

# VIRGINIA ACTS OF ASSEMBLY -- 1999 SESSION

## CHAPTER 111

*An Act to amend and reenact §§ 51.1-126.5, 51.1-153, 51.1-155, 51.1-162, 51.1-165, 51.1-205, 51.1-207, 51.1-308, and 51.1-505 of the Code of Virginia, relating to the Virginia Retirement System.*

[H 1612]

Approved March 16, 1999

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

**1. That §§ 51.1-126.5, 51.1-153, 51.1-155, 51.1-162, 51.1-165, 51.1-205, 51.1-207, 51.1-308, and 51.1-505 of the Code of Virginia are amended and reenacted as follows:**

§ 51.1-126.5. Defined contribution plan for eligible members.

A. As used in this section, unless the context requires otherwise:

"Eligible member" means a member who holds an eligible position.

"Eligible position" means a position designated in subdivision 3, 4, or 21 of § 2.1-116 or an officer or employee appointed by the Attorney General or Lieutenant Governor to a position designated as a deputy, counsel or director position.

"Participating member" means an eligible member who elects to participate in the plan.

"Plan" means the defined contribution plan established pursuant to this section.

B. The Board shall establish a plan covering any eligible member who elects to participate in the plan. The plan shall be in lieu of the service retirement allowance provided by the retirement system under § 51.1-155. Participating members shall be deemed to be members of the retirement system to the extent consistent with the provisions of this section.

C. Any person who is an eligible member on July 1, 1998, shall elect, by August 1, 1998, to participate in either (i) the retirement system or (ii) the plan. Any person who becomes an eligible member after July 1, 1998, shall elect upon accepting an eligible position to participate in either (i) the retirement system or (ii) the plan. Such election shall be made in accordance with guidelines established by the Virginia Retirement System.

D. After ten years of service in an eligible position, or within ninety days after ceasing to be employed in an eligible position, a participating member may make a one-time, irrevocable election to transfer to the retirement system. Upon making such election, any accrued contributions and earnings in his defined contribution account shall be used to purchase service credit in the retirement system as provided in subsection F G. A participating member who elects to transfer from the plan to the retirement system while serving in an eligible position shall thereafter be ineligible to participate in the plan.

E. After ten years of service in an eligible position, or within ninety days after ceasing to be employed in an eligible position, A participating member who has not previously elected to transfer to the retirement system pursuant to subsection D shall elect to:

1. Maintain the accrued contributions and earnings in his defined contribution account; or
2. Use the accrued contributions and earnings in his defined contribution account to purchase service credit in the retirement system as provided in subsection F G; or.

3. F. Within ninety days after termination of employment, a participating member may withdraw the accrued contributions and earnings from his defined contribution account, subject to applicable state and federal law and regulation.

F. G. Upon an election (i) under subsection D by a participating employee (i) transferring to the retirement system or (ii) under subdivision E 2 by a participating employee ceasing to be employed in an eligible position, the accrued contributions and earnings in such electing person's defined contribution account shall be used to purchase service credit in the retirement system at a rate to be established by the Board. Such rate shall cover the actuarial cost of providing the creditable service. In no event shall the amount of service credit purchased in the retirement system exceed the time that was served in an eligible position while participating in the plan. Any amount of accrued contributions and earnings in such electing person's defined contribution account in excess of the amount required to purchase service credit in the retirement system for the time served in an eligible position while participating in the plan shall be forfeited to the Virginia Retirement System.

G. H. The contribution by the Commonwealth to a participating member's defined contribution account shall be 10.4 percent of creditable compensation. Contributions to the defined contribution account and all earnings thereon shall be credited to an account to be maintained for each participating member. Contributions by the Commonwealth to a participating member's defined contribution account shall be in lieu of contributions to the retirement system required pursuant to § 51.1-145.

H. I. The Virginia Retirement System shall (i) develop policies and procedures for the administration of the plan and (ii) provide a program of education and support for participating members.

§ 51.1-153. Service retirement.

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire at any time upon written notification to the Board setting forth the date the retirement is to become effective. Any member in service who was denied membership prior to July 1, 1987, as a result of being age sixty or over when first employed may retire at any time after his normal retirement date and the requirement of having five or more years of service shall not apply.

