

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 51.1-124.4, 51.1-126.4, 51.1-145, 51.1-162, 51.1-168, 51.1-169, 51.1-207, 51.1-218, 51.1-308, 51.1-1100, and 51.1-1153 of the Code of Virginia, relating to the Virginia Retirement System.

[S 813]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-124.4, 51.1-126.4, 51.1-145, 51.1-162, 51.1-168, 51.1-169, 51.1-207, 51.1-218, 51.1-308, 51.1-1100, and 51.1-1153 of the Code of Virginia are amended and reenacted as follows:

§ 51.1-124.4. Exemption of assets from taxation; exemption of benefits and assets from execution and assignment; trust funds; unclaimed property; eligible rollover distribution.

A. The assets of the retirement systems created under this title are hereby exempted from any state, county, or municipal tax. Retirement allowances and other benefits accrued or accruing to any person under this title and the assets of the retirement systems created under this title shall not be subject to execution, attachment, garnishment, or any other process whatsoever, except any process for a debt to any employer who has employed such person, and except for administrative actions pursuant to Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 or any court process to enforce a child or child and spousal support obligation, nor shall any assignment thereof, other than a voluntary, irrevocable assignment of group life insurance pursuant to § 51.1-510, be enforceable in any court. However, retirement benefits and assets created under this title which are deemed to be marital property pursuant to Chapter 6 (§ 20-89.1 et seq.) of Title 20 may be divided or transferred by the court by direct assignment to a spouse or former spouse pursuant to § 20-107.3. The assets of the retirement systems administered by the Board are trust funds and shall be used solely for the benefit of members and beneficiaries and to administer the retirement systems. The Board shall establish procedures whereby persons entitled to property held by the Board, which would be presumed abandoned under the Uniform Disposition of Unclaimed Property Act (§ 55-210.1 et seq.), may recover it.

B. Notwithstanding any provision of this chapter to the contrary that would otherwise limit a distributee's election, a distributee may elect, at the time and in the manner prescribed by the Board, to have any portion of an eligible rollover distribution paid directly to an eligible retirement plan specified by the distributee in a direct rollover. The terms "eligible rollover distribution," "eligible retirement plan" and "distributee" have the meanings prescribed by § 401(a)(31) of the Internal Revenue Code (including as such section is amended or renumbered, or any successor provision thereto) and the regulations thereunder, as may be amended. *Such terms shall include non-spouse designated beneficiaries and inherited individual retirement accounts in accordance with § 402(c)(11) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder applicable to governmental plans.* In the event of a mandatory cash-out, as that term is defined under the Internal Revenue Code and the regulations thereunder applicable to governmental plans, greater than \$1,000, if the member does not elect to have such distribution paid directly to an eligible retirement plan specified by the member in a direct rollover or to receive the distribution directly in accordance with this section, then the Board shall pay the distribution in a direct rollover to an individual retirement plan designated by the Board in accordance with subsection F of § 51.1-124.30.

C. *The provisions of this chapter and Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.) and 3 (§ 51.1-300 et seq.) are intended to meet the requirements of § 401(a) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder applicable to governmental plans.*

§ 51.1-126.4. Employees of the Virginia Port Authority.

A. The Virginia Port Authority, hereinafter referred to as the Authority, may establish one or more retirement plans covering in whole or in part its employees. The Authority is authorized to make contributions for the benefit of its employees who elect to participate in such plan or arrangement rather than in any other retirement system established by this chapter. Any such alternative retirement plan shall become effective at such time as determined by the Authority. The Authority shall notify the Virginia Retirement System of the establishment of such plan no later than ninety days prior to the effective date. Any present employee of the Authority may make an irrevocable election to participate in the retirement plan established by this chapter or any plan provided by the Authority. Such election shall be made no later than 180 days after the effective date of the plan provided for in this section on forms supplied by the Virginia Retirement System. Any employee hired on or after the effective date of the plan provided for in this section shall become a participant in that plan, subject to the eligibility criteria

57 of that plan.

58 B. No employee of the Authority who is an active member of a plan established under this section
59 shall also be an active member of the retirement system established by this chapter or a beneficiary of
60 such other plan other than as a contingent annuitant.

61 C. ~~The contribution by the Authority to any other retirement plan established on behalf of its~~
62 ~~employees as provided in subsection A shall be the contribution by the Commonwealth which would be~~
63 ~~required if the employee were a member of the retirement system established by this chapter or eight~~
64 ~~percent of creditable compensation, whichever is less.~~

65 ~~D.~~ The Authority shall develop policies and procedures for the administration of any retirement plan
66 it establishes under this section. A copy of such policies and procedures shall be filed with the Board of
67 Trustees of the Virginia Retirement System.

