employees enrolled in the DC plan would be equal to the contribution payable with respect to members in the DB plan. VRS has estimated the impact for fiscal year 2015 using the assumptions of 7% interest and 2.5% COLA rates, and the amortization schedule approved by the Board. VRS has also assumed the DB plan employer contribution rate does not include the 5% member contribution.

	State DB Plan	
Employer DC plan contribution level	Minimum	Maximum
Estimated employer contribution rate DB plan FY 2015	16.58%	16.58%
Minus employer contribution rate DC plan	5.00%	8.50%
Additional contribution toward DB plan UAL rate (surcharge)	11.58%	8.08%
Minus estimated UAL rate DB plan FY 2015	12.54%	12.54%
UAL rate excess (shortfall) with respect to employees enrolled in DC plan	(0.96%)	(4.46%)

Depending on the level of employer contribution to the DC plan, under the approach above the contribution to the State DB plan will be less than the required UAL contribution rate by approximately 0.96% to 4.46% of the payroll of members enrolled in the DC plan.

In the short-term, the total contribution payable by employers with respect to employees enrolling in the DC plan--reflecting the surcharge contribution--will equal the required contribution to the DB plan for members of that plan. Therefore, VRS would not anticipate a reduction in the employer cost after the adoption of the optional DC plan. However, the ultimate cost of the DB plan, after the unfunded accrued liability has been paid off, is the employer normal cost plus expenses.

Under the substitute bill, employees enrolled in the DC plan would not participate in the Virginia Sickness and Disability Program (VSDP). However, the substitute bill provides a disability program for employees enrolled in the DC plan. The long-term disability (LTD) benefit under the DC plan disability program will be similar to the current VSDP benefit, except:

- There will be no cost-of-living adjustment (COLA) on the LTD benefit for members in the DC plan.

- A contribution will be made by the new LTD plan to the defined contribution plan (10% of creditable compensation multiplied by the income replacement percentage).
    - Note: The results assume this is an amount in addition to the income replacement benefit and is exclusive of any benefit offsets.
- Disability benefits will cease to be paid to a participating employee based upon the conditions specified by § 51.1-1161.
    - The date that the participating employee attains age 65; or
    - The date that the participating employee takes an initial distribution from the defined contribution retirement plan established pursuant to § 51.1-126.5:1.
    - Notwithstanding the above conditions, an employee who is approved for disability benefits (i) at age 60 through 64 shall be eligible for five years of disability benefits, (ii) at age 65 through 68 shall be eligible for disability benefits to age 70, and (iii) at age 69 or older shall be eligible for disability benefits for one year. The eligibility periods include short-term disability and long term disability.

VRS estimates that the changes proposed by the substitute bill will result in a long-term cost for the DC plan disability program of approximately 0.49% of pay. Please note the following, which may have an impact on the estimated cost.

- The calculations are based on the data and actuarial assumptions and methods used in the June 30, 2011 actuarial valuation of the VSDP LTD benefit, including benefit offsets (where applicable), rates of termination, rates of disability, rates of mortality, and rates of retirement (dates of initial distribution).
- For purposes of this analysis, the results are estimated by applying the DC plan LTD disability benefit provisions to the June 30, 2011 active employee population consisting of only those employees participating in VSDP.
- The normal cost rates reported above do not include the portion of normal cost attributable to UNUM administrative fees.
- The results do not provide the impact to the STD or LTC benefits currently offered under VSDP.

Life Insurance

The eligibility for life and accident insurance coverage for participants in the optional defined contribution retirement program receiving disability benefits is designed to be identical to the existing VSDP program. If the participant is participating in a group life and accident insurance program established under Chapter 5 of Title 51.1, he or she is eligible for continued coverage during periods of absence covered by short-term and long-term disability benefits.

Health Insurance Credit

Eligibility to Participate in the State Plan
At retirement, members in the new DC program would become eligible for the state retiree health benefit if they begin receiving a periodic payment from the DC program immediately upon leaving employment and qualifying for a distribution. This can also be accomplished by the purchase of an immediate annuity from a plan provider.

