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## HOUSE BILL NO. 1345

Offered January 21, 2016

A *BILL to amend and reenact §§ 9.1-400, 9.1-401, 9.1-402 through 9.1-405, and 9.1-407 of the Code of Virginia, to amend the Code of Virginia by adding a section numbered 9.1-400.1 and by adding in Article 3.1 of Chapter 1 of Title 51.1 a section numbered 51.1-124.38, and to repeal § 9.1-406 of the Code of Virginia, relating to benefits for certain public employees disabled in the line of duty and their families, and for the families and beneficiaries of such employees who die in the line of duty.*

Patron—Jones

Referred to Committee on Appropriations

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

**1. That §§ 9.1-400, 9.1-401, 9.1-402 through 9.1-405, and 9.1-407 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 9.1-400.1 and by adding in Article 3.1 of Chapter 1 of Title 51.1 a section numbered 51.1-124.38 as follows:**

**§ 9.1-400. Title of chapter; definitions.**

A. This chapter shall be known and designated as the Line of Duty Act.

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

"Beneficiary" means the spouse of a deceased person and such persons as are entitled to take under the will of a deceased person if testate, or as his heirs at law if intestate.

(Effective until July 1, 2018) "Deceased person" means any individual whose death occurs on or after April 8, 1972, *in the line of duty* as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, and 65.2-402, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral part of the official safety program of such county, city, or town; a member of any fire company providing fire protection services for facilities of the Virginia National Guard; a member of the Virginia National Guard or the Virginia Defense Force while such member is serving in the Virginia National Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United States Code; any special agent of the Virginia Alcoholic Beverage Control Board; any regular or special conservation police officer who receives compensation from a county, city, or town or from the Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of Emergency Management hazardous materials officer; any other employee of the Department of Emergency Management who is performing official duties of the agency, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28; any employee of any county, city, or town performing official emergency management or emergency services duties in cooperation with the Department of Emergency Management, when those duties are related to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared by a local governing body; any nonfirefighter regional hazardous materials emergency response team member; any conservation officer of the Department of Conservation and Recreation commissioned pursuant to § 10.1-115; or any full-time sworn member of the enforcement division of the Department of Motor Vehicles appointed pursuant to § 46.2-217.

(Effective July 1, 2018) "Deceased person" means any individual whose death occurs on or after April 8, 1972, *in the line of duty* as the direct or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1, 27-40.2, 51.1-813, and 65.2-402, as a law-enforcement officer of the Commonwealth or any of its political subdivisions; a correctional officer as defined in § 53.1-1; a jail officer; a regional jail or jail farm superintendent; a sheriff, deputy sheriff, or city sergeant or deputy city sergeant of the City of Richmond; a police chaplain; a member of any fire company or department or emergency medical services agency that has been recognized by an ordinance or a resolution of the governing body of any county, city, or town of the Commonwealth as an integral

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59 part of the official safety program of such county, city, or town; a member of any fire company  
60 providing fire protection services for facilities of the Virginia National Guard; a member of the Virginia  
61 National Guard or the Virginia Defense Force while such member is serving in the Virginia National  
62 Guard or the Virginia Defense Force on official state duty or federal duty under Title 32 of the United  
63 States Code; any special agent of the Virginia Alcoholic Beverage Control Authority; any regular or  
64 special conservation police officer who receives compensation from a county, city, or town or from the  
65 Commonwealth appointed pursuant to the provisions of § 29.1-200; any commissioned forest warden  
66 appointed under the provisions of § 10.1-1135; any member or employee of the Virginia Marine  
67 Resources Commission granted the power of arrest pursuant to § 28.2-900; any Department of  
68 Emergency Management hazardous materials officer; any other employee of the Department of  
69 Emergency Management who is performing official duties of the agency, when those duties are related  
70 to a major disaster or emergency, as defined in § 44-146.16, that has been or is later declared to exist  
71 under the authority of the Governor in accordance with § 44-146.28; any employee of any county, city,  
72 or town performing official emergency management or emergency services duties in cooperation with  
73 the Department of Emergency Management, when those duties are related to a major disaster or  
74 emergency, as defined in § 44-146.16, that has been or is later declared to exist under the authority of  
75 the Governor in accordance with § 44-146.28 or a local emergency, as defined in § 44-146.16, declared  
76 by a local governing body; any nonfirefighter regional hazardous materials emergency response team  
77 member; any conservation officer of the Department of Conservation and Recreation commissioned  
78 pursuant to § 10.1-115; or any full-time sworn member of the enforcement division of the Department of  
79 Motor Vehicles appointed pursuant to § 46.2-217.

