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**SENATE BILL NO. 87**

Offered January 8, 2014

Prefiled December 20, 2013

*A BILL to amend and reenact §§ 2.2-3204, 51.1-124.22, 51.1-142.2, 51.1-155.1, 51.1-155.2, 51.1-162, 51.1-169, 51.1-600, 51.1-607, 51.1-1153, and 51.1-1155 of the Code of Virginia, relating to the Virginia Retirement System.*

Patron—Watkins

Referred to Committee on Finance

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

**1. That §§ 2.2-3204, 51.1-124.22, 51.1-142.2, 51.1-155.1, 51.1-155.2, 51.1-162, 51.1-169, 51.1-600, 51.1-607, 51.1-1153, and 51.1-1155 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, *a person who does not have 60 months of creditable service as of January 1, 2013, or a person who is enrolled in the hybrid retirement program described in § 51.1-169*, (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 (1) the cash value of the benefits to which the employee would be entitled under subsections A and D of § 2.2-3203 by (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~~ *does not have 60 months of creditable service as of January 1, 2013, or is enrolled in the hybrid retirement program described in § 51.1-169*; (iii) *elects* to retire under this section; and ~~(iii)~~ (iv) 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.

**§ 51.1-124.22. Board to administer Retirement System; powers and duties.**

A. The Retirement System shall be administered by the Board of Trustees, whose powers and duties include but are not limited to:

1. Appointing a director, who shall not be a member of the Board, to serve as the chief administrative officer of the Retirement System at the pleasure of the Board.

2. Maintaining records of all of its proceedings and making such records available for inspection by the public.

3. Employing an actuary as its technical advisor and employing other persons and incurring expenditures as it deems necessary for the efficient administration of the Retirement System.

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4. Causing an actuarial investigation to be made of all the experience under the Retirement System at least once in each four-year period. The Board shall also cause actuarial gain/loss analyses to be made in conjunction with each actuarial valuation of the System. Pursuant to such investigations and analyses, the Board shall periodically revise the actuarial assumptions used in the computation of employer contribution rates.

5. Causing a biennial actuarial valuation to be made of the assets and liabilities of the Retirement System with respect to each employer. Pursuant to the results of such valuations, the Board shall prepare a statement as to the employer contribution rates applicable to each employer.

6. Publishing the results of each actuarial valuation of the assets and liabilities.

7. Publishing annual financial statements of the Retirement System or annual reports in accordance with §§ 51.1-1000 through 51.1-1003.

8. Promulgating regulations and procedures and making determinations necessary to carry out the provisions of this title.

9. Purchasing insurance to insure against losses suffered by the Retirement System if any member of the Board or of any advisory committee breaches the standard of care in § 51.1-124.30.

10. Adopting rules and policies that bring the Retirement System into compliance with any applicable law or regulation of this Commonwealth or the United States.

11. Establishing and administering, for the officers and employees of the Retirement System, (i) a compensation plan which is consistent with the provisions set forth in the general appropriations act for this purpose and (ii) a grievance procedure which is consistent with the provisions of § 2.2-1202.1 and any regulations promulgated pursuant thereto.

12. Investing in real estate to be held as a nonrevenue producing asset and used by the Retirement System for administrative offices.

13. Charging and collecting administrative fees to pay actual costs incurred by the Retirement System in ~~administering~~ *administering* and overseeing any retirement plan or service award fund other than the Virginia Retirement System (§ 51.1-124.1 et seq.), the State Police Officers' Retirement System (§ 51.1-200 et seq.), the Virginia Law Officers' Retirement System (§ 51.1-211 et seq.), or the Judicial Retirement System (§ 51.1-300 et seq.), for which it is responsible from the Commonwealth or participating political subdivisions whose employees benefit under such retirement plans. Any fee charged under the authority granted herein shall be for costs incurred directly related to the administration and oversight of the retirement plan or service award fund, as determined by the Board. Such fee shall be charged to the employer whose employees benefit under the retirement plan and to the service award fund in the case of costs incurred in ~~administering~~ *administering* and overseeing service award funds. Overpayments from benefits received under the Virginia Retirement System, the State Police Officers' Retirement System, the Virginia Law Officers' Retirement System, the Judicial Retirement System, the Virginia Sickness and Disability Program *under Chapter 11* (§ 51.1-1100 et seq.), *the Disability Program for Hybrid Retirement Program Participants under Chapter 11.1* (§ 51.1-1150 et seq.), or Health Insurance Credits for Certain Retirees *under Chapter 14* (§ 51.1-1400 et seq.); may be deducted from life insurance benefits payable under Chapter 5 (§ 51.1-500 et seq.).