68 ~~E.~~ D. Pursuant to § 62.1-129.1, employees of the Authority shall be eligible to continue their
69 participation in the Virginia Retirement System or may participate in an alternative retirement plan
70 offered pursuant to this section.

71 **§ 51.1-145. Employer contributions.**

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

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

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

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

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

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

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

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

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

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

112 K. The appropriation bill which is submitted to the General Assembly by the Governor prior to each
113 regular session that begins in an even-numbered year shall include the contributions which will become
114 due and payable to the retirement allowance account from the state treasury during the following
115 biennium. The amount of the contributions shall be based on the contribution rates certified by the
116 Board pursuant to subsection I of this section that are applicable to the Commonwealth as an employer
117 and the anticipated compensation during the biennium of the members of the retirement system on

118 behalf of whom the Commonwealth is the employer.

119 K1. The General Assembly shall set contribution rates that are at least equal to the following
120 percentage of the contribution rates certified by the Board pursuant to subsection I:

121 1. For members who are state employees as defined in § 51.1-124.3 and who are participating in a
122 retirement plan established pursuant to Chapter 1 (§ 51.1-124.1 et seq.), (i) 67.02 percent for fiscal years
123 beginning July 1, 2012, and July 1, 2013, (ii) 78.02 percent for fiscal years beginning July 1, 2014, and
124 July 1, 2015, (iii) 89.01 percent for fiscal years beginning July 1, 2016, and July 1, 2017, and (iv) 100
125 percent for fiscal years beginning on or after July 1, 2018;

126 2. For members who are teachers as defined in § 51.1-124.3 and who are participating in a retirement
127 plan established pursuant to Chapter 1 (§ 51.1-124.1 et seq.), (i) 69.53 percent for fiscal years beginning
128 July 1, 2012, and July 1, 2013, (ii) 79.69 percent for fiscal years beginning July 1, 2014, and July 1,
129 2015, (iii) 89.84 percent for fiscal years beginning July 1, 2016, and July 1, 2017, and (iv) 100 percent
130 for fiscal years beginning on or after July 1, 2018;

131 3. For members participating in a retirement plan established pursuant to Chapter 2 (§ 51.1-200 et
132 seq.), (i) 75.84 percent for fiscal years beginning July 1, 2012, and July 1, 2013, (ii) 83.90 percent for
133 fiscal years beginning July 1, 2014, and July 1, 2015, (iii) 91.95 percent for fiscal years beginning July
134 1, 2016, and July 1, 2017, and (iv) 100 percent for fiscal years beginning on or after July 1, 2018;

135 4. For members participating in a retirement plan established pursuant to Chapter 2.1 (§ 51.1-211 et
136 seq.), (i) 75.82 percent for fiscal years beginning July 1, 2012, and July 1, 2013, (ii) 83.88 percent for
137 fiscal years beginning July 1, 2014, and July 1, 2015, (iii) 91.94 percent for fiscal years beginning July
138 1, 2016, and July 1, 2017, and (iv) 100 percent for fiscal years beginning on or after July 1, 2018; and

139 5. For members participating in a retirement plan established pursuant to Chapter 3 (§ 51.1-300 et
140 seq.), (i) 83.98 percent for fiscal years beginning July 1, 2012, and July 1, 2013, (ii) 89.32 percent for
141 fiscal years beginning July 1, 2014, and July 1, 2015, (iii) 94.66 percent for fiscal years beginning July
142 1, 2016, and July 1, 2017, and (iv) 100 percent for fiscal years beginning on or after July 1, 2018.

143 L. In the case of all teachers whose compensation is paid exclusively out of funds derived from local
144 revenues and appropriations from the general fund of the state treasury, the Commonwealth shall
145 contribute to the extent specified in the appropriations act. In the case of any teacher whose
146 compensation is paid out of funds derived in whole or in part from any special fund or from a
147 contributor other than the Commonwealth or a political subdivision thereof, contributions shall be paid
148 out of the special fund or by the other contributor in proportion to that part of the compensation derived
149 therefrom. In the case of all state employees whose compensation is paid exclusively by the
150 Commonwealth out of the general fund of the state treasury, the Commonwealth shall be the sole
151 contributor, and all contributions shall be paid out of the general fund. In the case of a state employee
152 whose compensation is paid in whole or in part out of any special fund or by any contributor other than
153 the Commonwealth, contributions on behalf of the employee shall be paid out of the special fund or by
154 the other contributor in proportion to that part of the employee's compensation derived therefrom. The
155 governing body of each political subdivision is hereby authorized to make appropriations from the funds
156 of the political subdivision necessary to pay its proportionate share of contributions on behalf of every
157 state employee whose compensation is paid in part by the political subdivision. In the case of each
158 person who has elected to remain a member of a local retirement system, the Commonwealth shall
159 reimburse the local employer an amount equal to the product of the compensation of the person and the
160 employer contribution rate as used to determine the employer contribution for state employees under this
161 section. Each employer shall keep such records and periodically furnish such information as the Board
162 may require and shall inform new employees of their duties and obligations in connection with the
163 retirement system.