80 "Disabled person" means any individual who; *has been determined to be mentally or physically*  
81 *incapacitated so as to prevent the further performance of his duties at the time of his disability where*  
82 *such incapacity is likely to be permanent, and whose incapacity occurs in the line of duty as the direct*  
83 *or proximate result of the performance of his duty, including the presumptions under §§ 27-40.1,*  
84 *27-40.2, 51.1-813, and 65.2-402, in any position listed in the definition of deceased person in this*  
85 *section; has become mentally or physically incapacitated so as to prevent the further performance of*  
86 *duty where such incapacity is likely to be permanent. The term shall also include "Disabled person"*  
87 *does not include any individual who has been determined to be no longer disabled pursuant to*  
88 *subdivision A 2 of § 9.1-404. Disabled person also does not include any individual during any period in*  
89 *which his health insurance coverage in the LODA Health Benefits Plan is suspended pursuant to*  
90 *subdivision C 4 of § 9.1-401. "Disabled person" includes any state employee included in the definition*  
91 *of a deceased person who was disabled on or after January 1, 1966.*

92 "Eligible dependent" for purposes of continued health insurance pursuant to § 9.1-401 means the  
93 natural or adopted child or children of a deceased person or disabled person or of a deceased or  
94 disabled person's eligible spouse, including any children born as the result of a pregnancy or adopted  
95 pursuant to a preadoptive agreement, either of which occurred prior to the time of the employee's death  
96 or disability. Eligibility will continue until the end of the year in which the eligible dependent reaches  
97 age 26 or when the eligible dependent ceases to be eligible based on the Virginia Administrative Code  
98 or administrative guidance as determined by the Department of Human Resource Management.

99 "Eligible spouse" for purposes of continued health insurance pursuant to § 9.1-401 means the spouse  
100 of a deceased person or a disabled person at the time of the death or disability. Eligibility will continue  
101 until the eligible spouse dies, ceases to be married to a disabled person, or in the case of the spouse of  
102 a deceased person, dies, remarries, or otherwise ceases to be eligible based on the Virginia  
103 Administrative Code or administrative guidance as determined by the Department of Human Resource  
104 Management.

105 "Employee" means any person who would be covered or whose spouse, dependents, or beneficiaries  
106 would be covered under the benefits of this chapter if the person became a disabled person or a  
107 deceased person.

108 "Employer" means (i) the employer of a person who is a covered employee or (ii) in the case of a  
109 volunteer who is a member of any fire company or department or rescue squad described in the  
110 definition of "deceased person," the county, city, or town that by ordinance or resolution recognized  
111 such fire company or department or rescue squad as an integral part of the official safety program of  
112 such locality.

113 "Fund" means the Line of Duty Death and Health Benefits Trust Fund established pursuant to §  
114 9.1-400.1

115 "Line of duty" means any action the deceased or disabled person was obligated or authorized to  
116 perform by rule, regulation, condition of employment or service, or law.

117 "LODA Health Benefits Plan" means the separate health benefits plan established pursuant to §  
118 9.1-401.

119 "Participating employer" means any employer that is a state agency or is a political subdivision of  
120 the Commonwealth that did not make an election to become a nonparticipating employer.

"Nonparticipating employer" means any employer that is a political subdivision of the Commonwealth that elected on or before July 1, 2012, to directly fund the cost of benefits provided under this chapter and not participate in the Fund.

"VRS" means the Virginia Retirement System.