B. Early retirement. - Any member in service who has attained his fifty-fifth birthday with five or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service, *regardless of termination date*, may retire under the provisions of subsection A, B, or D of this section if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective. A member who is a state employee shall not be eligible for retirement pursuant to this subsection unless the employee has entered into a binding agreement with the Department of Personnel and Training providing that the employee shall not thereafter reenter into full-time or part-time employment with any agency in the executive branch of the Commonwealth for a period of two years following retirement. Institutions of higher education may enter into a contract with a member on a part-time basis, not to exceed twenty hours per week, to provide unique technical expertise for projects sponsored by institution-affiliated research foundations, authorities, or nonprofit corporations.

E. Effective date of retirement. - The effective date of retirement shall be after the last day of service of the member, but shall not be more than ninety days prior to the filing of the notice of retirement.

F. Notification on behalf of member. - If the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification on his behalf.

§ 51.1-155. Service retirement allowance.

A. Retirement allowance. - A member shall receive an annual retirement allowance, payable for life, as follows:

1. Normal retirement. - The allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of his creditable service.

~~For retirements between October 1, 1994, and December 31, 1998, any employee or local officer who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to three percent of the service retirement allowance payable under this section; provided that, for purposes of this additional retirement allowance, the term employee shall include only those employees of political subdivisions that have adopted a resolution providing for such an allowance under subsection B of § 51.1-130. Average final compensation attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.~~

2. Early retirement; applicable to teachers, state employees, and certain others. - The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has less than thirty years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of thirty years of creditable service. The provisions of this subdivision shall apply to teachers and state employees. These provisions shall also apply to employees of any political subdivision that participates in the retirement system if the political subdivision makes the election provided in subdivision 3 of this subsection.

3. Early retirement; applicable to employees of certain political subdivisions. - The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the creditable service of the member equals thirty or more years but the sum of his age at retirement plus his creditable service at retirement is less than ninety, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the sum of his then attained age plus his then creditable service would have been equal to ninety or more had he remained in service until such date. If the member has less than thirty years of creditable service, the retirement allowance shall be reduced for the

period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of at least thirty years of creditable service and his then creditable service plus his then attained age would have been equal to ninety or more.

The provisions of this subdivision shall apply to the employees of any political subdivision that participates in the retirement system. The participating political subdivision may, however, elect to provide its employees with the early retirement allowance set forth in subdivision 2 of this subsection. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

4. Additional allowance. - In addition to the allowance payable under subdivisions 1, 2, and 3 of this subsection, a member shall receive an additional allowance which shall be the actuarial equivalent, for his attained age at the time of retirement, of the excess of his accumulated contributions transferred from the abolished system to the retirement system, including interest credited at the rate of two percent compounded annually since the transfer to the date of retirement, over the annual amounts equal to four percent of his annual creditable compensation at the date of abolishment for a period equal to his period of membership in the abolished system.

5. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated service and deferred retirement to age fifty-five or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. Beneficiary serving in position covered by this title.

1. Except as provided in subdivision 2, if a beneficiary of a service retirement allowance under this chapter is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so employed. Any member who retires and later returns to covered employment shall not be entitled to select a different retirement option for a subsequent retirement.

2. Active members of the General Assembly who are eligible to receive a retirement allowance under this title, excluding their service as a member of the General Assembly, shall be eligible to receive a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly. Such members of the General Assembly shall continue to be reported as any other members of the retirement system. Upon ceasing to serve in the General Assembly, members of the General Assembly receiving a retirement allowance based on their creditable service and average final compensation for service other than as a member of the General Assembly shall have their retirement allowance recomputed prospectively to include their service as a member of the General Assembly. Active members of the General Assembly shall be prohibited from receiving a service retirement allowance under this title based solely on their service as a member of the General Assembly.

§ 51.1-162. Death before retirement.

A. Each member shall designate who is to receive a refund of accumulated contributions credited to his account in the event of the death of the member prior to retirement. The designation must be made on a form prepared by the Board, signed and acknowledged by the member before a person authorized to take acknowledgments, and filed in a manner prescribed by the Board. The designation may be changed by the member by the written designation of some other person, signed, acknowledged, and filed in a manner prescribed by the Board. If the death of the designated person occurs prior to the death of the member and another designation has not been made, payment shall be made to the executors or administrators of the estate of the member.

If no designation has been made, the proceeds shall be paid to the persons surviving at the death of the member in the following order of precedence:

First, to the spouse of the member;

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

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

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

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

If a member dies before retirement, and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to the persons qualifying in the order of precedence. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter or the abolished system.