14. The Board is authorized to charge and collect from participating employers any penalties, interest, compliance fees, or other charges charged to the Retirement System by the Internal Revenue Service or other regulatory body.

B. The Board shall be vested with the powers and duties of the Board of Trustees of the abolished system to the extent necessary for the payment of vested rights and the return of accumulated contributions.

C. The Commonwealth, the Board, employees of the Retirement System, the Investment Advisory Committee of the Retirement System, and any other advisory committee established by the Board shall not incur any liability for any losses suffered by the deferred compensation, the cash match, or the defined contribution retirement plans established or administered under the authority of this title, except as provided in § 51.1-124.30.

**§ 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. A person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013, shall pay an amount equal to a rate

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

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

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

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

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

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

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

C. Any member in service may purchase service credit for creditable service lost from ceasing to be a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated contributions. Notwithstanding any other provision in this section, the cost to purchase such service shall be five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing such service 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, *provided, however, that the applicable cost for a person enrolled in the hybrid retirement program described in § 51.1-169 shall be four percent.* If the member purchases or enters into a contract to purchase such service within three years of the date he became eligible to purchase the service, then the service may be purchased in a lump sum at the time of purchase or through an additional payroll deduction. Any purchase of such service made at a time later than such period shall be made in a lump sum at the time of purchase.

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

E. Any member receiving benefits under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.) may, in a manner prescribed by the Board and prior to the effective date of retirement, purchase service credit for service that is not reported to the retirement system by the member's employer while

the member is receiving such benefits. Notwithstanding any other provision in this section, the cost to purchase such service shall be five percent of the member's creditable compensation.

F. 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.

G. 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 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.

H. 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 and constitutional officers.**

A. ~~Members~~ *The provisions of this subsection apply to any member of the retirement system (i) whose positions are position is described by subdivision 1 (except members a member of the Judicial Retirement System (§ 51.1-300 et seq.)), 2 (except members a member of the Judicial Retirement System (§ 51.1-300 et seq.)), 3, 4 (except officers an officer elected by popular vote), 7, 13, 14, 15, 16, 17, or 20 of § 2.2-2905; (ii) who are is an agency heads head appointed by a state board, state commission, or state council; or (iii) who are is a school division superintendents superintendent appointed by a school board pursuant to § 22.1-60, and (a) who are is involuntarily separated from state service and (b) who have has 20 or more years of creditable service at the date of separation. Such member may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155 upon attaining age 60 50, provided, however, that if (1) the member is a person who becomes a member on or after July 1, 2010, and upon attaining age 50 for any other member (2) the member does not have at least 60 months of creditable service as of January 1, 2013, or (3) the member is enrolled in the hybrid retirement program described in § 51.1-169, then the member may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155 upon attaining age 60.*

B. ~~Any member~~ *The provisions of this subsection apply to 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. Such member may retire without the reduction in retirement allowance required by subdivision A 2 of § 51.1-155 A 2 upon attaining age 60 50, provided, however, that if (a) the member is a person who becomes a member on or after July 1, 2010, and (b) the member does not have at least 60 months of creditable service as of January 1, 2013, or (c) the member is enrolled in the hybrid retirement program described in § 51.1-169, then the member may retire without the reduction in retirement allowance required by subdivision A 2 of § 51.1-155 upon attaining age 50 for any other member 60.*

C. ~~Any~~ *The provisions of this subsection apply to any member of the retirement system who (i) serves as a constitutional officer, (ii) is involuntarily separated from service because his office is lawfully abolished, and (iii) has 20 or more years of creditable service at the date of separation. Such member may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155, upon attaining age 60 50, provided, however, that if (a) the member is a person who becomes a member on*

or after July 1, 2010; ~~and, (b) the member does not have at least 60 months of creditable service as of January 1, 2013, or (c) the member is enrolled in the hybrid retirement program described in § 51.1-169, then the member may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155 upon attaining age 50 for any other member 60.~~