**§ 9.1-400.1. Line of Duty Death and Health Benefits Trust Fund.**

A. There is hereby established a permanent and perpetual fund to be known as the Line of Duty Death and Health Benefits Trust Fund, consisting of such moneys as may be appropriated by the General Assembly, contributions or reimbursements from participating and nonparticipating employers, gifts, bequests, endowments, or grants from the United States government or its agencies or instrumentalities, net income from the investment of moneys held in the Fund, and any other available sources of funds, public and private. Any moneys remaining in the Fund at the end of a biennium shall not revert to the general fund but shall remain in the Fund. Interest and income earned from the investment of such moneys shall remain in the Fund and be credited to it. The moneys in the Fund shall be (i) deemed separate and independent trust funds, (ii) segregated and accounted for separately from all other funds of the Commonwealth, and (iii) administered solely in the interests of the persons who are covered under the benefits provided pursuant to this chapter. Deposits to and assets of the Fund shall not be subject to the claims of creditors.

B. The Virginia Retirement System shall invest, reinvest, and manage the assets of the Fund as provided in § 51.1-124.38 and shall be reimbursed from the Fund for such activities as provided in that section.

C. The Fund shall be used to provide the benefits under this chapter related to disabled persons, deceased persons, eligible dependents, and eligible spouses on behalf of participating employers and to pay related administrative costs.

D. Each participating employer shall make annual contributions to the Fund and provide information as determined by VRS. The amount of the contribution for each participating employer shall be determined on a current disbursement basis in accordance with the provisions of this section. If any participating employer fails to remit contributions or other fees or costs associated with the Fund, VRS shall inform the State Comptroller and the affected participating employer of the delinquent amount. In calculating the delinquent amount, VRS may impose an interest rate of one percent per month of delinquency. The State Comptroller shall forthwith transfer such delinquent amount, plus interest, from any moneys otherwise distributable to such participating employer.

**§ 9.1-401. Continued health insurance coverage for employees, eligible spouses, and eligible dependents.**

A. The surviving spouse and any dependents of a deceased person Employees, eligible spouses, and eligible dependents shall be afforded continued health insurance coverage as provided in this section, the cost of which shall be paid in full out of the general fund of the state treasury by the nonparticipating employer to the Department of Human Resource Management or from the Fund on behalf of a participating employer, as applicable. If any disabled person is receiving the benefits described in this section and would otherwise qualify for the health insurance credit described in Chapter 14 (§ 51.1-1400 et seq.) of Title 51.1, the amount of such credit shall be deposited into the Line of Duty Death and Health Benefits Trust Fund or paid to the nonparticipating employer, as applicable, from the health insurance credit trust fund, in a manner prescribed by VRS.

B. If the disabled person's disability (i) occurred while in the line of duty as the direct or proximate result of the performance of his duty or (ii) was subject to the provisions of §§ 27-40.1, 27-40.2, 51.1-813 or § 65.2-402, and arose out of and in the course of his employment, the disabled person, his surviving spouse and any dependents shall be afforded continued health insurance coverage. The cost of such health insurance coverage shall be paid in full out of the general fund of the state treasury.

C. The continued health insurance coverage provided by this section shall be the same plan of benefits which the deceased or disabled person was entitled to on the last day of his active duty or comparable benefits established as a result of a replacement plan.

D. For any spouse, continued health insurance provided by this section shall terminate upon such spouse's death or coverage by alternate health insurance.

E. For dependents, 1. The continued health insurance coverage provided by this section for all disabled persons, eligible spouses, and eligible dependents shall be through a separate plan, referred to as the LODA Health Benefits Plan ("the Plan"), administered by the Department of Human Resource Management. The Plan shall comply with all applicable federal and state laws and shall be modeled upon a state employee health benefits program plan. Funding of the Plan's reserves and contingency shall be provided through a line of credit, the amount of which shall be based on an actuarially determined estimate of liabilities. The Department of Human Resource Management shall be reimbursed for health insurance premiums and all reasonable costs incurred and associated, directly and indirectly, in performing the duties pursuant to this section (i) from the Line of Duty Death and Health Benefits