B. If a member dies in service and if no benefits are payable under subsection C of this section, a retirement allowance shall be paid to the person designated as provided in subsection A of this section if the person is the (i) surviving spouse, (ii) minor child, (iii) ~~wholly dependent~~ mother, or (iv) ~~wholly dependent~~ father of the member. If no designation has been made, a retirement allowance shall be paid in the following order of precedence to the (i) surviving spouse, (ii) minor child, (iii) ~~wholly dependent~~ mother, or (iv) ~~wholly dependent~~ father of the member. The retirement allowance shall be paid to the

first person qualifying in the orders of precedence set out in this subsection. If more than one minor child survives the deceased member, the allowance shall be divided among them in a manner determined by the Board. The retirement allowance shall be continued during the lifetime of the person or in the case of a minor child until the child dies or attains the age of majority, whichever occurs first. If a member dies prior to attaining his sixty-fifth birthday, the allowance shall equal one-half of the retirement allowance that would have been payable to the member had the member retired for early service retirement on the date of his death and elected to have his allowance payable under the joint and last-survivor option so that one-half thereof would be continued to such person after the member's death. In the case of a member who had not attained his fifty-fifth birthday at his date of death, it shall be assumed that the member's age at his date of death is fifty-five for the purpose of reducing the benefit on an actuarial equivalent basis. If a member dies after attaining his sixty-fifth birthday, the allowance shall equal the decreased retirement allowance that would have been payable to the member had the member retired at his normal retirement age on the date of his death and elected to have his allowance payable under the joint and last-survivor option so that the same amount would be continued to such person after the member's death. When determining the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subdivision A 4 of § 51.1-155 shall not apply. If the person elects in writing under seal and duly acknowledged, the amount of the member's accumulated contributions *or lump sum payment* shall be paid to him exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter.

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

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

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

#### § 51.1-165. Optional benefits.

A. Any member not taking 50/10 retirement as provided in § 51.1-153 or § 51.1-205 may elect to have his retirement allowance payable under one of the options set forth in this subsection and receive the actuarial equivalent of the retirement allowance otherwise payable to him. The election of an optional benefit shall be subject to the approval of the Board.

1. Straight life option. - A member may elect to receive an increased retirement allowance in lieu of any death benefits.

2. Joint and last-survivor option. - A member may elect to receive a decreased retirement allowance during his lifetime and have the retirement allowance, or one-half thereof, continued after his death to a contingent annuitant during the lifetime of such person. If the member's retirement is for disability, the election of the retirement allowance to be continued after the member's death shall be limited to one-half of the decreased retirement allowance received by the member during his lifetime. In case of such an election, death benefits that might otherwise be provided shall not be payable upon the death of the member unless death of the member occurs prior to the effective date of retirement as set forth in subsection B of this section. This option may not be elected by a member if the leveling option of subdivision 3 of this subsection has previously been elected, nor may it be elected if the contingent annuitant is not the spouse of the member and the actuarially computed present value of the payments expected to be made to the member is less than one-half of the actuarially computed combined present value of the total payments expected to be made to the member and the contingent annuitant.

3. Leveling option. - If a member retires from service on or after January 1, 1994, he may elect to receive a temporary increased retirement allowance beginning on the member's effective date of retirement and continuing until the member reaches age fifty-nine and one-half or any whole age up through age seventy and one-half, as designated by the member at the time of his retirement. Upon attaining the age designated, the temporary allowance shall cease and the retirement allowance shall be reduced on an actuarially equivalent basis. The temporary retirement allowance specified by the member shall not result in more than a fifty percent reduction in the member's benefit as provided in § 51.1-155. Any member electing to receive such an allowance shall not be entitled to a joint and last survivor benefit.

4. Other options. - Some other benefits may be paid either to the member or to contingent annuitants he elects. However, the actuarially computed expected duration of the payment of any such benefits shall not exceed the actuarially computed life expectancy of the member and his spouse, and the actuarially computed present value of the payments expected to be made to the member shall be greater than one-half of the actuarially computed combined present value of the total payments expected to be made to the member and any contingent annuitant, but in no event shall the payment to the contingent annuitant exceed the amount of the member's benefit payable under the special option selected. *If the member's retirement is for disability, the election of the retirement allowance to be continued after the member's death shall be equal to the decreased retirement allowance or one-half of the decreased retirement allowance received by the member during his lifetime.*

B. Any member taking 50/10 retirement as provided in § 51.1-153 or § 51.1-205 may elect to have his retirement allowance payable under the option set forth in this subsection and receive the actuarial equivalent of the retirement allowance otherwise payable to him. The election of this optional benefit shall be subject to the approval of the Board.