164 M. The employer contribution rate established for each employer may include the cost to administer
165 any defined contribution plan administered by the Virginia Retirement System and available to the
166 employer. The portion of such contribution designated to cover administrative costs of the defined
167 contribution plans shall not be deposited into the trust fund established for the defined benefit plans but
168 shall be separately accounted for and used solely to defray the administrative costs associated with the
169 various defined contributions plans. This provision shall supplement the authority of the Board under
170 §§ 51.1-124.22 and 51.1-602 to charge and collect administrative fees to employers whose employees
171 have available the various defined contribution plans administered by the Virginia Retirement System.

172 N. Notwithstanding the foregoing, the total employer contribution for each employer authorized to
173 participate in the hybrid retirement program described in § 51.1-169 for any period, expressed as a
174 percentage of the employer's payroll for such period, shall be established as the contribution rate payable
175 by such employer with respect to its employees enrolled in the defined benefit plan established under
176 this chapter. The employer's contribution shall be first applied to the defined contribution component of
177 the hybrid retirement program described in § 51.1-169, and the remainder shall be deposited in the
178 employer's retirement allowance account. Institutions of higher education shall also pay contributions to

179 the employer's retirement allowance account in amounts representing the difference between the
 180 contribution rate payable with respect to employees enrolled in the defined benefit plan under this
 181 chapter and the employer contributions paid to any optional retirement plan it offers on behalf of any of
 182 its nonfaculty Covered Employees, as described in Article 6 (§ 23-38.114 et seq.) of Chapter 4.10 of
 183 Title 23. The employer contribution rate established for each employer may include the annual rate of
 184 contribution payable by such employer with respect to employees enrolled in the optional defined
 185 contribution retirement plans established under §§ 51.1-126, 51.1-126.1, 51.1-126.3, and 51.1-126.4.

186 *O. Employer contributions may be returned to the employer only as determined in accordance with*
 187 *§ 401(a) of the Internal Revenue Code, as amended or renumbered, and the regulations thereunder*
 188 *applicable to governmental plans.*

189 **§ 51.1-162. Death before retirement.**

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

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

200 First, to the spouse of the member;

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

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

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

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

208 B. ~~¶~~ *To the extent required by § 401(a)(37) of the Internal Revenue Code, as amended or*
 209 *renumbered, and the regulations thereunder applicable to governmental plans, if a member dies in*
 210 *service, including a member who is on leave without pay while performing active duty military service*
 211 *in the armed forces of the United States, and if no benefits are payable under subsection C of this*
 212 *section, a retirement allowance shall be paid to the person or persons designated as provided in*
 213 *subsection A of this section if the person is the member's (i) surviving spouse, (ii) minor child, or (iii)*
 214 *parent(s). If no designation has been made, or if the death of the designated person occurs prior to the*
 215 *death of the member and another designation has not been made, a retirement allowance shall be paid in*
 216 *the following order of precedence to the member's (a) surviving spouse, (b) minor children, or (c)*
 217 *parent(s). The retirement allowance shall be paid to the first person qualifying in the orders of*
 218 *precedence set out in this subsection. If more than one minor child survives the deceased member, the*
 219 *allowance shall be divided among them in a manner determined by the Board. If more than one parent*
 220 *survives the deceased member, the allowance shall be divided among them in a manner determined by*
 221 *the Board. The retirement allowance shall be continued during the lifetime of the person or in the case*
 222 *of a minor child until the child dies or attains the age of majority, whichever occurs first. The retirement*
 223 *allowance shall equal the deceased retirement allowance that would have been payable under the joint*
 224 *and survivor option so that the same amount would be continued to such person after the member's*
 225 *death. If the member dies prior to his fifty-fifth birthday, then, for purposes of this subsection, the*
 226 *member shall be presumed to be age 55 on his date of death. However, if the member dies in service*
 227 *prior to his sixtieth birthday and is (1) a person who becomes a member on or after July 1, 2010, (2) a*
 228 *member who does not have at least 60 months of creditable service as of January 1, 2013, or (3) a*
 229 *member of the hybrid retirement program described in § 51.1-169, then, for purposes of this subsection,*
 230 *the member shall be presumed to be age 60 on his date of death. When determining the allowance that*
 231 *would have been payable to the member had the member retired on the date of his death, the provisions*
 232 *of subdivision A 4 of § 51.1-155 shall not apply. If the person elects in writing, the amount of the*
 233 *member's accumulated contributions or lump sum payment shall be paid to him exclusively, in lieu of*
 234 *any other benefits under this section. This amount shall be reduced by the amount of any retirement*
 235 *allowance previously received by the member under this chapter.*