182 *Trust Fund for costs related to disabled persons, deceased persons, eligible dependents, and eligible*  
183 *spouses on behalf of participating employers and (ii) from a nonparticipating employer for premiums*  
184 *and costs related to disabled persons, deceased persons, eligible dependents, and eligible spouses for*  
185 *which the nonparticipating employer is responsible. If any nonparticipating employer fails to remit such*  
186 *premiums and costs, the Department of Human Resource Management shall inform the State*  
187 *Comptroller and the affected nonparticipating employer of the delinquent amount. In calculating the*  
188 *delinquent amount, the Department of Human Resource Management may impose an interest rate of one*  
189 *percent per month of delinquency. The State Comptroller shall forthwith transfer such delinquent*  
190 *amount, plus interest, from any moneys otherwise distributable to such nonparticipating employer.*

191 2. *In the event that temporary health care insurance coverage is needed for employees, eligible*  
192 *spouses, and eligible dependents during the period of transition into the LODA Health Benefits Plan, the*  
193 *Department of Human Resource Management is authorized to acquire and provide temporary*  
194 *transitional health insurance coverage. The type and source of the transitional health plan shall be*  
195 *within the sole discretion of the Department of Human Resource Management. Transitional coverage for*  
196 *eligible dependents shall comply with the eligibility criteria of the transitional plan until enrollment in*  
197 *the LODA Health Benefits Plan can be completed.*

198 C. 1. *Except as provided in subdivision 2 and any other law, continued health insurance provided by*  
199 *this section coverage in the LODA Health Benefits Plan shall not be provided to any person terminate*  
200 *upon such dependent's death, marriage, coverage by alternate health insurance or twenty-first birthday*  
201 *who is eligible for Medicare due to age or upon that person's death.*

202 Continued health care insurance shall be provided beyond the dependent's twenty-first birthday if the  
203 dependent is a full-time college student and shall continue until such time as the dependent ceases to be  
204 a full-time student or reaches his twenty-fifth birthday, whichever occurs first. Continued health care  
205 insurance shall also be provided beyond the dependent's twenty-first birthday if the dependent is  
206 mentally or physically disabled, and such coverage shall continue until three months following the  
207 cessation of the disability.

208 2. *The provisions of subdivision 1 shall not apply to any person who is eligible for Medicare due to*  
209 *disability based on Social Security Disability Insurance or a Railroad Retirement Board Disability*  
210 *Annuity.*

211 F. *For any disabled person, continued health insurance provided by this section*

212 3. *Continued health insurance under this section shall automatically also terminate upon the disabled*  
213 *person's death, recovery or return. upon the disabled person's return to full duty in any position listed in*  
214 *the definition of deceased person in § 9.1-400. Such disabled person shall promptly notify VRS and the*  
215 *Department of Human Resource Management of his return to work.*

216 4. *Such continued health insurance shall be suspended for the year following a calendar year in*  
217 *which the disabled person has earned income in an amount equal to or greater than the salary of the*  
218 *position held by the disabled person at the time of disability, indexed annually based upon the annual*  
219 *increases in the United States Average Consumer Price Index for all items, all urban consumers*  
220 *(CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor. Such*  
221 *suspension shall cease the year following a calendar year in which the disabled person has not earned*  
222 *such amount of income. The disabled person shall notify VRS and the Department of Human Resource*  
223 *Management no later than January 15 the year following any year in which he earns income of such*  
224 *amount, and notify VRS and Department of Human Resource Management when he no longer is earning*  
225 *such amount. Upon request, a disabled person shall provide VRS and the Department of Human*  
226 *Resource Management with documentation of earned income.*

227 **§ 9.1-402. Payments to beneficiaries of certain deceased law-enforcement officers, firefighters,**  
228 **etc., and retirees.**

229 A. *The beneficiary of a deceased person whose death occurred on or before December 31, 2005,*  
230 *while in the line of duty as the direct or proximate result of the performance of his duty shall be*  
231 *entitled to receive the sum of \$75,000, which shall be payable out of the general fund of the state*  
232 *treasury, paid by the nonparticipating employer or from the Fund on behalf of a participating employer,*  
233 *as applicable, in gratitude for and in recognition of his sacrifice on behalf of the people of the*  
234 *Commonwealth.*

