

# 2011 SESSION

## LEGISLATION NOT PREPARED BY DLS HOUSE SUBSTITUTE

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### HOUSE BILL NO. 1795

#### AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Governor  
on March 29, 2011)

(Patron Prior to Substitute—Delegate Tata)

A *BILL to amend and reenact §§ 2.2-3204, 51.1-135, 51.1-138, 51.1-142.2, 51.1-145, 51.1-155.1, 51.1-155.2, 51.1-162, 51.1-201, 51.1-202, 51.1-212, 51.1-213, 51.1-301, 51.1-512.1, 51.1-601.1, 51.1-603.1, 51.1-611, 51.1-1100, 51.1-1112, 51.1-1123, 51.1-1128, 51.1-1400, 51.1-1401, 51.1-1402, 51.1-1403, and 51.1-1405 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 51.1-126.5:1 and by adding in Title 51.1 a chapter numbered 11.1, containing articles numbered 1 through 4, consisting of sections numbered 51.1-1150 through 51.1-1183, relating to technical plan changes for members of the Virginia Retirement System and an optional defined contribution retirement program for state and local employees.*

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

1. That §§ 2.2-3204, 51.1-135, 51.1-138, 51.1-142.2, 51.1-145, 51.1-155.1, 51.1-155.2, 51.1-162, 51.1-201, 51.1-202, 51.1-212, 51.1-213, 51.1-301, 51.1-512.1, 51.1-601.1, 51.1-603.1, 51.1-611, 51.1-1100, 51.1-1112, 51.1-1123, 51.1-1128, 51.1-1400, 51.1-1401, 51.1-1402, 51.1-1403, and 51.1-1405 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 51.1-126.5:1 and by adding in Title 51.1 a chapter numbered 11.1, containing articles numbered 1 through 4, consisting of sections numbered 51.1-1150 through 51.1-1183, as follows:

§ 2.2-3204. Retirement program.

A. In lieu of the transitional severance benefit provided in § 2.2-3203, any otherwise eligible employee who, on the date of involuntary separation, is also (i) a vested member of the Virginia Retirement System, the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System and (ii) at least fifty years of age, may elect to have the Commonwealth purchase on his behalf years to be credited to either his age or creditable service or a combination of age and creditable service, except that any years of credit purchased on behalf of a member of the Virginia Retirement System, the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System who is eligible for unreduced retirement shall be added to his creditable service and not his age. *If the otherwise eligible employee is (a) a person who becomes a member on or after July 1, 2010, (b) not a member of the State Police Officers' Retirement System or the Virginia Law Officers' Retirement System, and (c) a person to whom the provisions of subdivision B 3 of § 51.1-153 do not apply, then he must be at least sixty years of age on the date of involuntary separation to be eligible for the retirement program provided in this subsection.* The cost of each year of age or creditable service purchased by the Commonwealth shall be equal to fifteen percent of the employee's present annual compensation. The number of years of age or creditable service to be purchased by the Commonwealth shall be equal to the quotient obtained by dividing ~~(i)~~ (1) the cash value of the benefits to which the employee would be entitled under subsections A and D of § 2.2-3203 by ~~(ii)~~ (2) the cost of each year of age or creditable service. Partial years shall be rounded up to the next highest year. Deferred retirement under the provisions of subsection C of §§ 51.1-153, 51.1-205, and 51.1-216, and disability retirement under the provisions of § 51.1-156 et seq. and § 51.1-209, shall not be available under this section.

B. In lieu of the (i) transitional severance benefit provided in § 2.2-3203 and (ii) the retirement program provided in subsection A, any employee who is otherwise eligible may take immediate retirement pursuant to § 51.1-155.1.

C. 1. *The retirement allowance for a person who (i) is not a member of the State Police Officers' Retirement System or the Virginia Law Officers' Retirement System, (ii) becomes a member on or after July 1, 2010, electing to retire under this section, and (iii) by adding years to his age is between ages sixty and the age at his "normal retirement date" as defined in § 51.1-124.3 shall be reduced on the actuarial basis provided in subdivision A 3 of § 51.1-155, unless the provisions of subdivision B 3 of § 51.1-153 apply to him.*

2. The retirement allowance for any *other* employee electing to retire under this section who, by adding years to his age, is between ages fifty-five and sixty-five, shall be reduced on the actuarial basis provided in subdivision A: 2: of § 51.1-155.

§ 51.1-126.5:1. *Optional defined contribution retirement program.*

A. For purposes of this section, "optional defined contribution retirement program" means a retirement program covering any employee in a position covered for retirement purposes under the provisions of Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) for retirement purposes other than the Virginia Retirement System defined benefit

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60 retirement plan established under this chapter. Persons who are participants in, or eligible to be  
61 participants in, the optional retirement plans established under §§ 51.1-126, 51.1-126.1, 51.1-126.3,  
62 51.1-126.4, 51.1-126.5, 51.1-126.6, and 51.1-126.7 shall not be eligible to participate in the optional  
63 defined contribution retirement program.

64 The Board shall maintain this optional defined contribution retirement program, and any employer is  
65 authorized to make contributions under such program to the plans for the benefit of its employees  
66 participating in such program. Every employee who is (i) a person who becomes a member on or after  
67 July 1, 2010, and (ii) hired on or after January 1, 2012, shall make an irrevocable election to  
68 participate in either (a) the otherwise applicable defined benefit retirement plan established by this title  
69 and administered by the Virginia Retirement System or (b) this optional defined contribution retirement  
70 program.

71 Such election shall be exercised no later than 60 days from the time of the employee's entry upon the  
72 performance of his duties. If an election is not made within such 60 days, such employee shall be  
73 deemed to have elected to participate in the otherwise applicable defined benefit retirement plan  
74 established by this title and administered by the Virginia Retirement System.

75 B. 1. The employer shall make a mandatory contribution on behalf of an employee participating in  
76 the optional defined contribution retirement program in the amount of five percent of creditable  
77 compensation. In addition, the employer shall make a matching contribution on behalf of the employee,  
78 based on the employee's voluntary contributions under subdivision C 2, up to a maximum of 3.5 percent  
79 of creditable compensation for the payroll period, as follows: 100 percent of up to 3.5 percent of  
80 creditable compensation contributed by the employee to such plan for the payroll period, over and  
81 above the mandatory employee contribution. The matching contribution by the employer shall be made  
82 to the appropriate cash match plan established for the employee under § 51.1-608.

83 2. The total amount contributed by the employer under subdivision 1 shall vest to the employee's  
84 benefit according to the following schedule:

85 a. Upon completion of one year of continuous participation in the defined contribution retirement  
86 program, 20 percent.

87 b. Upon completion of two years of continuous participation in the defined contribution retirement  
88 program, 40 percent.

89 c. Upon completion of three years of continuous participation in the defined contribution retirement  
90 program, 60 percent.

91 d. Upon completion of four years of continuous participation in the defined contribution retirement  
92 program, 80 percent.

93 e. Upon completion of five years of continuous participation in the defined contribution retirement  
94 program, 100 percent.

95 If an employee terminates employment with an employer prior to the end of this vesting period,  
96 contributions made by an employer on behalf of the employee under subdivision 1 that are not vested,  
97 shall be forfeited. The Board may establish a forfeiture account and may specify the uses of the  
98 forfeiture account.