D. For the purposes of this section, except for subsection C, "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.

E. 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~~ *The provisions of this section apply to any member of the retirement system who (i) are is 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 is involuntarily separated from service; and (iii) have has 20 or more years of creditable service at the date of separation. Such member may retire without the reduction in retirement allowance required by subdivisions A 2 and A 3 of § 51.1-155 upon attaining age 60 50, provided, however, that if (a) the member is a person who becomes a member on or after July 1, 2010, and (b) the member does not have at least 60 months of creditable service as of January 1, 2013, or (c) the member is enrolled in the hybrid retirement program described in § 51.1-169, then the member may retire without the reduction in retirement allowance required by subdivisions A 2 and A 3 of § 51.1-155 upon attaining age 50 for any other member 60.*

B. 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.

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

**§ 51.1-162. Death before retirement.**

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

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

First, to the spouse of the member;

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

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

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

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

B. If a member dies in service, including a member who is on leave without pay while performing active duty military service in the armed forces of the United States, and if no benefits are payable under subsection C of this section, a retirement allowance shall be paid to the person or persons designated as provided in subsection A of this section if the person is the member's (i) surviving spouse, (ii) minor child, or (iii) parent(s). If no designation has been made, or if the death of the designated person occurs prior to the death of the member and another designation has not been made, a retirement allowance shall be paid in the following order of precedence to the member's (a) surviving spouse, (b) minor children, or (c) parent(s). The retirement allowance shall be paid to the first person qualifying in the orders of precedence set out in this subsection. If more than one minor child survives the deceased member, the allowance shall be divided among them in a manner determined by the Board. If more than one parent survives the deceased member, the allowance shall be divided among them in a manner determined by the Board. The retirement allowance shall be continued during the lifetime of the person or in the case of a minor child until the child dies or attains the age of majority, whichever occurs first. The retirement allowance shall equal the decreased retirement allowance that would have been payable

under the joint and survivor option so that the same amount would be continued to such person after the member's death. If the member dies prior to his fifty-fifth birthday, then, for purposes of this subsection, the member shall be presumed to be age fifty-five on his date of death. However, if the member ~~who~~ dies in service *prior to his sixtieth birthday and is (1) a person who ~~became~~ becomes a member on or after July 1, 2010, and he dies prior to his sixtieth birthday* (2) a member who does not have at least 60 months of creditable service as of January 1, 2013, or (3) a member of the hybrid retirement program described in § 51.1-169, then, for purposes of this subsection, the member shall be presumed to be age sixty on his date of death. When determining the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subdivision A 4 of § 51.1-155 shall not apply. If the person elects in writing, the amount of the member's accumulated contributions or lump sum payment shall be paid to him exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter.

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

The retirement allowance payable hereunder to a qualifying survivor shall be the annual amount which when added to the compensation payable under the Virginia Workers' Compensation Act for the death of the member equals fifty percent of the member's average final compensation if the survivor 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.

#### **§ 51.1-169. Hybrid retirement program.**

A. For purposes of this section, "hybrid retirement program" or "program" means a hybrid retirement program covering any employee in a position covered for retirement purposes under the provisions of Chapter 1 (§ 51.1-124.1 et seq.) for retirement purposes other than the Virginia Retirement System defined benefit retirement plan established under Chapter 1 (§ 51.1-124.1 et seq.). Except as provided in § 51.1-302, persons who are participants in, or eligible to be participants in, the retirement plans under the provisions of Chapter 2 (§ 51.1-200 et seq.), Chapter 2.1 (§ 51.1-211 et seq.), Chapter 3 (§ 51.1-300 et seq.), the optional retirement plans established under §§ 51.1-126.1, 51.1-126.3, 51.1-126.4, and 51.1-126.7, or a person eligible to earn the benefits permitted by § 51.1-138 shall not be eligible to participate in the hybrid retirement program. Any person who is employed as a firefighter, emergency medical technician, or law-enforcement officer as those terms are defined in § 15.2-1512.2 and whose employing political subdivision has legally adopted an irrevocable resolution as described in subdivision B 4 of § 51.1-153 and subdivision A 3 of § 51.1-155 shall not be eligible to participate in the hybrid retirement program.

The Board shall maintain the hybrid retirement program established by this section, and any employer is authorized to make contributions under such program for the benefit of its employees participating in such program. Every person who is otherwise eligible to participate in the program but is not a member of a retirement plan administered by the Virginia Retirement System the first time he is hired on or after January 1, 2014, in a covered position, shall participate in the hybrid retirement program established by this section.