50/10 retirement joint and last-survivor option. - A member may elect to receive a decreased retirement allowance during his lifetime and have the retirement allowance continued after his death to a contingent annuitant during the lifetime of such person. The retirement allowance pursuant to this option shall be determined as provided in subdivision A 5 of § 51.1-155, except (i) the present value of future retirement benefits shall be calculated based on the life expectancies of both the member and the contingent annuitant and (ii) the actuarially computed present value of the payments expected to be made under this option shall be actuarially equivalent to the actuarially computed present value of the payments expected to be made to the member as determined pursuant to subdivision A 5 of § 51.1-155.

C. The election of any one of the options stated in this section shall be null and void if the member dies prior to the Board receiving written notification of the member's effective date of retirement. The election of a joint and last-survivor option shall be null and void if the contingent annuitant dies before the member's retirement. For purposes of this subsection, retirement shall be deemed to commence on the effective date of a member's service retirement or disability. If the death of the member occurs prior to the effective date of retirement but after the Board has received written notification of the member's effective date of retirement, benefits shall be paid in accordance with the provisions of § 51.1-163 and the requirement that the member be in service shall not apply.

D. A member who has elected any of the options stated in this section may revoke such an election by written notification to the Board any time prior to the later of the effective date of retirement or the date of written notification to the Board of retirement of the member.

E. A retired member who has elected a joint and last-survivor option may, in a manner prescribed by the Board, revoke such election and elect to receive from time of notification either the retirement allowance to which he would have been entitled had no option been elected initially or an allowance actuarially equivalent thereto under a joint and last-survivor option with a different contingent annuitant, if (i) the original contingent annuitant has died, (ii) a final decree of divorce of the retired member from the original contingent annuitant has been entered, or (iii) the written consent of the original contingent annuitant, together with evidence satisfactory to the Board of the good health of the original contingent annuitant, is submitted with the notification. If the provisions of this subsection are invoked by a retired member on the basis of the member's having been divorced from his contingent annuitant and the marriage had been of a duration of twenty years or more, the provisions of this subsection shall not be applicable until the death or remarriage of the former spouse unless such spouse consents in writing to the revocation of the option prior to death or remarriage.

If such an election is made as a result of the death or divorce of the contingent annuitant, the benefit payable to the retired member may be adjusted retroactively for a period of not more than sixty days from the date the Board first receives notification of the desire of the retired member to make such a change.

F. Subject to the provisions of subsection E of this section, any member who retires on or after July 1, 1986, and returns to covered employment shall not be entitled to select a different optional benefit upon making application for retirement a second or subsequent time.

#### § 51.1-205. Service retirement generally.

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire upon written notification to the Board, setting forth the date the

retirement is to become effective. Any member, except one appointed by the Governor or elected by the people, who attains seventy years of age shall be retired forthwith. Any employer, subsequent to the employee's normal retirement date, may provide for compulsory service retirement upon a determination that age is a bona fide occupational qualification reasonably necessary to the normal operation of the particular business or that the employee is incapable of performing his duties in a safe and efficient manner. Any such determination shall be made by the employer.

B. Early retirement. - Any member in service who has attained his fiftieth birthday with five or more years of creditable service may retire upon written notification to the Board setting forth the date the retirement is to become effective.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service, may retire under the provisions of subsection A, B, or D of this section if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service, *regardless of termination date*, for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply. No member shall be entitled to the benefits of this subsection if his employer certifies that his service was terminated because of dishonesty, malfeasance, or misfeasance in office. The certification may be appealed to the Board.

D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his fiftieth birthday with ten or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective. A member shall not be eligible for retirement pursuant to this subsection unless the member has entered into a binding agreement with the Department of Personnel and Training providing that the member shall not thereafter reenter into full-time or part-time employment with any agency in the executive branch of the Commonwealth for a period of two years following retirement.

E. Effective date of retirement. - The effective date of retirement shall be after the last day of service of the member, but shall not be more than ninety days prior to the filing of the notice of retirement.

F. Notification on behalf of member. - If the member is physically or mentally unable to submit written notification of his intention to retire, the member's appointing authority may submit notification on his behalf.

#### § 51.1-207. Death before retirement.

A. Each member shall designate who is to receive a refund of accumulated contributions credited to his account in the event of the death of the member prior to retirement. The designation must be made on a form prepared by the Board, signed and acknowledged by the member before a person authorized to take acknowledgments, and filed in a manner prescribed by the Board. The designation may be changed by the member by the written designation of some other person, signed, acknowledged, and filed in a manner prescribed by the Board. If the death of the designated person occurs prior to the death of the member and another designation has not been made, payment shall be made to the executors or administrators of the estate of the member.