Eligibility to Receive the Health Insurance Credit
A member would be eligible with 15 years of VRS and/or DC service. To qualify, the member must have a balance in their DC account and begin receipt of a periodic distribution, having met retirement age and service under VRS, and be participating in an eligible health insurance program for which they are paying a premium.

Long-term Care Costs

The substitute bill also provides employer-paid Long-term Care coverage at the same level that is provided by VSDP. VRS' initial assessment is that the substitute bill would not impact the LTC cost (as a percent of pay.) VRS' preliminary view is based upon the following:

- The substitute bill does not change the level of LTC benefits.
- Continuance of the LTC benefit after employment requires the member to pay the premium and there is no retiree LTC liability to VRS (i.e., the premium paid by retirees is not subsidized explicitly or implicitly).
- The active employee survival model (termination, disability, mortality, retirement, and LTC incidence rates) are not different for the group electing the DC plan.
- The LTC premium is not paid by VSDP for those receiving VSDP LTD benefits.

The substitute bill provides LTC benefits to members who elect to participate in the Optional DC Retirement Program. By virtue of participation in the DC Program, these members would have access to the disability program that includes the LTC benefits. As a result, the required LTC contribution amount will increase depending on the number of current and future hires that elect to participate in the optional DC plan. Since VRS expects few current members will choose to move to the DC plan, and growth in the new DC plan will be gradual, the LTC contribution will increase gradually over many years as new hires join the optional DC plan.

9. **Specific Agency or Political Subdivisions Affected:** The proposed defined benefit plan changes would affect VRS, General state employees, and various provisions would apply to SPORS, VaLORS, JRS, Teachers, and Localities; the optional defined contribution plan would affect VRS and state agencies.

10. **Technical Amendment Necessary:** No. The substitute bill provides that the effective date of the optional defined contribution is January 1, 2014, which is a change from the provisions of former HB1130H1. VRS had requested the revised effective date.

11. Other Comments: The substitute bill incorporates the provisions of both HB1129H1 and HB1130H1.

a. Defined Benefit Plan Changes. The substitute bill modifies the existing VRS defined benefit plan for various groups of state and local employees as follows:

Change	Effective Date	Employee Groups	Comments
3% COLA cap (first 2% of CPI-U plus one-half of the next 2%, for a maximum total of 3%)	1/1/13	General state employees, SPORS, VaLORS, JRS, Teachers, and Localities	Employees within five years of eligibility for an unreduced benefit as of effective date are grandfathered
No COLA until retired member has received an allowance for one full calendar year after reaching unreduced retirement age	1/1/13	General state employees, SPORS, VaLORS, JRS, Teachers, and Localities	Employees within five years of eligibility for an unreduced benefit as of effective date are grandfathered
60-month AFC	1/1/13	General state employees, SPORS, VaLORS, JRS, Teachers, and Localities	36-month AFC will be "frozen" for current employees as of January 1, 2013 and dual calculation will be made at time of retirement (higher number will be used)
1.6% multiplier	1/1/13	New general state employees, Teachers and Localities	Does not apply to SPORS, VaLORS, JRS or LEOS, or general state and local employees or teachers hired before January 1, 2013.

The legislation does not affect current retirees.

With respect to the legal aspects of any proposed changes to public pension plans, it is important to note that as a general rule, prospective changes that grandfather benefits earned prior to the date of the change should be acceptable by courts if challenged. Little legal guidance exists to provide clear answers on what would be acceptable changes to retirement benefits based on service and compensation prior the effective date of the change. In short, even changes that are considered low-risk can be challenged, and there is very little Virginia precedent on these issues. Decisions from other states cannot be relied on as predictors of the outcome of a case in Virginia due to differences in statutory and constitutional provisions and the case law in that particular state. The General Assembly may wish to seek a legal opinion from the Attorney General's Office.

b. Optional Defined Contribution Plan. The substitute bill creates a new optional defined contribution plan to be administered by the VRS with the following provisions:

Plan Election:

Current employees as of the effective date of the legislation will have 90 days to make an irrevocable election to participate in either the optional DC program or the Virginia Retirement System DB plan. Current VRS members may be allowed by the VRS Board to transfer their accumulated contributions and interest under the VRS DB plan. Members who do not make an election to transfer to the optional DC program will remain in their current plan.