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

B. 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 mandatory 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 two years of ~~continuous active participation in the program~~, 50 percent.
- b. Upon completion of three years of ~~continuous active participation in the program~~, 75 percent.
- c. Upon completion of four years of ~~continuous active participation in the program~~, 100 percent.

*For purposes of this subdivision, "active participation" includes creditable service, as defined in § 51.1-124.3, in any retirement plan established by this title and administered by the Retirement System.*

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 B 2.

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

C. 1. An employee participating in the hybrid retirement program maintained under this section 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 one percent of creditable compensation.

2. An employee participating in the hybrid retirement program may also make voluntary contributions to the defined contribution component of the program 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. If an employee's voluntary contributions under subdivision C 2 are less than four percent of creditable compensation, the contribution will increase by one-half of one percent, beginning on January 1, 2017, and every three years thereafter, until the employee's voluntary contributions under subdivision C 2 reach four percent of creditable compensation. The increase will be effective beginning with the first pay period that begins in such calendar year unless the employee elects not to increase the voluntary contribution in a manner prescribed by the Board.

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

D. 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 for all creditable service credited prior to the effective date of the member's participation in the program. For all other creditable service,~~ 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. For judges who are participating in the hybrid retirement program, creditable service shall be determined as provided in § 51.1-303.

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

3. *Except as provided in subdivision 1, any employee participating in the hybrid retirement program maintained under this section shall be considered to be a person who becomes a member on or after July 1, 2010.*

4. 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

428 Retirement System, the employer shall collect and pay all employee and employer contributions to the  
429 Virginia Retirement System for retirement and group life insurance in accordance with the provisions of  
430 Chapter 1 (§ 51.1-124.1 et seq.) for such employee.

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

434 2. No employee who is an active member in the hybrid retirement program maintained under this  
435 section shall also be an active member of any other optional retirement plan maintained under the  
436 provisions of Chapter 1 (§ 51.1-124.1 et seq.).

437 3. If a member of the hybrid retirement program maintained under this section is at any time in  
438 service as an employee in a position covered for retirement purposes under the provisions of Chapter 1  
439 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.), his  
440 benefit payments under the hybrid retirement program maintained under this section shall be suspended  
441 while so employed; provided, however, reemployment shall have no effect on a payment under the  
442 defined contribution component of the program if the benefit is being paid in an annuity form under an  
443 annuity contract purchased with the member's account balance.

444 4. Any administrative fee imposed pursuant to subdivision A 13 of § 51.1-124.22 on any employer  
445 for administering and overseeing the hybrid retirement program maintained under this section shall be  
446 charged for each employee participating in such program and shall be for costs incurred by the Virginia  
447 Retirement System that are directly related to the administration and oversight of such program.  
448 *Notwithstanding the foregoing, the Board is authorized to collect all or a portion of such fee directly*  
449 *from the employee.*

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

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

461 **§ 51.1-600. Definitions.**

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

463 "Act" means the Government Employees Deferred Compensation Plan Act.

464 "Board" means the Board of Trustees of the Virginia Retirement System.

465 "Deferred compensation plan" means a plan by which an employee defers some portion of income  
466 until some stated time in the future; provides that the federal and state income tax on such income will  
467 be deferred until the actual receipt of such income; and is established pursuant to the provisions of  
468 § 457 of the Internal Revenue Code of 1986, as amended.

469 "Employee" means, in the case of the plan described in § 51.1-602, all persons employed by a  
470 participating employer, including appointed or elected officials. In the case of a plan adopted by a  
471 county, municipality, authority or other political subdivision pursuant to § 51.1-603, an employee shall  
472 be defined by such county, municipality, authority or other political subdivision, *subject to the approval*  
473 *of the Board.*

474 "Participating employer" means the Commonwealth or any political subdivision that has elected  
475 pursuant to § 51.1-603.1 to participate in the deferred compensation plan established by the Board  
476 pursuant to this chapter.

477 **§ 51.1-607. Definitions.**

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

479 "Board" means the Board of Trustees of the Virginia Retirement System.

480 "Cash match plan" means a plan established pursuant to the provisions of § 401 (a) of the Internal  
481 Revenue Code of 1986, as amended, to which a participating employer contributes based on  
482 contributions made by an employee to a deferred compensation plan or to a plan established pursuant to  
483 § 403 (b) of the Internal Revenue Code of 1986, as amended. Alternatively, if the Board determines that  
484 it is appropriate, such plan may be established pursuant to § 403 (b) of the Internal Revenue Code of  
485 1986, as amended.