235 B. *The beneficiary of a deceased person whose death occurred on or after January 1, 2006, while in*  
236 *the line of duty as the direct or proximate result of the performance of his duty shall be entitled to*  
237 *receive the sum of \$100,000, which shall be payable out of the general fund of the state treasury, paid*  
238 *by the nonparticipating employer or from the Fund on behalf of a participating employer, as applicable,*  
239 *in gratitude for and in recognition of his sacrifice on behalf of the people of the Commonwealth.*

240 C. *Subject to the provisions of §§ § 27-40.1, 27-40.2, 51.1-813, or § 65.2-402, if the deceased*  
241 *person's death (i) arose out of and in the course of his employment or (ii) was within five years from*  
242 *his date of retirement, his beneficiary shall be entitled to receive the sum of \$25,000, which shall be*  
243 *payable out of the general fund of the state treasury paid by the nonparticipating employer or from the*

*Fund on behalf of a participating employer, as applicable.*

**§ 9.1-402.1. Payments for burial expenses.**

It is the intent of the General Assembly that expeditious payments for burial expenses be made for deceased persons whose death is determined to be a direct and proximate result of their performance in the line of duty as defined by the Line of Duty Act. ~~The State Comptroller is hereby authorized to release,~~ *Upon the approval of VRS,* at the request of the family of a person who may be subject to the line of duty death benefits, payments *shall be made* to a funeral service provider for burial and transportation costs *by the nonparticipating employer or from the Fund on behalf of a participating employer, as applicable.* These payments would be advanced from the death benefit that would be due to the beneficiary of the deceased person if it is determined that the person qualifies for line of duty coverage. Expenses advanced under this provision shall not exceed the coverage amounts outlined in § 65.2-512. In the event a determination is made that the death is not subject to the line of duty benefits, ~~the Virginia Retirement System VRS or other Virginia governmental retirement fund to of~~ which the deceased is a member will deduct from benefit payments otherwise due to be paid to the beneficiaries of the deceased payments previously paid ~~by the State Comptroller~~ for burial and related transportation expenses and return such funds to the ~~State Comptroller~~ *nonparticipating employer or to the Fund on behalf of a participating employer, as applicable.* The ~~State Comptroller~~ *Virginia Retirement System* shall have the right to file a claim with the Virginia Workers' Compensation Commission against any employer to recover burial and related transportation expenses advanced under this provision.

**§ 9.1-403. Claim for payment; costs.**

A. Every beneficiary, disabled person or his spouse, or dependent of a deceased or disabled person shall present his claim to the chief officer, or his designee, of the ~~appropriate division or department that last employed the deceased or disabled person~~ *employer for which the disabled or deceased person last worked* on forms to be provided by the ~~State Comptroller's office~~ *VRS.* *Upon receipt of a claim, the chief officer or his designee shall forward the claim to VRS within seven days.* The Virginia Retirement System shall determine eligibility for benefits under this chapter. The Virginia Retirement System may request assistance in obtaining information necessary to make an eligibility determination from the Department of State Police. The Department of State Police shall take action to conduct the investigation as expeditiously as possible. The Department of State Police shall be reimbursed from the Fund or the nonparticipating employer, as applicable, for the cost of searching for and obtaining information requested by VRS. The Virginia Retirement System shall be reimbursed for the reasonable costs incurred for making eligibility determinations by nonparticipating employers or from the Fund on behalf of participating employers, as applicable. If any nonparticipating employer fails to reimburse VRS for reasonable costs incurred in making an eligibility determination, VRS shall inform the State Comptroller and the affected nonparticipating employer of the delinquent amount. In calculating the delinquent amount, VRS may impose an interest rate of one percent per month of delinquency. The State Comptroller shall forthwith transfer such delinquent amount, plus interest, from any moneys otherwise distributable to such nonparticipating employer.