New hires will have 60 days to make an irrevocable election. The default option if the person fails to make an election is the existing defined benefit plan, which has been the practice in most states with optional DC plans.

Employees who are eligible for or participate in the Optional Retirement Plan for Higher Education as defined in §51.1-126, the DC plan set forth in §51.1-126.1 for employees of certain teaching hospitals, the University of Virginia Medical Center plan as provided in §51.1-126.3, the Virginia Port Authority plan as set forth in §51.1-126.4, the Optional Retirement Plan for Political Appointees as set forth in §51.1-126.5, and the Virginia Outdoors Foundation plan set forth in §51.1-126.7 are not eligible for this Optional Defined Contribution Retirement Program. The higher education faculty will continue to participate in the ORPHE.

Employer and Employee Contributions:

Employers and employees each shall make a mandatory contribution of 5% of pay. In addition, employees may make voluntary contributions of up to 3.5% of pay or the limit on elective deferrals under Internal Revenue Code Section 457(b) to the optional DC plan. The employer shall make a matching contribution of 100% of the employee's voluntary contribution. The total employer contribution to the DC program would be 8.5%, for a maximum total contribution of 17% of pay. Similarly, the minimum employer plus employee contribution to the program will be 10% of pay.

Illustration of Tiered Employer Contributions

	Employer Contribution	Employee Contribution	
Tier 1	5 percent	5 percent	This is the mandatory employer contribution.
Tier 2	0 to 3.5 percent	0 to 3.5 percent	This is the one to one match by the employer of elective employee contributions.

The employee contributions will be deducted on a salary reduction basis in accordance with §414(h) of the Internal Revenue Code and are capped at 8.5% of creditable compensation or the elective deferral limit under IRC § 457 (b), whichever is less. Assuming a contribution of 3.5% of creditable compensation (the optional amount), the deferral limit would only be exceeded for a person less than 50 years of age earning in excess of $485,714. There are no loans or hardship distributions available from these funds. The reason for these restrictions is that the optional DC retirement program would be the primary source of retirement funds for the electing member. All of the mandatory employee contributions go into an IRC 401(a) account. All of the voluntary employee contributions to the optional DC retirement program are elective deferrals, and as a result must go into an IRC 457(b) plan. This two-tier design with mandatory employee contributions provides flexibility and allows a participant to make additional deferrals into the 457 plan up to the annual IRC limits on such deferrals. For example, the current deferred compensation plan administered by VRS is a 457 plan, and the IRC elective deferral limits would have to be coordinated between the optional DC retirement program and the deferred compensation plan. Employee contributions to the optional DC retirement program, whether elective or mandatory, will not affect the amount that can be contributed to an IRC § 403(b) plan by those who have one (eligible employees of educational institutions). The deferred compensation plan administered by the VRS Board (§ 457) and the cash match plan administered by the VRS Board (§ 401(a)) are the plans to be used to carry out the provisions of the legislation.

Vesting:

The bill provides a vesting schedule with respect to the employer contributions to the DC program. Members with less than one year of continuous service would be 0% vested, those with at least one but less than to two years of service would be 20% vested, those with at least two but less than three years of service would be 40%vested, those with at least three but less than four years service would be 60% vested and members with at least four years but less than five years of service would be 80% vested and those with five or more years of service would be 100% vested to the employer contributions. Employee contributions are not subject to the vesting requirements.