99 3. An employee may direct the investment of contributions made by an employer under subdivision 1.

100 4. No loans or hardship distributions shall be available from contributions made by an employer  
101 under subdivision 1.

102 C. 1. An employee participating in the optional defined contribution retirement program shall,  
103 pursuant to procedures established by the Board, make mandatory contributions on a salary reduction  
104 basis in accordance with § 414(h) of the Internal Revenue Code in the amount of five percent of  
105 creditable compensation.

106 2. An employee participating in the optional defined contribution retirement program may make  
107 voluntary contributions to the program, in increments of half percentages of creditable compensation, in  
108 an amount not to exceed 3.5 percent of creditable compensation or the limit on elective deferrals  
109 pursuant to § 457(b) of the Internal Revenue Code, whichever is less. The contribution by the employee  
110 shall be made to the appropriate deferred compensation plan established by the employee under  
111 § 51.1-602.

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

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

119 E. 1. The Board shall develop policies and procedures for administering the optional defined  
120 contribution retirement program it maintains, including the establishment of guidelines for employee  
121 elections and deferrals under the program.

2. No employee who is an active member in the optional defined contribution retirement program maintained by the Board shall also be (i) an active member of the retirement system or beneficiary other than a contingent annuitant or (ii) an active member of any other optional retirement plan maintained under the provisions of Chapter 1 (§ 51.1-124.1 et seq.).

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

4. Any administrative fee imposed pursuant to subdivision A 13 of § 51.1-124.22 on any employer for administering and overseeing the optional defined contribution retirement program established pursuant to this section shall be charged for each employee participating in such program and shall be for costs incurred by the Virginia Retirement System that are directly related to the administration and oversight of such program.

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

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

F. A person who participates in the otherwise applicable defined benefit retirement plan established by this title and administered by the Virginia Retirement System under this chapter may make an irrevocable election to participate in the optional defined contribution retirement program. Such election shall be exercised no later than March 31, 2012. If an election is not made by March 31, 2012, such employee shall be deemed to have elected not to participate in the optional defined contribution retirement program and shall continue to participate in his current retirement plan. The Board is authorized to allow transfers of the amount of the accumulated contributions and interest of each member of the Virginia Retirement System defined benefit retirement plan.

§ 51.1-135. Compulsory membership.

Membership in the retirement system shall be compulsory for all eligible employees who enter service after the effective date of coverage. For purposes of this section, "membership in the retirement system" includes an eligible employee's participation in the optional defined contribution retirement program pursuant to § 51.1-126.5:1.

§ 51.1-138. Benefits.

A. Employees who become members under this article and on whose behalf contributions are paid as provided in this article shall be entitled to benefits under the retirement system.

B. By resolution legally adopted and approved by the Board, the employer may elect to provide benefits equivalent to those provided under the State Police Officers' Retirement System, as set out in Chapter 2 (§ 51.1-200 et seq.) of this title except for § 51.1-209, and except that the employer may elect to establish the retirement allowance pursuant to the allowance provided in clause (i) or (ii) in subsection A of § 51.1-206, in lieu of the benefits that would otherwise be provided hereunder for any employees who are employed in (i) law-enforcement positions comparably hazardous to that of a state police officer, including any sworn law-enforcement officer who has the duty and obligation to enforce the penal and traffic laws of this Commonwealth as directed by his superior officer, if so certified by his appointing authority, (ii) positions as full-time salaried fire fighters, (iii) positions as full-time salaried emergency medical technicians, or (iv) positions as regional jail superintendents and jail officers of regional jail farms, regional jails or jail authorities, as approved by the respective jail board or authority and by the participating political subdivisions of such entities. Sheriffs of political subdivisions and superintendents of regional jails which participate in the retirement system shall receive benefits equivalent to those of state police officers, except for the benefits provided under § 51.1-209, regardless of whether the employer has elected to provide equivalent benefits as set out in this subsection.

C. Each employer providing the benefits of subsection B for its employees prior to July 1, 1990,

183 may elect to provide for the early retirement of employees as set forth in this subsection in lieu of the  
184 early retirement and death before retirement provisions of the State Police Officers' Retirement System.  
185 Such election must be made to the Board in writing prior to July 1, 1990. Any member in service on or  
186 after his fifty-fifth birthday with five or more years of creditable service (i) while earning the benefits  
187 permitted by this section, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200  
188 et seq.) of this title, or (iii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211  
189 et seq.) of this title may retire upon written notification to the Board setting forth at what time the  
190 retirement is to become effective. The effective date shall be after his last day of service but shall not be  
191 more than 90 days prior to the filing of such notice. The member shall receive an allowance that shall  
192 be determined in the same manner as for retirement at an employee's normal retirement with creditable  
193 service and average final compensation being determined as of the date of his actual retirement. If the  
194 member has less than 30 years of service at retirement, the amount of the retirement allowance shall be  
195 reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the  
196 earlier of (a) the member's normal retirement date or (b) the first date on or after the member's fifty-fifth  
197 birthday on which the member would have completed a total of 30 years of creditable service. Effective  
198 December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is credited with  
199 five or more years of creditable service rendered under this chapter and earning the benefits permitted  
200 by this section, Chapter 2 (§ 51.1-200 et seq.), or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not  
201 be subject to the vesting requirements of this section, and §§ 51.1-205 and 51.1-216.

202 Members retiring under the provisions of this subsection shall be entitled to receive post-retirement  
203 supplements as provided in § 51.1-166. In computing the amount of any supplement, any additional  
204 allowances being paid under the provisions of subsection B of § 51.1-206 shall be disregarded. In the  
205 case of death before retirement, members whose employers elect to provide benefits in accordance with  
206 the provisions of this subsection and who have not attained the age of 50 on the date of death shall be  
207 assumed to be 50 years of age for the purposes of reducing the benefits on an actuarial equivalent basis.

208 D. Beginning July 1, 2008, each county and city participating in the Virginia Retirement System  
209 shall provide the benefit coverage described in subsection B to each deputy sheriff, regardless of  
210 whether the deputy sheriff's salary is funded or reimbursed in whole or in part by the Compensation  
211 Board.

212 E. Notwithstanding the provisions of subsection C, beginning July 1, 2009, the City of Danville shall  
213 provide to each deputy sheriff the benefit coverage described in subsection B.

214 F. Beginning July 1, 2009, each regional jail board and regional jail authority participating in the  
215 Virginia Retirement System and each county and city participating in such board or authority shall  
216 provide the benefit coverage described in subsection B to each sworn officer of a regional jail,  
217 regardless of whether the regional jail officer's salary is funded or reimbursed in whole or in part by the  
218 State Compensation Board.

219 G. Beginning July 1, 2010, any county or city that (i) participates in the Virginia Retirement System  
220 pursuant to Chapter 1 (§ 51.1-124.1 et seq.), (ii) has in effect a retirement supplement for deputy sheriffs  
221 (in addition to the annual retirement allowance provided under the Virginia Retirement System) that  
222 exceeds the allowance set forth in subsection B of § 51.1-206 hereof, and (iii) provides the same level  
223 of retirement benefits to all of its deputy sheriffs, may, by resolution legally adopted, elect to provide  
224 the benefits coverage under subsection B hereof except for the allowance described in subsection B of  
225 § 51.1-206. Notwithstanding any other provision of law, the additional costs of such election shall be  
226 borne solely by such county or city.