486 "Deferred compensation plan" means a plan described in Chapter 6 (§ 51.1-600 et seq.) of this title.

487 "Employee" means, in the case of the plan described in § 51.1-608, any salaried person, including  
488 appointed or elected officials, providing services for a participating employer. In the case of a plan  
489 adopted by a county, municipality, authority or other political subdivision pursuant to § 51.1-610, an



employee shall be defined by such county, municipality, authority or other political subdivision, *subject to the approval of the Board.*

"Participating employer" means the Commonwealth or any political subdivision that has elected pursuant to § 51.1-603.1 to participate in the deferred compensation plan established by the Board pursuant to Chapter 6 (§ 51.1-600 et seq.) of this title or a sponsor of a plan established pursuant to § 403 (b) of the Internal Revenue Code of 1986, as amended.

"Qualified participant" means, in the case of a plan established pursuant to § 51.1-608, an employee of a participating employer who is making continuous deferrals of at least ten dollars per pay period to the deferred compensation plan established by the Board pursuant to Chapter 6 (§ 51.1-600 et seq.) of this title or to a plan established pursuant to § 403 (b) of the Internal Revenue Code of 1986, as amended. The determination of whether an employee is making continuous deferrals shall be made by the Board. In the case of a plan established pursuant to subsection D of § 51.1-608 or § 51.1-610, qualified participant means an employee described by the governing body establishing such plan in the documents setting forth the details of such plan.

**§ 51.1-1153. Participation in the program.**

A. All eligible employees shall become participants in this program, provided, however, that the governing body of an employer may adopt a resolution on or before January 1, 2014, which shall be submitted to the Board, requesting that its eligible employees not participate in the program because the employer has or will establish, and continue to maintain, comparable disability coverage for such eligible employees. The election by the governing body of an employer not to participate in this program shall be irrevocable. The employer need not consider the provisions of § 51.1-1178 when determining the comparability of its disability coverage to this program.

B. The effective date of participation in the program for participating employees shall be their first day of employment or the effective date of their participation in the hybrid retirement program described in § 51.1-169 as applicable, *whichever is later.*

C. Notwithstanding any provision to the contrary, no participating employee shall receive benefits under Article 2 (§ 51.1-1154 et seq.) until the participating employee completes one year of continuous participation in the program service.

D. Eligibility for participation in the program shall terminate upon the earliest to occur of an employee's (i) termination of employment or (ii) death. Eligibility for participation in the program shall be suspended during periods that an employee is placed on nonpay status, including leave without pay, if such nonpay status is due to suspension pending investigation or outcome of employment-related court or disciplinary action.

**§ 51.1-1155. Short-term disability benefit.**

A. Except as provided in subsection B of § 51.1-1153, short-term disability benefits for participating employees shall commence upon the expiration of a seven-calendar-day waiting period. The waiting period shall commence the first day of a disability or of maternity leave. If an employee returns to work for one day or less during the seven-calendar-day waiting period but cannot continue to work, the periods worked shall not be considered to have interrupted the seven-calendar-day waiting period. Additionally, the seven-calendar-day waiting period shall not be considered to be interrupted if the employee works 20 hours or less during the waiting period. Short-term disability benefits payable as the result of a catastrophic disability or major chronic condition shall not require a waiting period.

B. Except as provided in § 51.1-1171, short-term disability coverage shall provide income replacement for (i) 60 percent of a participating employee's creditable compensation for the first 60 months of continuous participation in the program service and (ii) thereafter, a percentage of a participating employee's creditable compensation during the periods specified below, based on the number of months of continuous participation in the program service attained by an employee who is disabled, on maternity leave, or takes periodic absences due to a major chronic condition, as determined by the Board or its designee, as follows:

	Work Days of 100%	Work Days of 80%	Work Days of 60%
	Replacement	Replacement	Replacement
Months of	of Creditable	of Creditable	of Creditable
Continuous	Compensation	Compensation	Compensation
ParticipationService			
60-119	25	25	75
120-179	25	50	50
180 or more	25	75	25

C. Creditable compensation during periods an employee receives short-term disability benefits shall include salary increases awarded during the period covered by short-term disability benefits.

D. Short-term disability benefits shall be payable only during periods of (i) total disability, (ii) partial disability, (iii) maternity leave, or (iv) periodic absences due to a major chronic condition as defined by

**551** the Board or its designee.