Illustration of Employer Contribution Vesting

Less than 1 year of service	0 percent
1 or more years of service	20 percent
2 or more years of service	40 percent
3 or more years of service	60 percent
4 or more years of service	80 percent
5 or more years of service	100 percent

Below is a discussion of some of the issues to consider in establishing an optional DC plan.

From a benefits perspective, DC plans provide features not usually found in DB plans, such as portability, investment choice, personal responsibility, and lump sum payouts. DC plans are common vehicles for building retirement savings. However, whether the savings accumulated under the DC plan will provide adequate retirement income depends on several factors, including a member's savings rate, asset allocation, investment income and life expectancy. Under a DC plan approach, it is possible for a retiree to outlive his or her retirement savings. DC plans do not provide guaranteed cost of living increases after retirement. In addition, hazardous duty members who often retire with fewer years of service and at younger ages will have fewer years to accumulate assets and more years in retirement to draw upon these assets.

Eligibility for Other Related Benefits:

Participants in the optional DC retirement program are eligible for a disability program. Please see the more detailed discussion of the disability program below. In addition, participants in the optional DC retirement program will be eligible for the retiree health insurance credit. Further, participants in the optional DC retirement program will be eligible for coverage under the group life and optional life insurance programs.

Disability for DC Program Participants

Short Term Disability (Non Work Related)

A member would be eligible for this coverage if the member was participating in the Optional DC Program. The employee will not be eligible for non Work Related benefits until completing one year of continuous employment with their respective employer. The Short Term Disability (STD) program provides up to 125 work days for the STD benefit. The program also offers 60% of the pre-disability salary for those members with less than 5 years of service with their current employer and 100%, 80% and 60% for those members who have 5 or more years of service under this program. The levels of income replacement are based on the months of continuous service with the employer. The employer pays the STD income replacement and a third party administrator provides case management.

Short Term Disability (Work Related)

A member who participates in the Optional DC Program is immediately eligible for work related short term disability. This benefit would be supplemental to payments made under the Workers' Compensation Act. The income replacement would be 60% of the member's pre-disability income with an offset for the Workers' Compensation award if the member had less than 5 years of service with their current employer. For members who have 5 or more years of service with their current employer, income replacement is 100%, 80% and 60% of pre-disability salary. The levels of income replacement are based on the number of months of service that the member has with the employer. The benefit is offset by any payments under Workers' Compensation.

The work related STD benefit program includes special provisions for the State Police. Members of the State Police receive 100% pre-disability replacement income for the full STD period. In certain cases, the STD period can be extended to one full year.

As in the non work related STD program, the employer pays the benefit and a third party administrator provides case management.

Long Term Disability (Non Work Related and Work Related)

The Long Term Disability (LTD) program provides extended disability coverage with income replacement at 60% pre-disability income. For work related injuries, the LTD benefit would be offset by any benefit paid under Workers' Compensation or any other government benefit programs.

Payment of the LTD benefit ends when the member reaches the age of 65 or when the person begins a distribution from the Optional DC Program.

General Terms and Administration of Program

The program offers a benefit for catastrophic illnesses with income replacement at 80% of the member's pre-disability income.

Contributions to the member's DC plan will be made by both the employer and employee based on the member's STD benefit income replacement amount. During periods of LTD, a 10% contribution will be made by the Disability Trust Fund based on the amount of the benefit the member is receiving.

Disability benefits are offset by outside income, SSDI and other governmental benefit programs.

In addition, the members covered by this program are eligible for Long Term Care insurance at a rate of $96 a day up to maximum of two years. They also have Group Life Insurance coverage.

Anti-selection:

It is important to note the costs regarding anti-selection. Under the proposed bill, since existing and new members are given a choice between the DB and DC plan, many will be able to choose the plan that is in their financial best interest. Younger employees and those with fewer years of service will tend to opt for the DC plan, and these are the people who are cheaper to fund in the DB plan. By contrast older employees and those with more years of service, who are more costly to fund in a DB plan, will tend to opt for that plan.

Date: 3.7.12
Document: SB498H1.DOC