227 H. The retirement system shall not be liable for the payment of any retirement allowances or other  
228 benefits on behalf of a member or beneficiary of a member for which reserves have not been previously  
229 created from funds contributed by the employer or the members for such benefits.

230 I. *Notwithstanding the foregoing, any person participating in the optional defined contribution*  
231 *retirement program established pursuant to § 51.1-126.5:1 shall not be entitled to the benefits under this*  
232 *section.*

233 § 51.1-142.2. Prior service or membership credit for certain members; service credit for accumulated  
234 sick leave.

235 Certain members may purchase credit for service as provided in this section.

236 A. Except as provided in subdivisions 1 and 2, in order to receive credit for the service made  
237 available in subsection B, a member in service shall be required to make a payment for each year, or  
238 portion thereof, to be credited at the time of purchase, equal to five percent of his creditable  
239 compensation or five percent of his average final compensation, whichever is greater, unless the member  
240 in service is purchasing the service made available in subsection B through a pre-tax or post-tax  
241 deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five  
242 percent of his creditable compensation.

243 1. (For applicability date, see Editor's note) A person who becomes a member on or after July 1,  
244 2010, shall pay an amount equal to a rate approximating the normal cost for the retirement program

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

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

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

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

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

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

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

C. Any member in service may purchase service credit for creditable service lost from ceasing to be a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated contributions. Notwithstanding any other provision in this section, the cost to purchase such service shall be five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing such service through a pre-tax or post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five percent of his creditable compensation. If the member purchases or enters into a contract to purchase such service within three years of the date he became eligible to purchase the service, then the service may be purchased in a lump sum at the time of purchase or through an additional payroll deduction. Any purchase of such service made at a time later than such period shall be made in a lump sum at the time of purchase.

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

E. Any member receiving work-related disability benefits under Article 4 (§ 51.1-1119 et seq.) of Chapter 11 may, in a manner prescribed by the Board, purchase service credit for service that is not reported to the retirement system by the member's employer while the member is receiving short-term disability benefits. Notwithstanding any other provision in this section, the cost to purchase such service shall be five percent of the member's creditable compensation.

306 EF. In any case where member and employer contributions, as required under this chapter, were not  
307 made because of an error in the payroll, personnel, or other classification system of an employer  
308 participating in the retirement system, service that has not been credited because of such error may be  
309 purchased on the following basis:

310 1. The most recent three years of service shall be purchased, using applicable member and employer  
311 contribution rates and creditable compensation in effect for such period, in a manner and cost prescribed  
312 by the Board; and

313 2. All other years of service the employer shall purchase at an actuarial equivalent cost.

314 FG. The service credit to be credited to a member under this section shall be calculated at the ratio  
315 of one year, or portion thereof, of service credit to one year, or portion thereof, of service purchased,  
316 except for part-time service purchased under clause (vi) of subdivision B 1 which shall be calculated at  
317 the ratio of one month of service credit for each 173 hours of service as certified by the employer and  
318 as purchased by the member. Up to a maximum of four years of service credit may be purchased for  
319 each of clauses (i) through (vi) of subdivision B 1 and ~~clause clauses~~ (i) and (ii) of subdivision B 2. In  
320 addition, a member in service may purchase service credit for every year or portion thereof for service  
321 lost from cessation of membership as described in subsection C.

322 Except as otherwise required by Chapter 1223 of Title 10 of the United States Code, the service  
323 credit made available under this section may not be purchased if, before being purchased or at the time  
324 of such purchase pursuant to this section, the service to be purchased is service that is included in the  
325 calculation of any retirement allowance received or to be received by the member from this or another  
326 retirement system.

327 GH. Any member may receive credit at no cost for service rendered in the armed forces of the  
328 United States provided (i) the member was on leave of absence from a covered position, (ii) the  
329 discharge from a period of active duty with the armed forces was not dishonorable, (iii) the member has  
330 not withdrawn his accumulated contributions, (iv) the member is not disabled or killed while on leave  
331 without pay while performing active duty military service in the armed forces of the United States, and  
332 (v) the member reenters service in a covered position within one year after discharge from the armed  
333 forces. In order to receive such service, the member must complete such forms and other requirements  
334 as are required by the Board and the retirement system.

335 § 51.1-145. Employer contributions.

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

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

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

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

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

356 F. The unfunded accrued liability with respect to any employer as of any valuation date shall be  
357 determined as the excess of (i) the then present value of the benefits to be provided under the retirement  
358 system in the future to members and former members over (ii) the sum of the assets of the retirement  
359 system then currently in the members' contribution account and in the employer's retirement allowance  
360 account, plus the then present value of the stipulated contributions to be made in the future by the  
361 members, plus the then present value of the normal contributions expected to be made in the future by  
362 the employer.

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

366 H. Until July 1, 1997, the supplementary contribution rate for any employer shall be determined as  
367 the percentage represented by the ratio of (i) the average annual amount of post-retirement supplements,

as provided for in this chapter, which is anticipated to become payable during the period to which the rate will be applicable with respect to former members to (ii) the total annual compensation of the members.

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

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

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

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

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

*N. The employer contribution rate established for each employer may include the annual rate of contribution payable by such employer with respect to employees enrolled in the optional defined contribution retirement program established under § 51.1-126.5:1, to be assessed as surcharges for the amortization of unfunded liabilities of the defined benefit plans administered by the Virginia Retirement System.*

§ 51.1-155.1. Exceptions from general early retirement provisions for certain state employees.

A. Members of the retirement system (i) whose positions are described by subdivision 1 (except members of the Judicial Retirement System (§ 51.1-300 et seq.)), 2 (except members of the Judicial Retirement System (§ 51.1-300 et seq.)), 3, 4 (except officers elected by popular vote), 7, 13, 14, 15, 16, 17, or 20 of § 2.2-2905; (ii) who are agency heads appointed by a state board, state commission, or state council; or (iii) who are school division superintendents appointed by a school board pursuant to § 22.1-60, and (a) who are involuntarily separated from state service and (b) who have 20 or more years of creditable service at the date of separation, may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155; *upon attaining age 60 if the member is a person who becomes a member on or after July 1, 2010, and upon attaining age 50 for any other member.*

B. Any member of the retirement system who (i) serves as chief executive officer of an interstate commission pursuant to Virginia's participation in such commission; (ii) is involuntarily separated from

429 service; and (iii) has 20 or more years of creditable service at the date of separation; may retire without  
430 the reduction in retirement allowance required by § 51.1-155 A 2 *upon attaining age 60 if the member*  
431 *is a person who becomes a member on or after July 1, 2010, and upon attaining age 50 for any other*  
432 *member.*

433 C. For the purposes of this section, "involuntary separation" means any dismissal, requested  
434 resignation, or failure to obtain reappointment, except in case of a conviction for a felony or crime  
435 involving moral turpitude or dishonesty.

436 D. Any state employee who retires under the provisions of this section on or after January 1, 1994,  
437 shall be eligible to participate in the state health insurance program as provided in § 2.2-2818 and  
438 receive group life insurance benefits as provided in § 51.1-505.

439 § 51.1-155.2. Exceptions from general early retirement provisions for certain local government  
440 officials.