236 C. If a member dies in service from a cause compensable under the Virginia Workers' Compensation
 237 Act (§ 65.2-100 et seq.), a retirement allowance shall be paid to the member's surviving spouse. If no
 238 compensation is finally awarded under the Virginia Workers' Compensation Act due to legal proceedings
 239 or otherwise resulting in settlement from the persons causing such death, the Virginia Workers'

240 Compensation Commission shall determine whether the member's death was from a cause compensable
 241 under the Virginia Workers' Compensation Act. If the member leaves no surviving spouse or the
 242 surviving spouse dies, any minor children of the deceased member shall be paid an allowance until the
 243 children die or attain the age of majority, whichever occurs first. If more than one minor child survives
 244 the deceased member, the allowance shall be divided in a manner determined by the Board. If the
 245 deceased member leaves neither surviving spouse nor minor child, the allowance, divided in a manner
 246 determined by the Board, shall be paid to the member's parents during their lives.

247 The retirement allowance payable hereunder to a qualifying survivor shall be the annual amount
 248 which when added to the compensation payable under the Virginia Workers' Compensation Act for the
 249 death of the member equals 50 percent of the member's average final compensation if the survivor does
 250 not qualify for death benefits under the provisions of the Social Security Act in effect on the date of the
 251 death of the member. If the survivor qualifies for death benefits under the provisions of the Social
 252 Security Act in effect on the date of the death of the member, the allowance payable from the retirement
 253 system when added to the compensation payable under the Virginia Workers' Compensation Act shall
 254 equal thirty-three and one-third percent of the member's average final compensation.

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

259 **§ 51.1-168. Limits on creditable compensation; maximum benefits; mandatory payment of**
 260 **allowance.**

261 A. Notwithstanding any other provision of law, creditable compensation used for computing any
 262 benefit or employee contribution under or to the Retirement System shall not exceed \$200,000 (as
 263 adjusted in \$5,000 increments from time to time by the adjustment factor described in I.R.C. § 415 (d)
 264 on the basis of a base period of the calendar quarter beginning July 1, 2001). In determining average
 265 final compensation for periods beginning on or after July 1, 2001, the limit on creditable compensation
 266 applied to compensation attributable to periods prior to July 1, 2001, shall be \$200,000. Notwithstanding
 267 the foregoing, compensation for any employee who became a member of the Retirement System (i) prior
 268 to the ninetieth day after the opening date of the 1996 Session of the General Assembly, on whose
 269 behalf employee or employer contributions are made into the Retirement System, and for whom annual
 270 compensation is used for computing any benefit, shall not exceed the limit on compensation as adjusted
 271 by the Commissioner of the Internal Revenue Service pursuant to the transition provisions applicable to
 272 eligible participants under state and local governmental plans under I.R.C. § 401 (a) (17) as amended in
 273 1993 and as contained in § 13212 (d) (3) of the Omnibus Budget Reconciliation Act of 1993 (P. L.
 274 103-66).

275 B. Notwithstanding any other provision of law, the annual benefit under the Retirement System of a
 276 member and any related death or other benefit shall, if necessary, be reduced to the extent required by
 277 § 415 (b) of the Internal Revenue Code, as adjusted by the Secretary of the Treasury pursuant to § 415
 278 (d) of the Internal Revenue Code. Any adjustment pursuant to § 415 (d) of the Internal Revenue Code
 279 shall apply to all members including those who have died, retired, or otherwise terminated service with
 280 a nonforfeitable right to a retirement allowance before the effective date of such adjustment. If an
 281 employee participating in the Retirement System is also a participant in another defined benefit plan
 282 sponsored or maintained by an employer participating in the Retirement System and subject to the
 283 limitations under § 415 of the Internal Revenue Code, such employer shall apply the combined limit test
 284 required by § 415 (b) of the Internal Revenue Code to all such plans, to the extent required by § 415 of
 285 the Internal Revenue Code. Whenever a reduction in annual benefits is required to meet the annual
 286 benefit limit required by § 415 (b) of the Internal Revenue Code, the annual benefits under such
 287 employer's other plan or plans will be reduced before benefits under the Retirement System.

288 C. Any vendor for a defined benefit plan sponsored or maintained by an employer that participates in
 289 the Retirement System shall (i) request and maintain the records needed, (ii) perform the testing services
 290 required to assure compliance with the limitations described in § 415 (b) of the Internal Revenue Code,
 291 including testing required where the employer maintains or sponsors another plan that must be tested
 292 together with the Retirement System, and (iii) advise the employer of any annual benefit that exceeds
 293 the applicable limitation. If there is no vendor for these services, the employer shall (a) request and
 294 maintain the records needed, (b) perform the testing services required to assure compliance with the
 295 limitations described in § 415 (b) of the Internal Revenue Code, including testing required where the
 296 employer maintains or sponsors another plan that must be tested together with the Retirement System,
 297 and (c) reduce any annual benefit that exceeds the applicable limitation.