B. In the case of a police department or a sheriff's office that is part of or administered by the Commonwealth or any political subdivision thereof, the chief officer, or his designee, of such department or office shall investigate and report upon the circumstances surrounding the deceased or disabled person and report his findings to the Comptroller within 10 business days after completion of the investigation. The Comptroller, the Attorney General, or any such chief officer, in his discretion, may submit a request to the Superintendent of the Department of State Police to perform the investigation pursuant to subsection C.

C. In all other cases, upon receipt of the claim the chief officer, or his designee, of the appropriate division or department shall submit a request to the Superintendent of the Department of the State Police, who shall investigate and report upon the circumstances surrounding the deceased or disabled person, calling upon the additional information and services of any other appropriate agents or agencies of the Commonwealth. The Superintendent, or his designee, shall report his findings to the Comptroller within 10 business days after completion of the investigation. The Department of State Police shall take action to conduct the investigation as expeditiously as possible. The Department shall be reimbursed for the cost of investigations conducted pursuant to this section from the appropriate employer that last employed the deceased or disabled employee.

D. 1. Within 10 business days of being notified by an employee, or an employee's representative, that such employee is permanently and totally disabled due to a work-related injury suffered in the line of duty, the agency or department employing the ~~disabled person~~ *employee* shall provide him with information about the continued health insurance coverage provided under this act *chapter* and the process for initiating a claim. The employer shall assist in filing a claim, unless such assistance is waived by the employee or the employee's representative.

2. Within 10 business days of having knowledge that a deceased person's surviving spouse, dependents, or beneficiaries may be entitled to benefits under this chapter, the employer for which the deceased person last worked shall provide the surviving spouse, dependents, or beneficiaries, as applicable, with information about the benefits provided under this chapter and the process for initiating a claim. The employer shall assist in filing a claim, unless such assistance is waived by the surviving spouse, dependents, or beneficiaries.

C. Within 30 days of receiving a claim pursuant to subsection A, an employer may submit to VRS any evidence that could assist in determining the eligibility of a claim. VRS shall include any such evidence in the agency record for the claim.

#### **§ 9.1-404. Order of the Virginia Retirement System.**

A. 1. The Virginia Retirement System shall make an eligibility determination within 45 days of receiving all necessary information for determining eligibility for a claim filed under § 9.1-403. If it appears to the Comptroller that the requirements of either subsection A or B of § 9.1-402 have been satisfied, he shall issue his warrant in the appropriate amount for payment out of the general fund of the state treasury to the surviving spouse or to such persons and subject to such conditions as may be proper in his administrative discretion, and in the event there is no beneficiary, the Comptroller shall issue the payment to the estate of the deceased person. The Comptroller shall issue a decision, and payment, if appropriate, shall be made no later than forty-five days following receipt of the report required under § 9.1-403. If benefits under this chapter are due, VRS shall notify the nonparticipating employer, which shall provide the benefits within 15 days of such notice, or VRS shall pay the benefits from the Fund on behalf of the participating employer within 15 days of the determination, as applicable. The payments shall be retroactive to the first date that the disabled person was no longer eligible for health insurance coverage subsidized by his employer.

2. Two years after an individual has been determined to be a disabled person, VRS may require the disabled person to renew the determination through a process established by VRS. If a disabled person refuses to submit to the determination renewal process described in this subdivision, then benefits under this chapter shall cease for the individual, any eligible dependents, and an eligible spouse until the individual complies. If such individual does not comply within six months from the date of the initial request for a renewed determination, then benefits under this chapter shall permanently cease for the individual, any eligible dependents, and an eligible spouse. If VRS issues a renewed determination that an individual is no longer a disabled person, then benefits under this chapter shall permanently cease for the individual, any eligible dependents, and an eligible spouse. If VRS issues a renewed determination that an individual remains a disabled person, then VRS may require the disabled person to renew the determination five years after such renewed determination through a process established by VRS. The Virginia Retirement System may require the disabled person to renew the determination at any time if VRS has information indicating that the person may no longer be disabled.