441 A. Members of the retirement system who (i) are appointed county administrator pursuant to  
442 § 15.2-406 or 15.2-1540, urban county executive pursuant to § 15.2-804, county executive pursuant to  
443 § 15.2-509, county manager pursuant to § 15.2-609 or 15.2-702, county administrator or city or town  
444 manager pursuant to Chapter 15 (§ 15.2-1500 et seq.) of Title 15.2 or county, city or town attorney  
445 pursuant to § 15.2-1542; (ii) are involuntarily separated from service; and (iii) have 20 or more years of  
446 creditable service at the date of separation; may retire without the reduction in retirement allowance  
447 required by subdivisions A 2 and A 3 of § 51.1-155 *upon attaining age 60 if the member is a person*  
448 *who becomes a member on or after July 1, 2010, and upon attaining age 50 for any other member.*

449 B. For the purposes of this section, "involuntary separation" means any dismissal, requested  
450 resignation, or failure to obtain reappointment, except in case of a conviction for a felony or crime  
451 involving moral turpitude or dishonesty.

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

453 § 51.1-162. Death before retirement.

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

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

464 First, to the spouse of the member;

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

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

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

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

472 B. If a member dies in service, including a member who is on leave without pay while performing  
473 active duty military service in the armed forces of the United States, and if no benefits are payable  
474 under subsection C of this section, a retirement allowance shall be paid to the person or persons  
475 designated as provided in subsection A of this section if the person is the member's (i) surviving spouse,  
476 (ii) minor child, or (iii) parent(s). If no designation has been made, or if the death of the designated  
477 person occurs prior to the death of the member and another designation has not been made, a retirement  
478 allowance shall be paid in the following order of precedence to the member's (a) surviving spouse, (b)  
479 minor children, or (c) parent(s). The retirement allowance shall be paid to the first person qualifying in  
480 the orders of precedence set out in this subsection. If more than one minor child survives the deceased  
481 member, the allowance shall be divided among them in a manner determined by the Board. If more than  
482 one parent survives the deceased member, the allowance shall be divided among them in a manner  
483 determined by the Board. The retirement allowance shall be continued during the lifetime of the person  
484 or in the case of a minor child until the child dies or attains the age of majority, whichever occurs first.  
485 The retirement allowance shall equal the deceased retirement allowance that would have been payable  
486 under the joint and survivor option so that the same amount would be continued to such person after the  
487 member's death. If the member dies prior to his fifty-fifth birthday, then, for purposes of this subsection,  
488 the member shall be presumed to be age fifty-five on his date of death. *However, if the member who*  
489 *dies in service is a person who became a member on or after July 1, 2010, and he dies prior to his*  
490 *sixtieth birthday, then, for purposes of this subsection, the member shall be presumed to be age sixty on*



*his date of death.* When determining the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subdivision A 4 of § 51.1-155 shall not apply. If the person elects in writing, the amount of the member's accumulated contributions or lump sum payment shall be paid to him exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter.

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

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

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

§ 51.1-201. Definitions.

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

"Employee" means a state police officer.

"Member" means any person included in the membership of the retirement system as provided in this chapter, *except that any person participating in the optional defined contribution retirement program established pursuant to § 51.1-126.5:1 shall not be considered a member.*

"Normal retirement date" means a member's sixtieth birthday.

"Retirement system" means the State Police Officers' Retirement System.

§ 51.1-202. Membership in retirement system.

Membership in the retirement system shall be compulsory for all state police officers. *However, such compulsory membership requirement shall be deemed to have been met by any employee participating in the optional defined contribution retirement program described under § 51.1-126.5:1.*

§ 51.1-212. Definitions.

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

"Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus police officer appointed under the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23, (iii) conservation police officer in the Department of Game and Inland Fisheries appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Department of Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.), (v) law-enforcement officer employed by the Virginia Marine Resources Commission as described in § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) any parole officer appointed pursuant to § 53.1-143, and (viii) any commercial vehicle enforcement officer employed by the Department of State Police.

"Member" means any person included in the membership of the Retirement System as provided in this chapter, *except that any person participating in the optional defined contribution retirement program established pursuant to § 51.1-126.5:1 shall not be considered a member.*

"Normal retirement date" means a member's sixtieth birthday.

"Retirement System" means the Virginia Law Officers' Retirement System.

§ 51.1-213. Membership in Retirement System.

Membership in the Retirement System shall be compulsory for all employees. *However, such compulsory membership requirement shall be deemed to have been met by any employee participating in*

552 *the optional defined contribution retirement program described under § 51.1-126.5:1.*

553 § 51.1-301. Definitions.

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

555 "Appointing authority" means the General Assembly or the Governor.

556 "Creditable service" means prior service plus membership service, as further defined in and modified  
557 by § 51.1-303, for which credit is allowable under this chapter.

558 "Judge" means any justice or judge of a court of record of the Commonwealth, any member of the  
559 State Corporation Commission or Virginia Workers' Compensation Commission, any judge of a district  
560 court of the Commonwealth other than a substitute judge of such district court, and any executive  
561 secretary of the Supreme Court assuming such position between December 1, 1975, and January 31,  
562 1976, *except that any person participating in the optional defined contribution retirement program*  
563 *established pursuant to § 51.1-126.5:1 shall not be considered a judge as provided in this chapter.*

564 "Normal retirement date" means a member's sixty-fifth birthday.

565 "Previous systems" means the systems established under the provisions of Chapters 2 (§ 51-3 et seq.)  
566 and 2.2 (§ 51-29.8 et seq.) of Title 51, and, in the case of judges of regional juvenile and domestic  
567 relations courts, the Virginia Retirement System.

568 "Primary social security benefit" means, with respect to any member, the primary insurance amount  
569 to which the member is entitled, for old age or disability, as the case may be, pursuant to the federal  
570 Social Security Act as in effect at his date of retirement, under the provisions of this chapter except as  
571 otherwise specifically provided.

572 "Retirement system" means the Judicial Retirement System.

573 "Service" means service as a judge.

574 § 51.1-512.1. Optional life insurance for the spouse and minor dependents of employees.

575 A. The Board shall, under the terms and conditions specified by the Board, make available to any  
576 active insured employee optional life, accidental death, and dismemberment insurance on the employee's  
577 spouse and minor dependents in the following amounts:

578 1. For the spouse of an active insured employee: an amount up to fifty percent of the maximum  
579 amount of optional insurance available to the employee under § 51.1-512.

580 2. For any minor dependent of an active insured employee in increments specified by the Board. The  
581 Board shall adjust these amounts periodically to account for changes in the purchasing power of money  
582 over time.

583 B. All optional insurance on an employee's spouse shall cease upon the earliest of (i) the date the  
584 employee's basic coverage ceases, (ii) the entry of a final divorce decree terminating the marriage of the  
585 employee and the employee's spouse, or (iii) the date the insurance being continued in retirement  
586 terminates pursuant to subsections C and D. All optional insurance on an employee's minor dependent  
587 shall cease upon the earliest of ~~(i)~~ (a) the minor dependent attains the age of twenty-one, unless the  
588 minor dependent is a full-time college student, then age twenty-five or unless the minor dependent is  
589 under a mental or physical disability, in which event coverage shall not terminate until three months  
590 following cessation of the disability, ~~(ii)~~ (b) marriage of the minor dependent, or ~~(iii)~~ (c) the date the  
591 employee's basic coverage ceases.