298 D. On and after January 1, 1989, the retirement allowance of a member who has terminated
 299 employment shall begin no later than the later of (i) April 1 of the calendar year following the calendar
 300 year that the member attains seventy and one-half years of age or (ii) April 1 of the calendar year

301 following the calendar year in which the member terminates employment. If the member fails, following
 302 reasonable notification, to elect a form of payment by such required beginning date, the retirement
 303 allowance shall be paid as a single life annuity and the spousal acknowledgement otherwise required by
 304 § 51.1-165.1 shall not be required. *Notwithstanding any other provisions of law, § 401(a)(9) of the*
 305 *Internal Revenue Code, as amended or renumbered, and the regulations thereunder applicable to*
 306 *governmental plans are incorporated by reference.*

307 **§ 51.1-169. Hybrid retirement program.**

308 A. For purposes of this section, "hybrid retirement program" or "program" means a hybrid retirement
 309 program covering any employee in a position covered for retirement purposes under the provisions of
 310 Chapter 1 (§ 51.1-124.1 et seq.) for retirement purposes other than the Virginia Retirement System
 311 defined benefit retirement plan established under Chapter 1 (§ 51.1-124.1 et seq.). Persons who are
 312 participants in, or eligible to be participants in, the retirement plans under the provisions of Chapter 2
 313 (§ 51.1-200 et seq.), Chapter 2.1 (§ 51.1-211 et seq.), the optional retirement plans established under
 314 §§ 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
 315 by § 51.1-138 shall not be eligible to participate in the hybrid retirement program. Any person who is
 316 employed as a firefighter, emergency medical technician, or law-enforcement officer as those terms are
 317 defined in § 15.2-1512.2 and whose employing political subdivision has legally adopted an irrevocable
 318 resolution as described in subdivision B 4 of § 51.1-153 and subdivision A 3 of § 51.1-155 shall not be
 319 eligible to participate in the hybrid retirement program. No member of the Judicial Retirement System
 320 under Chapter 3 (§ 51.1-300 et seq.) shall be eligible to participate in the hybrid retirement program
 321 described in § 51.1-169 except members appointed to an original term on or after January 1, 2014.

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

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

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

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

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

349 a. Upon completion of two years of active participation, 50 percent.

350 b. Upon completion of three years of active participation, 75 percent.

351 c. Upon completion of four years of active participation, 100 percent.

352 For purposes of this subdivision, "active participation" includes creditable service, as defined in
 353 § 51.1-124.3, in any retirement plan established by this title and administered by the Retirement System.

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

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

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

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

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

373 3. If an employee's voluntary contributions under subdivision C 2 are less than four percent of
 374 creditable compensation, the contribution will increase by one-half of one percent, beginning on January
 375 1, 2017, and every three years thereafter, until the employee's voluntary contributions under subdivision
 376 C 2 reach four percent of creditable compensation. The increase will be effective beginning with the
 377 first pay period that begins in such calendar year unless the employee elects not to increase the
 378 voluntary contribution in a manner prescribed by the Board.

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

381 D. 1. The amount of the service retirement allowance under the defined benefit component of the
 382 program shall be governed by § 51.1-155 for all creditable service credited prior to the effective date of
 383 the member's participation in the program. For all other creditable service, the allowance shall equal one
 384 percent of a member's average final compensation multiplied by the amount of his creditable service
 385 while in the program. For judges who are participating in the hybrid retirement program, creditable
 386 service shall be determined as provided in § 51.1-303 and service retirement eligibility shall be
 387 determined as provided in § 51.1-305.

388 2. No member shall retire for disability under the defined benefit component of the program,
 389 *provided, however, that judges who are participating in the hybrid retirement program may retire for*
 390 *disability under §§ 51.1-307 and 51.1-308.*

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

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

396 E. With respect to any employee who elects, pursuant to subsection A, to participate in the otherwise
 397 applicable defined benefit retirement plan established by this title and administered by the Virginia
 398 Retirement System, the employer shall collect and pay all employee and employer contributions to the
 399 Virginia Retirement System for retirement and group life insurance in accordance with the provisions of
 400 Chapter 1 (§ 51.1-124.1 et seq.) for such employee.