B. If it appears to the Comptroller that the requirements of either subsection A or B of § 9.1-401 have been satisfied, he shall issue his warrants in the appropriate amounts for payment from the general fund of the state treasury to ensure continued health care coverage for the persons designated under § 9.1-401. The Comptroller shall issue a decision, and payments, if appropriate, shall commence no later than forty-five days following receipt of the report required under § 9.1-403. The payments shall be retroactive to the first date that the disability existed. The Virginia Retirement System shall be reimbursed for all reasonable costs incurred and associated, directly and indirectly, in performing the duties pursuant to this chapter (i) from the Line of Duty Death and Health Benefits Trust Fund for costs related to disabled persons, deceased persons, eligible dependents, and eligible spouses on behalf of participating employers and (ii) from a nonparticipating employer for premiums and costs related to disabled persons, deceased persons, eligible dependents, and eligible spouses for which the nonparticipating employer is responsible.

C. The Virginia Retirement System may develop policies and procedures necessary to carry out the provisions of this chapter.

#### **§ 9.1-405. Appeal from decision of Virginia Retirement System.**

Any beneficiary, disabled person or his eligible spouse or eligible dependent of a deceased or disabled person aggrieved by the decision of the Comptroller shall present a petition to the court in which the will of the deceased person is probated or in which the personal representative of the deceased person is qualified or might qualify or in the jurisdiction in which the disabled person resides. VRS may appeal the decision through a process established by VRS. Any such process may utilize a medical board described in § 51.1-124.23. An employer may submit information related to the claim and may participate in any informal fact-finding proceeding that is included in such process established by VRS. Upon completion of the appeal process, the final determination issued by VRS shall constitute a case decision as defined in § 2.2-4001. Any beneficiary, disabled person, or eligible spouse or eligible dependent of a deceased or disabled person aggrieved by, and claiming the unlawfulness of, such case decision shall have a right to seek judicial review thereof in accordance with Article 5 (§ 2.2-4025 et

seq.) of the Administrative Process Act. The employer shall not have a right to seek such judicial review.

The Commonwealth shall be represented in such proceeding by the Attorney General or his designee. The court shall proceed as chancellor without a jury. If it appears to the court that the requirements of this chapter have been satisfied, the judge shall enter an order to that effect. The order shall also direct the Comptroller to issue his warrant in the appropriate amount for the payment out of the general fund of the state treasury to such persons and subject to such conditions as may be proper. If, in the case of a deceased person, there is no beneficiary, the judge shall direct such payment as is due under § 9.1-402 to the estate of the deceased person.

**§ 9.1-407. Training.**

Any law-enforcement or public safety officer entitled to benefits under this Chapter chapter shall receive training within 30 days of his employment, and again every two years thereafter, concerning the benefits available to himself or his beneficiary in case of disability or death in the line of duty. The Secretary of Public Safety and Homeland Security shall develop training information to be distributed to agencies and localities with employees subject to this chapter. The agency or locality shall be responsible for providing the training. Such training shall not count towards toward in-service training requirements for law-enforcement officers pursuant to § 9.1-102 and shall include, but not be limited to, the general rules for intestate succession described in § 64.2-200 that may be applicable to the distribution of benefits provided under § 9.1-402.

**§ 51.1-124.38. Investment of assets of the Line of Duty Death and Health Benefits Trust Fund.**

A. In addition to such other powers as shall be vested in the Board, the Board shall have the full power to invest, reinvest, and manage the assets of the Line of Duty Death and Health Benefits Trust Fund (the Fund) established pursuant to § 9.1-400.1. The Board shall maintain a separate accounting for the assets of the Fund.

B. The Board shall invest the assets of the Fund with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. The Board shall also diversify such investments so as to minimize the risk of large losses unless under the circumstances it is clearly prudent not to do so.

C. No officer, director, or member of the Board or of any advisory committee of the Retirement System or any of its tax-exempt subsidiary corporations whose actions are within the standard of care in subsection B shall be held personally liable for losses suffered by the Retirement System on investments made under the authority of this section.

D. The provisions of §§ 51.1-124.32 through 51.1-124.35 shall apply to the Board's activities with respect to moneys in the Fund.

E. The Board may assess the Fund a reasonable administrative fee for its services.

2. That § 9.1-406 of the Code of Virginia is repealed.

3. That the provisions of this act shall become effective on July 1, 2017.