592 C. Subject to foregoing limitations, the optional amount of life insurance in force on the spouse or  
593 minor dependent of an employee who retires for disability on an immediate retirement allowance may be  
594 continued, subject to payment of any required premium by the employee, during continuance of such  
595 disability but not beyond the end of the month in which the ~~employee attains age sixty-five~~ *employee's*  
596 *normal retirement date occurs.*

597 D. Subject to the foregoing limitations, the optional amount of life insurance in force on the spouse  
598 or minor dependent of an employee who retires for service on an immediate retirement allowance, or for  
599 an employee who retired for disability on an immediate retirement allowance ~~who attains age sixty-five~~  
600 *when his normal retirement date occurs*, may be continued, subject to payment of any required premium  
601 by the employee, and provided the employee had such spouse or dependent insurance for a period of at  
602 least sixty continuous months prior to retirement, or prior to reaching ~~age sixty-five~~ *normal retirement*  
603 *date* for a disability retirement. Life insurance on the spouse that is eligible to be continued shall be an  
604 amount specified by the Board and available to the retiree under § 51.1-512 and shall begin to reduce  
605 when the ~~retiree attains age sixty-five~~ *retiree's normal retirement date occurs* under the terms and  
606 conditions specified by the Board. Life insurance on dependent children that is eligible to be continued  
607 shall be in increments as specified by the Board. The Board shall adjust these amounts periodically to  
608 account for changes in the purchasing power of money over time. All optional life insurance on a  
609 retiree's spouse or dependent ceases at the earliest of (i) the retiree attaining age eighty, (ii) the death of  
610 the retiree, (iii) for a spouse, the entry of a final divorce decree terminating the marriage of the retiree  
611 and the retiree's spouse, (iv) for a minor insured dependent, the date the dependent attains the age of  
612 twenty-one, unless the minor insured dependent is a full-time college student, then the date the  
613 dependent attains age twenty-five, unless the minor insured dependent is under a mental or physical

disability, in which case coverage shall not terminate until three months following cessation of the disability, or (v) for a minor insured dependent, the date of his marriage. All accidental death and dismemberment insurance ceases at retirement.

E. The cost of the optional insurance shall be determined periodically by the Board on the basis it considers appropriate. The Board may discontinue the optional insurance plan at any time upon determination that employee participation is not sufficient to continue the plan on a sound actuarial basis.

F. The amount of optional life, accidental death, and dismemberment insurance in force on an employee's spouse or minor dependent at the date of his or her death shall be paid as provided in this chapter. All accidental death and dismemberment insurance ceases at retirement. The amount of optional life insurance in force on the retiree's spouse or minor dependent at the date of his death shall be paid as provided in this chapter.

G. The Board shall determine the form and content of the accounting reports to be made by the insurance company with respect to the optional insurance. Any expenses incurred by the Retirement System for operating and administering the optional insurance programs provided in this section may be recovered by the Board from the advance premium deposit reserve required by subsection B of § 51.1-514.

H. As used in this section, an employee's "minor dependent" means a child member of the employee's or retiree's family who is eligible for coverage under the family membership program offered under policies and procedures of the Department of Human Resource Management governing health insurance plans administered pursuant to § 2.2-1204 or § 2.2-2818.

I. The provisions of this chapter applicable to the provision of group insurance policies to insure eligible employees or retirees shall apply to optional insurance insuring the spouses and minor dependents of eligible employees or retirees pursuant to this section, with the respective differences having been considered.

§ 51.1-601.1. Participation in plan by certain employees.

All employees of the Commonwealth and its agencies commencing employment or who are reemployed on or after January 1, 2008, in a position covered by the Virginia Retirement System, and who have not elected to participate in a plan established pursuant to (i) § 403(b) of the Internal Revenue Code of 1986, as amended, or (ii) § 51.1-126.5:1, shall participate in the plan described in § 51.1-602, unless such employee elects, in a manner prescribed by the Board, not to participate in such plan. The amount of the deferral for any such employee participating in the plan shall equal, on a semimonthly basis, \$20 of otherwise payable compensation, unless the employee elects to defer a different amount.

§ 51.1-603.1. Participation by employees of political subdivisions in deferred compensation plan of Virginia Retirement System.

The Virginia Retirement System may enter into an agreement with any political subdivision of the Commonwealth to permit participation by the political subdivision's employees in the deferred compensation plan established and administered by the Board pursuant to § 51.1-602, *except that political subdivisions of the Commonwealth otherwise participating in the retirement system pursuant to Article 5 (§ 51.1-130 et seq.) of Chapter 1 shall participate in the deferred compensation plan established and administered by the Board pursuant to § 51.1-602 to the extent necessary to provide benefits under the optional defined contribution retirement program described in § 51.1-126.5:1.*

§ 51.1-611. Participation by employees of political subdivisions in cash match plan of Virginia Retirement System.

The Virginia Retirement System may enter into an agreement with any political subdivision of the Commonwealth to permit participation by the political subdivision's employees in the cash match plan established and administered by the Board pursuant to ~~§ 51.1-607~~ § 51.1-608, *except that political subdivisions of the Commonwealth otherwise participating in the retirement system pursuant to Article 5 (§ 51.1-130 et seq.) of Chapter 1 shall participate in the deferred compensation plan established and administered by the Board pursuant to § 51.1-608 to the extent necessary to provide benefits under the optional defined contribution retirement program described in § 51.1-126.5:1.*

§ 51.1-1100. Definitions.

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

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

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

"Disability" means a partial disability or total disability.

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

"Eligible employee" means (i) a state employee as defined in § 51.1-124.3 who is a member of the

retirement system, (ii) an employee as defined in § 51.1-201, (iii) an employee as defined in § 51.1-212, or (iv) a qualifying part-time employee. Any person participating in a plan established pursuant to §§ 51.1-126, 51.1-126.1, 51.1-126.4, 51.1-126.5, ~~51.1-126.5:1~~, 51.1-502.1, or § 51.1-502.3 shall not be an eligible employee. Employees of the University of Virginia Medical Center covered under the basic insurance policies purchased by the Medical Center shall not be considered eligible employees under this chapter, unless the University of Virginia Board of Visitors, or a duly authorized agent or representative of the Board of Visitors, purchases such insurance policies from the Virginia Retirement System.

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

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

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

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

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

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

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

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

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

§ 51.1-1112. Long-term disability benefit.

A. Except as provided in subsection D of § 51.1-1103, long-term disability benefits for participating employees shall commence upon the expiration of the maximum period for which the participating employee is eligible to receive short-term disability benefits under § 51.1-1110.

B. Except as provided in subsection D and § 51.1-1131, long-term disability benefits shall provide income replacement in an amount equal to 60 percent of a participating employee's creditable compensation.

C. Creditable compensation during periods an employee receives long-term disability benefits shall (i) not include salary increases awarded during the period covered by long-term disability benefits and (ii) be increased annually by an amount recommended by the actuary of the Virginia Sickness and Disability Program and approved by the Board.

D. An employee's disability credits shall be used, on a day-for-day basis, to extend the period an employee receives long-term disability benefits paid at 100 percent of replacement of creditable compensation.

E. Long-term disability benefits shall be payable only during periods of (i) total disability or (ii) partial disability.

F. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply for Social Security disability benefits.

G. An employee who is approved for disability benefits on or after ~~age 60~~ *the date that is five years prior to his normal retirement date* shall be eligible for ~~up to a maximum of~~ five years of disability ~~benefits~~ before the employee is required to retire under a service retirement. The five years includes short-term disability and long-term disability.

§ 51.1-1123. Supplemental long-term disability benefit.

A. Supplemental long-term disability benefits for participating employees shall commence upon the expiration of the maximum period for which the participating employee is eligible to receive short-term disability benefits under § 51.1-1121.

B. Except as provided in subsection D and § 51.1-1131, supplemental long-term disability benefits

shall provide income replacement in an amount equal to 60 percent of a participating employee's creditable compensation.

C. Creditable compensation during periods an employee receives supplemental long-term disability benefits shall (i) not include salary increases awarded during the period covered by long-term disability benefits and (ii) be increased annually by an amount recommended by the program actuary and approved by the Board.

D. An employee's disability credits shall be used, on a day-for-day basis, to extend the period an employee receives supplemental long-term disability benefits paid at 100 percent of replacement of creditable compensation.

E. Payments of supplemental long-term disability benefits payable under this article shall be reduced by an amount equal to any benefits paid to the employee under the Act, for which the employee is entitled to receive under the Act, excluding any benefit for medical, legal or rehabilitation expenses.

F. Supplemental long-term disability benefits shall be payable only during periods of total and partial disability.

G. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply for Social Security disability benefits.

H. An employee who is approved for disability benefits on or after ~~age 60~~ *the date that is five years prior to his normal retirement date* shall be eligible for ~~up to a maximum of~~ *up to a maximum of* five years of disability benefits before the employee is required to retire under a service retirement. The five years includes short-term disability and long-term disability.

§ 51.1-1128. Service retirement of participating full-time employees receiving supplemental disability benefits.

A. Upon the last to occur of (i) the normal retirement date of a participating full-time employee receiving disability benefits who is a vested member of the retirement system or (ii) the date of cessation of benefits payable under the Act, the employee shall be eligible for normal retirement under subsection A of § 51.1-153. Such employee shall be authorized to elect any option for the payment of his retirement allowance provided under subsection A of § 51.1-165.

B. The retirement allowance for a participating full-time employee taking normal retirement pursuant to this section shall be determined as provided in subdivision A 1 of § 51.1-155, provided that the employee's average final compensation shall be equal to his creditable compensation on the date of the commencement of the disability increased by an amount recommended by the actuary of the Virginia Retirement System, and approved by the Board, from the date of the commencement of the disability to the date of retirement.

C. The creditable service of a participating full-time employee taking normal retirement pursuant to this section shall include periods during which the employee received supplemental disability benefits, *provided that such creditable service shall not include periods for which (i) the employee received supplemental short-term disability benefits, (ii) the employer did not report such creditable service to the retirement system, and (iii) the employee did not purchase such creditable service.*

#### CHAPTER 11.1.

#### DISABILITY PROGRAM FOR DEFINED CONTRIBUTION RETIREMENT PROGRAM PARTICIPANTS.

##### Article 1.

##### General Provisions.

##### § 51.1-1150. Definitions.

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

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

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

"Continuous service" means an uninterrupted period of service as a participating employee with the same employer.

"Disability" means a partial disability or total disability.

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

"Eligible employee" means a person who is participating in the defined contribution retirement program established pursuant to § 51.1-126.5:1.

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

"Participating employee" means any eligible employee required to participate in the program.

798 "Program" means the program providing short-term disability and long-term disability benefits for  
799 participating employees established pursuant to this chapter.

800 "Service" means a period of service as a participating employee.

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

806 "Work-related injury" means an injury, as such term is defined in § 65.2-101, to a participating  
807 employee for which benefits are payable under the Act and the employer for purposes of the Act is the  
808 Commonwealth or other political subdivision through which the participating employee became eligible  
809 for the program.

810 In addition to the definitions listed in this section, the definitions listed in § 51.1-124.3 shall, as the  
811 context requires, apply to this chapter except as otherwise provided.

812 § 51.1-1151. Sickness and disability program; disability insurance policies.

813 A. The Board shall develop, implement, and administer a short-term disability and long-term  
814 disability benefits program in accordance with the provisions of this chapter. The Board is authorized to  
815 delegate or assign to any person any of the duties required to be performed by the Board pursuant to  
816 this chapter. The Board is authorized to purchase long-term disability insurance policies for  
817 participating employees. The policies shall be purchased from and carried with a disability insurance  
818 company which is authorized to do business in the Commonwealth.

819 Each policy shall contain a provision stipulating the maximum expense and risk charges that are  
820 determined by the Board to be on a basis consistent with the general level of charges made by disability  
821 insurance companies under policies of long-term disability insurance issued to large employers. The  
822 Board may require that the policies have reinsurance with a disability insurance company incorporated  
823 or organized under the laws of and authorized to do business in the Commonwealth.

824 B. Notwithstanding the provisions of subsection A, the Board may self-insure long-term disability  
825 benefits in accordance with the standards set forth in § 51.1-124.30.

826 § 51.1-1152. Additional powers of the Board.

827 In addition to any other powers granted to the Board under this title, the Board shall have the  
828 power to:

829 1. Establish policies and procedures to implement and administer the program and the provisions of  
830 this chapter;

831 2. Contract for the provision of comprehensive case management;

832 3. Take all other actions necessary for the implementation and administration of the program; and

833 4. Adopt rules and policies that bring the program into compliance with any applicable law or  
834 regulation of this Commonwealth or the United States.

835 § 51.1-1153. Participation in the program.

836 A. The effective date of participation in the program for participating employees shall be their first  
837 day of employment.

838 B. Notwithstanding any provision to the contrary, no participating employee shall receive benefits  
839 under Article 2 (§ 51.1-1154 et seq.) (Nonwork-Related Disability Benefits) until the participating  
840 employee completes one year of continuous service.

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

#### 846 Article 2.

#### 847 Nonwork-Related Disability Benefits.

848 § 51.1-1154. Applicability of article.

849 The provisions of this article shall apply only with respect to the disability programs providing  
850 disability benefits for disabilities not resulting from work-related injuries.

851 § 51.1-1155. Short-term disability benefit.

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

B. Except as provided in § 51.1-1171, short-term disability coverage shall provide income replacement for (i) 60 percent of a participating employee's creditable compensation for the first 60 months of continuous service and (ii) thereafter, a percentage of a participating employee's creditable compensation during the periods specified below, based on the number of months of continuous service, that an employee is disabled or on maternity leave:

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

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

D. Short-term disability benefits shall be payable only during periods of (i) total disability, (ii) partial disability, or (iii) maternity leave.

§ 51.1-1156. Successive periods of short-term disability.

A. A participating employee's disability which is related or due to the same cause or causes as a prior disability for which short-term disability benefits were paid shall be deemed to be a continuation of the prior disability if the employee returns to his position on an active employment basis for less than 45 consecutive calendar days. If a participating employee, after receiving short-term disability benefits, immediately returns to work for less than 45 consecutive calendar days and cannot continue to work, the days worked shall be deemed to have interrupted the short-term disability benefits period, and such days worked shall not be counted for purposes of determining the maximum period for which the participating employee is eligible to receive short-term disability benefits. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to his position on an active employment basis for 45 consecutive calendar days or longer, any succeeding period of disability shall constitute a new period of short-term disability.

