

LD1514633

SENATE BILL NO. 238

Offered January 24, 1994

A *BILL to amend and reenact §§ 2.1-20.1:2, 2.1-20.1:3, 2.1-20.1:4, and 15.1-7.3 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 2.1-20.1:03 and 2.1-20.1:04, relating to health insurance coverage.*

Patrons—Colgan, Robb and Stosch

Referred to the Committee on General Laws

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-20.1:2, 2.1-20.1:3, 2.1-20.1:4, and 15.1-7.3 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 2.1-20.1:03 and 2.1-20.1:04 as follows:

§ 2.1-20.1:03. *Purchase of continued health insurance coverage by a state employee, a local government employee, a local officer, or a teacher who becomes permanently and totally incapacitated while in the course of employment.*

A. A "state employee" as defined in § 2.1-20.1 or a "local government employee," a "local officer," or a "teacher" as defined in § 2.1-20.1:02 who is injured as defined in § 65.2-101 by accident while in the course of employment or by occupational disease as defined in § 65.2-400 shall be entitled, upon proper application to the Department of Personnel and Training, to purchase continued health insurance coverage on the following conditions: (i) on the date of the injury, the injured participated in a health insurance plan administered by the Department of Personnel and Training pursuant to § 2.1-20.1 or § 2.1-20.1:02; (ii) the injury occurred while in the course of employment as the direct or proximate result of the performance of his duty as a state employee, a local government employee, a local officer, or a teacher; and (iii) the injury resulted in permanent and total incapacity as defined in subsection C of § 65.2-503.

B. If the provisions of subsection A apply, the injured shall also be entitled to purchase continuing coverage hereunder for his spouse and any dependents who were included in condition (i) of subsection A on the date of injury.

C. Any application to purchase continued health insurance coverage hereunder shall be made in writing to the Department of Personnel and Training within sixty days of the date of injury. The time for making application may be extended by the Department for good cause shown.

1. In addition to any necessary information requested by the Department, the application shall state whether conditions (i), (ii), and (iii) set forth in subsection A have been met.

2. Within ten days of receipt of the application, the Department shall notify the applicant's employer that such application was made.

3. Within ten days of receipt of the application notice, the employer shall verify in writing to the Department whether the conditions set forth in subsection A have been met.

4. If the employer states that such conditions have been met, the Department shall approve the application and so notify the applicant within ten days of receipt of the employer's response.

5. If the employer states such conditions have not been met, the Department shall schedule, within thirty days of receipt of the employer's response, an informal fact-finding conference or consultation with the applicant and the employer pursuant to § 9-6.14:11 of the Administrative Process Act.

6. Upon scheduling the conference or consultation, the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.) shall apply thereafter.

D. The employer may pay all or a portion of the cost of continued health insurance coverage hereunder. Upon payment of any required premiums, coverage shall be effective retroactive to the date of injury.

E. The terms, conditions, and costs of continued health insurance coverage purchased hereunder shall be subject to administration by the Department of Personnel and Training. The Department may increase the cost of coverage consistent with its administration of health insurance plans under § 2.1-20.1 or § 2.1-20.1:02.

F. Any continued health insurance coverage purchased hereunder shall automatically terminate upon occurrence of any one of the following: (i) death of the injured (unless § 2.1-20.1:04 applies); (ii) alternate health insurance coverage being obtained; or (iii) any applicable condition outlined in the policies and procedures of the Department of Personnel and Training governing health insurance plans administered pursuant to § 2.1-20.1 or § 2.1-20.1:02.

G. The provisions of this section shall apply to the governing body of every county, city, or town that

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60 provides insurance for its employees and retired employees pursuant to § 15.1-7.3.

61 § 2.1-20.1:04. Purchase of continued health insurance coverage by the surviving spouse and any
62 dependents of a state employee, a local government employee, or a teacher who dies while in the course
63 of employment.

64 A. The surviving spouse and any dependents of a "state employee" as defined in § 2.1-20.1 or a
65 "local government employee," a "local officer," or a "teacher" as defined in § 2.1-20.1:02 shall be
66 entitled, upon proper application to the Department of Personnel and Training, to purchase continued
67 health insurance coverage on the following conditions: (i) on the date of his death, the deceased
68 participated in a health insurance plan administered by the Department of Personnel and Training
69 pursuant to § 2.1-20.1 or § 2.1-20.1:02; (ii) on the date of the deceased's death, the applicants were
70 included in the health insurance plan in condition (i); and (iii) the deceased's death occurred while in
71 the course of employment as the direct or proximate result of the performance of his duty as a state
72 employee, a local government employee, a local officer, or a teacher. Such death caused by
73 hypertension or heart disease shall be deemed the direct or proximate result of the performance of his
74 duty unless such presumption is overcome by a preponderance of evidence to the contrary.