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

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

407 3. If a member of the hybrid retirement program maintained under this section is at any time in
 408 service as an employee in a position covered for retirement purposes under the provisions of Chapter 1
 409 (§ 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
 410 benefit payments under the hybrid retirement program maintained under this section shall be suspended
 411 while so employed; provided, however, reemployment shall have no effect on a payment under the
 412 defined contribution component of the program if the benefit is being paid in an annuity form under an
 413 annuity contract purchased with the member's account balance.

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

420 5. The creditable compensation for any employee on whose behalf employee or employer
 421 contributions are made into the hybrid retirement program shall not exceed the limit on compensation as
 422 adjusted by the Commissioner of the Internal Revenue Service pursuant to the transition provisions

423 applicable to eligible participants under state and local governmental plans under § 401(a)(17) of the
 424 Internal Revenue Code as amended in 1993 and as contained in § 13212(d)(3) of the Omnibus Budget
 425 Reconciliation Act of 1993 (P.L. 103-66).

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

431 **§ 51.1-207. Death before retirement.**

432 A. If a member dies before retirement, and if no benefits are payable under subsection B, the amount
 433 of his accumulated contributions shall be paid to the designated beneficiary or to a surviving relative
 434 according to the same order of precedence as set forth in subsection A of § 51.1-162. This amount shall
 435 be reduced by the amount of any retirement allowance previously received by the member under this
 436 chapter or the abolished system. Each member shall designate who is to receive a refund of accumulated
 437 contributions credited to his account in the event of the death of the member prior to retirement. The
 438 designation must be made on a form prepared by the Board, signed and filed in a manner prescribed by
 439 the Board. The designation may be changed by the member by the written designation of some other
 440 person, signed and filed in a manner prescribed by the Board.

441 If no designation has been made, or the death of the designated person occurs prior to the death of
 442 the member and another designation has not been made, the proceeds shall be paid to the persons
 443 surviving at the death of the member in the same order of precedence as set forth in subsection A of
 444 § 51.1-162.

445 B. ~~If a member dies in service, including a member who is on leave without pay while~~ *To the extent*
 446 *required by § 401(a)(37) of the Internal Revenue Code, as amended or renumbered, and the regulations*
 447 *thereunder applicable to governmental plans, if a member dies in service, including a member*
 448 *performing active duty military service in the armed forces of the United States, and if no benefits are*
 449 *payable under subsection C, a retirement allowance shall be paid to the person designated as provided in*
 450 *subsection A of this section if the person is the member's (i) surviving spouse, (ii) minor child, or (iii)*
 451 *parent(s). If no designation has been made, or if the death of the designated person occurs prior to the*
 452 *death of the member and another designation has not been made, a retirement allowance shall be paid in*
 453 *the same order of precedence as set forth in subsection B of § 51.1-162. The retirement allowance shall*
 454 *be continued during the lifetime of the person or in the case of a minor child until the child dies or*
 455 *attains the age of majority, whichever occurs first. The retirement allowance shall equal the decreased*
 456 *retirement allowance that would have been payable under the joint and survivor option so that the same*
 457 *amount would be continued to such person after the member's death. If the member dies prior to his*
 458 *fiftieth birthday, then, for purposes of this subsection, the member shall be presumed to be age 50 on*
 459 *his date of death. When determining the allowance that would have been payable to the member had the*
 460 *member retired on the date of his death, the provisions of subsection B of § 51.1-206 shall not apply. If*
 461 *the person elects in writing, the amount of the member's accumulated contributions shall be paid to the*
 462 *person exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the*
 463 *amount of any retirement allowance previously received by the member.*

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

475 The retirement allowance, payable hereunder to a qualifying survivor, shall be the annual amount
 476 which when added to the compensation payable under the Virginia Workers' Compensation Act for the
 477 death of the member, shall equal 50 percent of the member's average final compensation if the survivor
 478 does not qualify for death benefits under the provisions of the Social Security Act in effect on the date
 479 of the death of the member. If the survivor qualifies for death benefits under the provisions of the
 480 Social Security Act in effect on the date of the death of the member, the allowance payable from the
 481 retirement system when added to the compensation payable under the Virginia Workers' Compensation
 482 Act shall equal thirty-three and one-third percent of the member's average final compensation.

483 Any beneficiary entitled to the entire amount of a retirement allowance under the provisions of this

484 subsection as a result of the death of a member shall be entitled to waive his rights to the allowance by
 485 written notification to the Board within 90 days after the death of the member in order to make
 486 available a retirement allowance under the provisions of subsection B.

487 **§ 51.1-218. Death before retirement.**

488 A. If a member dies before retirement, and if no benefits are payable under subsection B, the amount
 489 of his accumulated contributions shall be paid to the designated beneficiary or to a surviving relative
 490 according to the same order of precedence as set forth in subsection A of § 51.1-162. This amount shall
 491 be reduced by the amount of any retirement allowance previously received by the member under this
 492 chapter or the abolished system. Each member shall designate who is to receive a refund of accumulated
 493 contributions credited to his account in the event of the death of the member prior to retirement. The
 494 designation must be made on a form prepared by the Board, signed by the member, and filed with the
 495 Board. The designation may be changed by the member by the written designation of some other
 496 person, signed and filed with the Board.