C. The period of 45 days referred to in subsections A and B shall be consecutive calendar days that the participating employee is (i) actively at work and (ii) fully released to return to work full time, full duty.

§ 51.1-1157. Long-term disability benefit.

A. Long-term disability benefits for participating employees shall commence upon the expiration of the maximum period for which the participating employee is eligible to receive short-term disability benefits under § 51.1-1155.

B. Except as provided in § 51.1-1171, long-term disability benefits shall provide income replacement in an amount equal to 60 percent of a participating employee's creditable compensation.

C. Creditable compensation during periods an employee receives long-term disability benefits shall not include salary increases awarded during the period covered by long-term disability benefits.

D. Long-term disability benefits shall be payable only during periods of (i) total disability or (ii) partial disability.

E. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply for Social Security disability benefits.

§ 51.1-1158. Successive periods of long-term disability.

A. A participating employee's disability, which is related or due to the same cause or causes as a prior disability for which long-term disability benefits were paid, shall be deemed to be a continuation of the prior disability if the employee returns to a position on an active employment basis for less than 125 consecutive work days. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.

B. If a participating employee returns to a position on an active employment basis for 125 consecutive work days or longer, any succeeding period of disability shall constitute a new period of disability.

§ 51.1-1159. Adjustments to disability benefits.

A. Disability benefit payments shall be offset by an amount equal to any sums payable to a participating employee from the following sources:

1. During the first 12 months the employee receives disability benefits, an amount equal to the employee's wages and salary from any employment multiplied by the creditable compensation replacement percentage;

921 2. After the first 12 months the employee receives disability benefits, an amount equal to 70 percent  
922 of the employee's wages and salary from any employment;

923 3. Except as provided in subsection F, disability payments from the Social Security Administration,  
924 military disability benefits, local government disability benefits, federal civil service disability benefits or  
925 other similar governmental disability program benefits received by the employee or his family as a  
926 result of the qualifying disability;

927 4. Benefits received from any other group insurance contract provided to the participating employee  
928 by his employer for the purpose of providing income replacement; and

929 5. Benefits paid under any compulsory benefits law.

930 B. If the plan administrator deems a participating employee to be eligible for benefits from any of  
931 the sources listed in subdivisions A 3, A 4, and A 5, the plan administrator may direct the participating  
932 employee to apply for those benefits and to pursue whatever additional steps are necessary to obtain the  
933 benefits. If a participating employee fails or refuses to pursue the available benefits as directed by the  
934 plan administrator, disability benefit payments may be offset by amounts from any of the sources listed  
935 in subdivisions A 3, A 4, and A 5 for which a participating employee is deemed eligible by the plan  
936 administrator as if the employee received such amounts. However, if the employee has applied for such  
937 benefits, and has reapplied and appealed denials of the claim as requested by the administrator of the  
938 plan, and the claim is not approved, the employee's disability payments shall not be reduced thereby.

939 C. If a participating employee's disability benefit payments are reduced as the result of payments  
940 from sources listed in subdivisions A 3, A 4, and A 5 or pursuant to subsection B, the employee's  
941 disability benefits shall not thereafter be further reduced on account of cost-of-living increases in  
942 payments from such sources.

943 D. Participating employees shall be required to repay, with interest, to the Board or their employer,  
944 any overpayments of disability benefits on account of the failure of the employee to provide the Board  
945 or its designee with information necessary to make any of the reductions required to be made under this  
946 article.

947 E. Any payment to a participating employee that is later determined by the Board or by the employer  
948 to have been procured on the basis of any false statement or falsification of any record knowingly made  
949 by or on behalf of the member, or the employee's failure to make any required report of change in  
950 disability status, may be recovered from the employee by the Board, with interest, either by way of a  
951 credit against future payments due the employee, his survivor and beneficiaries or by an action at law  
952 against the employee.

953 F. Supplemental disability payments will not be offset for a participating employee if the employee is  
954 receiving a primary retirement benefit for service in the United States armed services, even if a  
955 percentage of that primary retirement benefit has been declared a disability payment. Any disability  
956 payment that is not a part of the primary retirement benefit will be offset.

957 § 51.1-1160. Rehabilitation incentive.

958 Disability benefits payable to a participating employee who fails to cooperate with a rehabilitation  
959 program prescribed for the employee shall be decreased by 50 percent of the amounts otherwise payable  
960 to such employee.

961 § 51.1-1161. Cessation of disability benefits.

962 Disability benefits shall cease to be paid to a participating employee upon the first to occur of the  
963 following:

964 1. The end of the period of disability coverage as provided in subsection D of § 51.1-1155 or  
965 subsection D of § 51.1-1157;

966 2. The date of death of the participating employee;

967 3. The date that the participating employee attains age 65; or

968 4. The date that the participating employee takes an initial distribution from the defined contribution  
969 retirement plan established pursuant to § 51.1-126.5:1.

970 Notwithstanding the foregoing, an employee who is approved for disability benefits (i) at age 60  
971 through 64 shall be eligible for five years of disability benefits, (ii) at age 65 through 68 shall be  
972 eligible for disability benefits to age 70, and (iii) at age 69 or older shall be eligible for disability  
973 benefits for one year. The eligibility periods include short-term disability and long-term disability.

974 Article 3.

975 Work-Related Disability Benefits.

976 § 51.1-1162. Applicability of article.

977 The provisions of this article shall apply only with respect to disability programs providing payment  
978 of disability benefits attributed to work-related injuries.

979 § 51.1-1163. Supplemental short-term disability benefit.

980 A. Payments of supplemental short-term disability benefits payable under this article shall be reduced  
981 by an amount equal to any benefits paid to the employee under the Act, or which the employee is  
982 entitled to receive under the Act, excluding any payments for medical, legal or rehabilitation expenses.



*B. Supplemental short-term disability benefits for participating employees shall commence upon the expiration of a seven-calendar-day waiting period. The waiting period shall commence the first day of a disability. If an employee returns to work for one day or less during the seven calendar days following the commencement of a disability but cannot continue to work, the periods worked shall not be considered to have interrupted the seven-calendar-day waiting period. Additionally, the seven-calendar-day waiting period shall not be considered to be interrupted if the employee works 20 hours or less during the waiting period. Short-term disability benefits payable as the result of a catastrophic disability shall not require any waiting period.*

*C. Except as provided in subsection D and § 51.1-1171, supplemental short-term disability coverage shall provide income replacement for (i) 60 percent of a participating employee's creditable compensation for the first 60 months of continuous service and (ii) thereafter, a percentage of a participating employee's creditable compensation during the period specified below that an employee is disabled, based on the number of months of continuous service, as follows:*

	Work Days of 100%	Work Days of 80%	Work Days of 60%
Months of Continuous Service	Replacement of Creditable Compensation	Replacement of Creditable Compensation	Replacement of Creditable Compensation
60 to 119	85	25	15
120 or more	85	40	0