75 B. Any application to purchase continued health insurance coverage hereunder shall be made in
76 writing to the Department of Personnel and Training within sixty days of the date of the deceased's
77 death. The time for making application may be extended by the Department for good cause shown.

78 1. In addition to any necessary information requested by the Department, the application shall state
79 whether conditions (i), (ii), and (iii) set forth in subsection A have been met.

80 2. Within ten days of receipt of the application, the Department shall notify the deceased's employer
81 that such application was made.

82 3. Within ten days of receipt of the application notice, the employer shall verify in writing to the
83 Department whether the conditions set forth in subsection A have been met.

84 4. If the employer states that such conditions have been met, the Department shall approve the
85 application and so notify the applicant within ten days of receipt of the employer's response.

86 5. If the employer states that such conditions have not been met, the Department shall schedule,
87 within thirty days of receipt of the employer's response, an informal fact-finding conference or
88 consultation with the applicant and the employer pursuant to § 9-6.14:11 of the Administrative Process
89 Act.

90 6. Upon scheduling the conference or consultation, the provisions of the Administrative Process Act
91 (§ 9-6.14:1 et seq.) shall apply thereafter.

92 C. The employer may pay all or a portion of the cost of continued health insurance coverage
93 hereunder. Upon payment of any required premiums, coverage shall be effective retroactive to the date
94 of the deceased's death.

95 D. The terms, conditions, and costs of continued health insurance coverage purchased hereunder
96 shall be subject to administration by the Department of Personnel and Training. The Department may
97 increase the cost of coverage consistent with its administration of health insurance plans under
98 § 2.1-20.1 or § 2.1-20.1:02.

99 E. For the surviving spouse, continued health insurance coverage purchased hereunder shall
100 automatically terminate upon occurrence of any of the following: (i) death, (ii) remarriage, (iii)
101 alternate health insurance coverage being obtained, or (iv) any applicable condition outlined in the
102 policies and procedures of the Department of Personnel and Training governing health insurance plans
103 administered pursuant to § 2.1-20.1 or § 2.1-20.1:02.

104 F. For any surviving dependents, continued health insurance coverage purchased hereunder shall
105 automatically terminate upon occurrence of any of the following: (i) death; (ii) marriage; (iii) alternate
106 health insurance coverage being obtained; (iv) attaining the age of twenty-one, unless the dependent is a
107 full-time college student, then age twenty-five; or (v) any applicable condition outlined in the policies
108 and procedures of the Department of Personnel and Training governing health insurance plans
109 administered pursuant to § 2.1-20.1 or § 2.1-20.1:02.

110 G. The provisions of this section shall apply to the governing body of every county, city, or town that
111 provides insurance for its employees and retired employees pursuant to § 15.1-7.3.

112 § 2.1-20.1:2. (Effective July 1, 1994) Health insurance credits for retired state employees.

113 A. The Commonwealth shall pay the cost of coverage for state employees retired under the Virginia
114 Retirement System, State Police Officers Retirement System, Judicial Retirement System or any
115 retirement system authorized pursuant to § 51.1-126 who (i) served no less than fifteen years of
116 creditable service as regularly employed full-time employees of the Commonwealth or (ii) rendered
117 service as a temporary employee of the General Assembly in 1972 and became a member of the
118 retirement system from 1972 to 1985 immediately following such temporary service. An amount of two
119 dollars and fifty cents per year of creditable service not to exceed a maximum monthly allowance of
120 seventy-five dollars shall be credited monthly to any retired state employee participating in the state
121 health plan established by § 2.1-20.1 or a personal health insurance plan as provided herein. However,

such credit shall not exceed the health insurance premium for retiree-only coverage as provided under such personal health insurance plan.

B. Any retired state employee retired under the provisions of §§ 51.1-156 and , § 51.1-209, or § 51.1-307, shall receive the maximum credit provided by this section. In addition, the portion of the health insurance premium paid by any retired state employee who retired under the provisions of § 51.1-156, § 51.1-209, or § 51.1-307 due to injury as defined in § 65.2-101 by accident in the course of employment or by occupational disease as defined in § 65.2-400 shall be subject to increase only to the extent consistent with the health insurance plan administered by the Department of Personnel and Training pursuant to § 2.1-20.1.