497 If no designation has been made, or the death of the designated person occurs prior to the death of
 498 the member and another designation has not been made, the proceeds shall be paid to the persons
 499 surviving at the death of the member in the same order of precedence as set forth in subsection A of
 500 § 51.1-162.

501 B. ~~If a member dies in service, including a member who is on leave without pay while~~ *To the extent*
 502 *required by § 401(a)(37) of the Internal Revenue Code, as amended or renumbered, and the regulations*
 503 *thereunder applicable to governmental plans, if a member dies in service, including a member*
 504 *performing active duty military service in the armed forces of the United States, and if no benefits are*
 505 *payable under subsection C, a retirement allowance shall be paid to the person designated as provided in*
 506 *subsection A of this section if the person is the member's (i) surviving spouse, (ii) minor child, or (iii)*
 507 *parent(s). If no designation has been made, or if the death of the designated person occurs prior to the*
 508 *death of the member and another designation has not been made, a retirement allowance shall be paid in*
 509 *the same order of precedence as set forth in subsection B of § 51.1-162. The retirement allowance shall*
 510 *be continued during the lifetime of the person or in the case of a minor child until the child dies or*
 511 *attains the age of majority, whichever occurs first. The retirement allowance shall equal the decreased*
 512 *retirement allowance that would have been payable under the joint and survivor option so that the same*
 513 *amount would be continued to such person after the member's death. If the member dies prior to his*
 514 *fiftieth birthday, then, for purposes of this subsection, the member shall be presumed to be age 50 on*
 515 *his date of death. When determining the allowance that would have been payable to the member had the*
 516 *member retired on the date of his death, the provisions of subsection B of § 51.1-217 shall not apply. If*
 517 *the person elects in writing, the amount of the member's accumulated contributions shall be paid to the*
 518 *person exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the*
 519 *amount of any retirement allowance previously received by the member.*

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

531 The retirement allowance, payable hereunder to a qualifying survivor, shall be the annual amount
 532 which, when added to the compensation payable under the Virginia Workers' Compensation Act for the
 533 death of the member, shall equal 50 percent of the member's average final compensation if the survivor
 534 does not qualify for death benefits under the provisions of the Social Security Act in effect on the date
 535 of the death of the member. If the survivor qualifies for death benefits under the provisions of the
 536 Social Security Act in effect on the date of the death of the member, the allowance payable from the
 537 Retirement System when added to the compensation payable under the Virginia Workers' Compensation
 538 Act shall equal thirty-three and one-third percent of the member's average final compensation.

539 Any beneficiary entitled to the entire amount of a retirement allowance under the provisions of this
 540 subsection as a result of the death of a member shall be entitled to waive his rights to the allowance by
 541 written notification to the Board within 90 days after the death of the member in order to make
 542 available a retirement allowance under the provisions of subsection B.

543 **§ 51.1-308. Disability retirement allowance.**

544 A. Allowance payable on retirement. - Upon retirement for disability, a member who has five or

545 more years of creditable service shall receive an annual retirement allowance payable during his lifetime
 546 and continued disability equal to 1.70 percent of average final compensation when multiplied by the
 547 smaller of (i) twice the amount of creditable service or (ii) the amount of creditable service he would
 548 have completed at age 60 if he had remained in service to that age. ~~Notwithstanding the foregoing~~
 549 ~~However~~, for a member appointed or elected to an original term commencing on or after January 1,
 550 2013, the allowance shall equal ~~1.65 percent of his average final compensation multiplied by the smaller~~
 551 ~~of (a) twice the amount of his creditable service or (b) the amount of creditable service he would have~~
 552 ~~completed at age 60 if he had remained in service to that age applicable percentage shall be 1.65~~
 553 ~~percent, and for a member participating in the hybrid retirement program described in § 51.1-169, the~~
 554 ~~applicable percentage shall be one percent.~~ If a member has already attained age 60, the amount of
 555 creditable service at his date of retirement shall be used.

556 In no case shall the annual retirement allowance exceed 78 percent of the average final compensation
 557 of the member.

558 B. Workers' compensation guarantee. - If a member retires for disability from a cause which is
 559 compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), the amount of the
 560 annual retirement allowance shall, subject to the provisions of subsection D, equal 66 and two-thirds
 561 percent of the member's average final compensation if the member does not qualify for primary social
 562 security benefits under the provisions of the Social Security Act in effect on the date of his retirement.
 563 If the member qualifies for primary social security benefits under the provisions of the Social Security
 564 Act in effect on the date of his retirement, the allowance payable from the retirement system shall equal
 565 50 percent of his average final compensation. A member shall be entitled to the larger of the retirement
 566 allowance as determined under the provisions of subsection A of this section or under the provisions of
 567 this subsection.