If no designation has been made, the proceeds shall be paid to the persons surviving at the death of the member in the following order of precedence:

First, to the spouse of the member;

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

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

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

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

If a member dies at any time before retirement and if no benefits are payable under subsection B, the amount of his accumulated contributions shall be paid to the designated beneficiary or to the persons qualifying in the order of precedence. This amount shall be reduced by the amount of any retirement allowance previously received by the member.

B. If a member dies in service and if no benefits are payable under subsection C, a retirement allowance shall be paid to the person designated as provided in subsection A of this section if the person is the (i) surviving spouse, (ii) minor child, (iii) ~~wholly dependent~~ mother, or (iv) ~~wholly dependent~~ father of the member. If no designation has been made, a retirement allowance shall be paid in the following order of precedence to the (i) surviving spouse, (ii) minor child, (iii) ~~wholly dependent~~ mother, or (iv) ~~wholly dependent~~ father of the member. The retirement allowance shall be paid to the first person qualifying in the orders of precedence set out in this subsection. If more than one minor child survives the deceased member, the allowance shall be divided among them in a manner determined by the Board. The retirement allowance shall be continued during the lifetime of the person or in the case of a minor child until the child dies or attains the age of majority, whichever occurs first. The allowance shall equal one-half of the retirement allowance that would have been payable to the member

had the member retired for early service retirement on the date of his death and elected to have his allowance payable under the joint and last-survivor option so that one-half thereof would be continued to such person after the member's death. In the case of a member who had not attained his fiftieth birthday at his date of death, it shall be assumed that the member's age at his date of death is fifty for the purpose of reducing the benefit on an actuarial equivalent basis. If a member dies after attaining his sixtieth birthday, the allowance shall equal the decreased retirement allowance that would have been payable to the member had the member retired at his normal retirement age on the date of his death and elected to have his allowance payable under the joint and last-survivor option so that the same amount would be continued to such person after the member's death. When determining the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subsection B of § 51.1-206 shall not apply. If the person elects in writing under seal and duly acknowledged, the amount of the member's accumulated contributions shall be paid to the person exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member.

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

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

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

#### § 51.1-308. Disability retirement allowance.

A. Allowance payable on retirement. - Upon retirement for disability, a member who has five or more years of creditable service shall receive an annual retirement allowance, not to exceed ~~seventy-five~~ *seventy-eight* percent of his average final compensation, payable during his lifetime and continued disability equal to ~~1.65~~ *1.70* percent of average final compensation when multiplied by the smaller of (i) twice the amount of creditable service or (ii) the amount of creditable service he would have completed at age sixty if he had remained in service to that age. If a member has already attained age sixty, the amount of creditable service at his date of retirement shall be used.

On and after October 1, 1994, any judge who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to three percent of the disability retirement allowance payable under this section. Average final compensation attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

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

C. General disability retirement guarantee. - The disability retirement allowance payable to a member who immediately prior to July 1, 1970, was a member of one of the previous systems shall be at least

an amount equal to the disability retirement allowance to which he would have been entitled under the provisions of the previous system.

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

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

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

§ 51.1-505. Amounts of life and accident insurance for each employee; reduction and termination of insurance.

A. Each employee to whom this chapter applies shall, subject to the terms and conditions thereof, be eligible to be insured for an amount of group life insurance plus an amount of group accidental death and dismemberment insurance, each amount equal to twice the amount of his annual salary. If an employee's annual salary is not an even multiple of \$1,000, his annual salary for purposes of this section shall be considered to be the next higher \$1,000. For purposes of this section, the annual salary of a member of the General Assembly shall be his creditable compensation for his last full calendar year of service or his salary under § 30-19.11, whichever is greater, and shall include the full amount of any salaries payable to such member for working in covered positions, regardless of whether such salaries were paid, reduced, or not paid because of such member's service in the General Assembly. The annual salary for an employee retired for service or disability on an immediate retirement allowance may be adjusted by the Board in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) of this title.