BC. 1. For those retired state employees participating in the state health plan, such credit shall be applied to the monthly premium deducted from benefits payable to retired state employees in accordance with Chapters 1 (§ 51.1-100 et seq.), 2 (§ 51.1-200 et seq.) and 3 (§ 51.1-300 et seq.) of Title 51.1. In the event that either no benefit is payable or the benefit payable is insufficient to deduct the entire health care premium, the Virginia Retirement System shall transfer funds in an amount equivalent to the credits that would otherwise have been payable to the Department of Personnel and Training.

2. For those retired state employees electing not to participate in the state health plan and who purchase an alternative personal health insurance policy from a carrier or organization of his own choosing, such retirees shall be eligible to receive a reimbursement equal to the credit in the amount specified in subdivision **BC 3**. Such reimbursement, not to exceed the actual premium paid, and reduced by the administrative charge for processing the reimbursement, shall be paid upon presentation of documentation satisfactory to the Department of Personnel and Training that the premium for such personal health insurance policy has been paid. Eligibility for reimbursement under this provision shall be determined in a manner prescribed by the Department of Personnel and Training. The retired state employee's election to participate shall be deemed continuing and automatically renewed unless such retiree affirmatively revokes, in writing, his participation. Subject to the limitations of subdivision **BC 3**, the reimbursement amount shall increase or decrease, in like amount, if the retiree's private health insurance policy premium increases or decreases.

3. The reimbursement shall be in the amount of the credit provided in subsection A or the amount of premium paid for the personal health insurance policy, whichever is less.

4. A retired state employee who fails to elect to participate in the state health plan within thirty-one days of the effective date of retirement, or who, once having elected to participate, discontinues participation, is barred from participating in the state health plan thereafter.

CD. The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided by this section and shall reflect the cost of such credits in the employer contribution rate pursuant to § 51.1-145.

§ 2.1-20.1:3. Health insurance credits for retired teachers.

A. A teacher, as defined in § 51.1-101, retired under the Virginia Retirement System who rendered at least fifteen years of total creditable service under the System shall receive a health insurance credit to his monthly retirement allowance, which shall be applied to reduce the retired member's health insurance premium cost, provided the retiree's employer elects to participate in the credit program and sponsors a health insurance plan for its employees and the employee elects to participate in that employer-sponsored plan. The amount of each monthly health insurance credit payable under this section shall be one dollar and fifty cents for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of forty-five dollars; ~~however, each former~~.

B. Each member whose retirement was for disability shall receive a monthly health insurance credit of forty-five dollars. In addition, the portion of the health insurance premium paid by any retired teacher who retired under the provisions of § 51.1-156 or a disability retirement plan provided by a locality pursuant to § 51.1-800 due to injury as defined in § 65.2-101 by accident while in the course of employment or by occupational disease as defined in § 65.2-400 shall be subject to increase only to the extent consistent with the health insurance plan administered by the Department of Personnel and Training pursuant to § 2.1-20.1:02.

BC. Each monthly health insurance credit payable under this section shall be paid by the Commonwealth and the employer based on the composite index established in the general appropriation act.

CD. The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided under this section and shall reflect the cost of such credits in the applicable employer contribution rate pursuant to § 51.1-145.

DE. Employers who elect to participate in the program by offering an employer-sponsored health insurance plan shall notify the Virginia Retirement System and the Virginia Department of Education at least twelve months prior to the date they elect to commence participation in the program. The effective date of the employer's participation shall correspond with the beginning of the Commonwealth's fiscal

183 year.

184 § 2.1-20.1:4. Health insurance credits for local government employees.

185 A. Retired local government employees, whose localities have elected to participate in the Virginia
186 Retirement System, who have rendered at least fifteen years of total creditable service under the System
187 shall receive a health insurance credit to his monthly retirement allowance, which shall be applied to
188 reduce the retired member's health insurance premium cost, provided the retiree's employer elects to
189 participate in the credit program and sponsors a health insurance plan for its employees and the
190 employee elects to participate in that employer-sponsored plan. The amount of each monthly health
191 insurance credit payable under this section shall be one dollar and fifty cents for each full year of the
192 retired member's creditable service, not to exceed a maximum monthly credit of forty-five dollars;
193 ~~however, each former.~~