568 C. General disability retirement guarantee. - The disability retirement allowance payable to a member
 569 who immediately prior to July 1, 1970, was a member of one of the previous systems shall be at least
 570 an amount equal to the disability retirement allowance to which he would have been entitled under the
 571 provisions of the previous system.

572 D. Determination of retirement allowance. - For the purposes of this section, the retirement allowance
 573 shall be determined on the assumption that the retirement allowance is payable to the member alone and
 574 that no optional retirement allowance is elected.

575 E. Reduction of allowance. - Any allowance payable to a member who retires for disability from a
 576 cause compensable under the Virginia Workers' Compensation Act shall be reduced by the amount of
 577 any payments under the provisions of the Act in effect on the date of retirement of the member and the
 578 excess of the allowance shall be paid to such member. When the time for compensation payments under
 579 the Act has elapsed, the member shall receive the full amount of the allowance payable during his
 580 lifetime and continued disability. If the member's payments under the Virginia Workers' Compensation
 581 Act are adjusted or terminated for refusal to work or to comply with the requirements of § 65.2-603, his
 582 allowance shall be computed as if he were receiving the compensation to which he would otherwise be
 583 entitled.

584 F. Special retirement allowance guarantee. - Any member retired from a cause which is not
 585 compensable under the Virginia Workers' Compensation Act shall be guaranteed an annual retirement
 586 allowance during his lifetime and continued disability which equals 50 percent of the member's average
 587 final compensation if the member does not qualify for primary social security benefits under the
 588 provisions of the Social Security Act in effect on the date of his retirement. If the member qualifies for
 589 primary social security benefits under the provisions of the Social Security Act in effect on the date of
 590 retirement, the allowance payable from the retirement system shall equal 33 and one-third percent of his
 591 average final compensation.

592 **§ 51.1-1100. Definitions.**

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

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

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

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

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

601 "Eligible employee" means (i) a state employee as defined in § 51.1-124.3 who is a member of the
 602 retirement system, including the hybrid retirement program described in § 51.1-169; (ii) an employee as
 603 defined in § 51.1-201; (iii) an employee as defined in § 51.1-212; ~~or~~ (iv) a judge as defined in
 604 ~~§ 51.1-301~~ appointed or elected to an original term commencing on or after January 1, 2014; ~~or~~ (v) a
 605 qualifying part-time employee. Any person participating in a plan established pursuant to § 51.1-126,

606 51.1-126.1, 51.1-126.4, 51.1-126.5, 51.1-502.1, or 51.1-502.3 shall not be an eligible employee.
 607 Employees of the University of Virginia Medical Center covered under the basic insurance policies
 608 purchased by the Medical Center shall not be considered eligible employees under this chapter, unless
 609 the University of Virginia Board of Visitors, or a duly authorized agent or representative of the Board of
 610 Visitors, purchases such insurance policies from the Virginia Retirement System.

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

613 "Partial disability" exists during the first 24 months following the occurrence or commencement of an
 614 illness or injury when an employee is earning less than 80 percent of his predisability earnings and, as a
 615 result of an injury or illness, is (i) able to perform one or more, but not all, of the essential job
 616 functions of his own job on an active employment or a part-time basis; or (ii) able to perform all of the
 617 essential job functions of his own job only on a part-time basis.

618 "Participating employee" means any eligible employee required or electing to participate in the
 619 program.

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

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

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

628 "Total disability" exists (i) during the first 24 months following the occurrence or commencement of
 629 an illness or injury if an employee is unable to perform all of his essential job functions or (ii) after 24
 630 months following the occurrence or commencement of an illness or injury if an employee is unable to
 631 perform any job for which he is reasonably qualified based on his training or experience and earning
 632 less than 80 percent of his predisability earnings.

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

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

638 **§ 51.1-1153. Participation in the program.**

639 A. All eligible employees shall become participants in this program, provided, however, that the
 640 governing body of an employer may adopt a resolution on or before January 1, 2014, which shall be
 641 submitted to the Board, requesting that its eligible employees not participate in the program because the
 642 employer has or will establish, and continue to maintain, comparable disability coverage for such
 643 eligible employees. The election by the governing body of an employer not to participate in this
 644 program shall be irrevocable. The employer need not consider the provisions of § 51.1-1178 when
 645 determining the comparability of its disability coverage to this program. *As the context requires, the*
 646 *term "participating employee" includes the employees of an employer electing not to participate in the*
 647 *program under this subdivision.*

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

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

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