~~With respect to any employee who is reemployed and insured under this chapter, the otherwise applicable amount of group life insurance shall be reduced by the amount of insurance provided by any policy issued under the conversion privilege pursuant to this chapter.~~

Subject to the conditions and limitations of the group insurance policy, the accidental death and dismemberment insurance shall provide payments as follows:

Loss	Amount Payable
------	----------------

For loss of life	Full amount determined in accordance with the provisions of this section
------------------	--

Loss of one hand or	One-half of the amount
of one foot or loss	determined in accordance
of sight of one eye	with the provisions of this section

Loss of two or	Full amount determined in
more such members	accordance with the provisions of this section.



For any one accident, the aggregate amount of accidental death and dismemberment insurance that may be paid shall not exceed the maximum amount of accidental death and dismemberment insurance determined in accordance with this section.

Notwithstanding the provisions of § 51.1-124.8, the amount of life insurance for which an employee shall be eligible shall be equal to twice the amount of his annual salary without regard to the date of the employee's qualification for a retirement allowance.

B. The amount of life insurance on an employee who retires for service on an immediate retirement allowance or who elects to postpone the receipt of his retirement allowance to some date other than his last day of service shall be the amount set forth in subsection A, reduced by an amount equal to two percent thereof for each full calendar month following the date the employee is separated from service. The amount of life insurance on an employee who retires for disability on an immediate retirement allowance shall be the amount set forth in subsection A on the date the employee last rendered service reduced by an amount equal to two percent thereof for each full calendar month following the date the employee attains age sixty-five. If the employee by statute or Board regulation has been construed to be in service to the beginning of the next school year, the reduction shall not apply until the beginning of the next school year. The reduction shall not decrease the amount of life insurance on an employee to less than twenty-five percent of the amount of life insurance to which the reduction is applied. For purposes of this subsection, an employee shall be deemed to have retired only if the employee has five or more years of continuous service as an employee prior to the date of retirement. This requirement shall not be applicable if the employee is retired for disability.

Any employee who was denied membership in the Retirement System because of having attained age sixty at the time of being employed or reemployed and who has five or more years of continuous service immediately prior to separation from service shall retain the life insurance coverage as though he had retired on an immediate retirement allowance.

C. The amount of life insurance for an employee who is retired for disability on an immediate retirement allowance, who also has attained age fifty-five, and who elects to receive a retirement allowance as set forth in subsection C of § 51.1-160, shall be reduced as set forth in subsection B of this section. The reduction shall begin at the end of the first full calendar month following the date the employee elects a service retirement allowance.

D. All accidental death and dismemberment insurance on an employee shall cease upon the earliest of (i) his separation from service, (ii) his failure to pay, in the manner prescribed by the Board, the contribution required for the first twenty-four months of leave without pay, (iii) if the employee has not returned to pay status, the expiration of twenty-four months of leave without pay, or (iv) his retirement.

E. Except in case of retirement as provided in subsections B and C of this section, all life insurance on an employee shall cease upon the earliest of (i) his separation from service, or (ii) his failure to pay, in the manner prescribed by the Board, the contribution required for the first twenty-four months of leave without pay, or (iii) if the employee has not returned to pay status, the expiration of twenty-four months of leave without pay. Except in the case of retirement, life insurance shall be subject to a temporary extension of thirty-one days. During this thirty-one-day extension, the employee may convert his life insurance into an individual policy of life insurance (without disability or other supplementary benefits) in any one of the forms, except term insurance, then customarily issued by the insuring company. The amount of life insurance which may be converted shall not exceed the amount of his life insurance under the group insurance policy at the time coverage is terminated. The insurance shall be converted to an individual policy (i) without evidence of insurability, (ii) at the premium applicable to the class of risk to which he belongs, and (iii) to the form and amount of the individual policy at his then attained age, provided application for the individual policy and payment of the first premium thereon is made to the issuing company within the thirty-one days. The right to convert to an individual policy as provided in § 38.2-3333 shall not apply upon termination of this group policy or elimination of a class of insured employees.

The amount of life insurance on each insured employee who retires shall be determined under the provisions of this chapter as it exists on the employee's date of retirement.

F. Each employee of a state institution of higher education or of a local school board who remains in service until the completion of the school year and who makes contributions required to provide insurance coverage until service normally will be resumed the beginning of the next school year shall be deemed to be in service as an employee through the period to which the payments apply. If the employee is retired for service or disability during this period, contributions made by the employee shall be accepted and retained as proper.

G. That the provisions of this section shall apply to all members of the Virginia Retirement System who, on and after July 1, 1995, are covered under the group life insurance program created pursuant to this section and whose effective date of retirement is (i) before July 1, 1970, or (ii) on and after July 1, 1970.