194 B. *Each member whose retirement was for disability shall receive a monthly health insurance credit*
195 *of forty-five dollars. In addition, the portion of the health insurance premium paid by any retired local*
196 *government employee or local officer who retired under the provisions of § 51.1-156, § 51.1-209 or*
197 *§ 51.1-813, or a disability retirement plan provided by a locality pursuant to § 51.1-800 due to injury as*
198 *defined in § 65.2-101 by accident while in the course of employment or by occupational disease as*
199 *defined in § 65.2-400 shall be subject to increase only to the extent consistent with the health insurance*
200 *plan administered by the Department of Personnel and Training pursuant to § 2.1-20.1:02.*

201 BC. The monthly health insurance credit payable under this section shall be paid by the locality.

202 CD. The Virginia Retirement System shall actuarially determine the amount necessary to fund all
203 credits provided under this section and shall reflect the cost of such credits in the applicable employer
204 contribution rate.

205 DE. Employers who elect to participate in the program by offering an employer-sponsored health
206 insurance plan shall notify the Virginia Retirement System at least twelve months prior to the date such
207 employers elect to commence participation in the program. The effective date of the employer's
208 participation shall correspond with the beginning of the Commonwealth's fiscal year.

209 § 15.1-7.3. Insurance for employees, retired employees, and disability retirees of local governments
210 and other local governmental entities.

211 A. The governing body of every county, city, or town may provide for their officers and employees,
212 and employees of boards, commissions, agencies and authorities created by or controlled by such
213 county, city or town, group life, accident, and health insurance programs. Such programs may be
214 through a program of self-insurance, purchased insurance, or partial self-insurance and purchased
215 insurance, whichever is determined to be the most cost effective. The total cost of such policies or
216 protection may be paid entirely by the local government or shared with the employee.

217 B. The governing body of every county, city, and town may provide for its retired officers and
218 retired employees to be eligible for such group life, accident, and health insurance programs. The cost of
219 such insurance for retired officers and retired employees may be paid in whole or in part by the locality.

220 C. In the event a county or city elects to provide one or more of such programs for its officers and
221 employees, it shall provide such programs to the constitutional officers and their employees on the same
222 basis as provided to other officers and employees, unless the constitutional officers and employees are
223 covered under a state program, and the cost of such local program shall be borne entirely by the locality
224 or shared with the employee.

225 D. Except as otherwise provided herein, in the event the governing body of any county, city or town
226 elects to provide group accident and health insurance for its officers and employees, including
227 constitutional officers and their employees, such programs shall require that upon retirement, or upon the
228 effective date of this provision for those who have previously retired, any such individual with (i) at
229 least fifteen years of continuous employment with the county, city, or town; or (ii) less than fifteen
230 years of continuous employment who has retired due to line-of-duty injuries may choose to continue his
231 coverage with the insurer at the retiree's expense until such individual attains sixty-five years of age at
232 the insurer's customary premium rate applicable to: (i) ~~to~~ such policies, (ii) ~~to~~ the class of risk to which
233 the person then belongs, and (iii) ~~to~~ his age.

234 E. The governing body, when providing this coverage, may further provide that the retiree be rated
235 separately from the active employees covered under the group plan offered by such governing body. The
236 provisions of the preceding paragraph shall not apply in any jurisdiction with a population of less than
237 30,000 which has made a written determination, following bona fide attempts to obtain such coverage
238 for retirees, that (i) such coverage is not commercially available for retirees as a separately rated group
239 or class and (ii) inclusion of retirees in the group or class of active employees would have the effect of
240 materially increasing premium rates applicable to the group or class of active employees.

241 F. *The governing body, when providing this coverage, shall increase the portion of the health*
242 *insurance premium paid by any retired officer or employee who retired under the provisions of*
243 *§ 51.1-156, § 51.1-209 or § 51.1-813, or a disability retirement plan provided by a locality pursuant to*
244 *§ 51.1-800 due to injury as defined in § 65.2-101 by accident while in the course of employment or by*

245 *occupational disease as defined in § 65.2-400 only to the extent consistent with health insurance*
246 *coverage under subsection B of this section.*

247 *G. The governing body, when providing this coverage, shall also provide for the purchase of*
248 *continued coverage hereunder consistent with the provisions of (i) § 2.1-20.1:03, for a local employee or*
249 *officer who becomes permanently and totally incapacitated while in the course of employment and (ii)*
250 *§ 2.1-20.1:04, for the surviving spouse and any dependents of a local employee or officer who dies*
251 *while in the course of employment.*

252 *I. Nothing herein shall prohibit a local governing body from providing group accident and health*
253 *coverage or benefits for its retirees in addition to that which is required under this section.*

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