*D. Notwithstanding the provisions of subsection C, a state police officer who is a participating employee and who incurs a work-related injury in the line of duty shall receive supplemental short-term disability coverage that provides income replacement for 100 percent of the officer's creditable compensation for the first six months and, pursuant to a certification by the Superintendent of State Police, based on a medical evaluation, that the officer is likely to return to service within another six months, up to one calendar year, that the officer is disabled, without regard to the officer's number of months of state service. Upon the expiration of the one-calendar-year period, such state police officers shall be eligible for supplemental long-term disability benefits as provided in § 51.1-1165.*

*E. Creditable compensation during periods an employee receives supplemental short-term disability benefits shall include salary increases awarded during the period of short-term disability coverage.*

*F. Supplemental short-term disability benefits shall be payable only during periods of total disability or partial disability.*

*§ 51.1-1164. Successive periods of short-term disability.*

*A. A participating employee's disability, which is related or due to the same cause or causes as a prior disability for which supplemental short-term disability benefits were paid, shall be deemed to be a continuation of the prior disability if the employee (i) is eligible for benefits payable under the Act, whether or not he is receiving such benefits, and (ii) returns to his position on an active employment basis for less than 45 consecutive calendar days. If a participating employee, after receiving short-term disability benefits, immediately returns to work for less than 45 consecutive calendar days and cannot continue to work, the days worked shall be deemed to have interrupted the short-term disability benefits period, and such days worked shall not be counted for purposes of determining the maximum period for which the participating employee is eligible to receive short-term disability benefits. Days of work arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining the duration of the period of the employee's return to work.*

*B. If a participating employee returns to his position on an active employment basis for 45 consecutive calendar days or longer, any succeeding period of disability shall constitute a new period of short-term disability.*

*C. The period of 45 days referred to in subsections A and B shall be consecutive calendar days that the participating employee is (i) actively at work and (ii) fully released to return to work full time, full duty.*

*§ 51.1-1165. Supplemental long-term disability benefit.*

*A. Supplemental long-term disability benefits for participating employees shall commence upon the expiration of the maximum period for which the participating employee is eligible to receive short-term disability benefits under § 51.1-1163.*

*B. Except as provided in § 51.1-1171, supplemental long-term disability benefits shall provide income replacement in an amount equal to 60 percent of a participating employee's creditable compensation.*

*C. Creditable compensation during periods an employee receives supplemental long-term disability benefits shall not include salary increases awarded during the period covered by long-term disability benefits.*

*D. Payments of supplemental long-term disability benefits payable under this article shall be reduced by an amount equal to any benefits paid to the employee under the Act, for which the employee is entitled to receive under the Act, excluding any benefit for medical, legal or rehabilitation expenses.*

1044 *E. Supplemental long-term disability benefits shall be payable only during periods of total disability*  
1045 *or partial disability.*

1046 *F. Unless otherwise directed, to be eligible for benefits under this section, the employee must apply*  
1047 *for Social Security disability benefits.*

1048 *§ 51.1-1166. Successive periods of long-term disability.*

1049 *A. A participating employee's disability, which is related or due to the same cause or causes as a*  
1050 *prior disability for which supplemental long-term disability benefits were paid, shall be deemed to be a*  
1051 *continuation of the prior disability if the employee is eligible for benefits payable under the Act, whether*  
1052 *or not he is receiving such benefits, and returns to a position on an active employment basis for less*  
1053 *than 125 consecutive work days. Days of work arranged pursuant to vocational, rehabilitation, or*  
1054 *return-to-work programs shall not be counted in determining the duration of the period of the*  
1055 *employee's return to work.*

1056 *B. If a participating employee returns to a position on an active employment basis for 125*  
1057 *consecutive work days or longer, any succeeding period of disability shall constitute a new period of*  
1058 *disability.*

1059 *§ 51.1-1167. Adjustments in supplemental disability benefits.*

1060 *A. In addition to offsets equal to the amount of any benefits paid to a participating employee under*  
1061 *the Act, supplemental disability benefit payments shall be offset by an amount equal to any sums*  
1062 *payable to a participating employee from the following sources:*

1063 *1. During the first 12 months the employee receives disability benefits, an amount equal to the*  
1064 *employee's wages and salary from any employment multiplied by the income replacement percentage*  
1065 *payable;*

1066 *2. After the first 12 months the employee receives disability benefits, an amount equal to 70 percent*  
1067 *of the employee's wages and salary from any employment;*

1068 *3. Except as provided in subsection G, disability payments from the Social Security Administration,*  
1069 *military disability benefits, local government disability benefits, federal civil service disability benefits or*  
1070 *other similar governmental disability program benefits received by the employee or his family as a*  
1071 *result of the qualifying disability;*

1072 *4. Benefits received from any other group insurance contract provided to the participating employee*  
1073 *by his employer for the purpose of income replacement;*

1074 *5. Benefits paid under any compulsory benefits law; and*

1075 *6. If the participating employee receives a settlement in lieu of periodic payments for a disability*  
1076 *compensable under the Act, an amount determined by dividing the workers' compensation benefit, which*  
1077 *such employee would have received had the lump-sum settlement not been consummated into the*  
1078 *settlement actually accepted by the employee.*

1079 *B. If the plan administrator deems a participating employee to be eligible for benefits from any of*  
1080 *the sources listed in subdivisions A 3, A 4, and A 5, the plan administrator may direct the participating*  
1081 *employee to apply for those benefits and to pursue whatever additional steps are necessary to obtain the*  
1082 *benefits. If a participating employee fails or refuses to pursue the available benefits as directed by the*  
1083 *plan administrator, supplemental disability benefit payments may be reduced by amounts from any of the*  
1084 *sources listed in subdivisions A 3, A 4, and A 5 for which a participating employee is deemed eligible*  
1085 *by the plan administrator as if the employee received such amounts. However, if the employee has*  
1086 *applied for such benefits, and has reapplied and appealed denials of the claim as requested by the*  
1087 *administrator of the plan, and the claim is not approved, the employee's supplemental disability*  
1088 *payments shall not be reduced thereby.*

1089 *C. If a participating employee's disability benefit payments are reduced as the result of payments*  
1090 *from sources listed in subdivisions A 3, A 4, and A 5 or pursuant to subsection B, the employee's*  
1091 *disability benefits shall not thereafter be further reduced on account of cost-of-living increases in*  
1092 *payments from such sources.*

1093 *D. Participating employees shall be required to repay, with interest, to the Board or the employer*  
1094 *any overpayments of supplemental disability benefits on account of the failure of the employee to*  
1095 *provide the Board or its designee with information necessary to make any of the reductions required to*  
1096 *be made under this article.*

1097 *E. Any payment to a participating employee that is later determined by the Board or by the employer*  
1098 *to have been procured on the basis of any false statement or falsification of any record knowingly made*  
1099 *by or on behalf of the employee, or the employee's failure to make any required report of change in*  
1100 *disability status, may be recovered from the employee by the Board, with interest, either by way of a*  
1101 *credit against future payments due the employee or by an action at law against the employee.*

1102 *F. If a participating employee's payments under the Act are adjusted or terminated for refusal to*  
1103 *work or to comply with the requirements of § 65.2-603, his disability benefits shall be computed as if he*  
1104 *were receiving the compensation to which he would otherwise be entitled under the Act.*

1105 *G. Supplemental disability payments will not be offset for a participating employee if the employee is*

receiving a primary retirement benefit for service in the United States armed services, even if a percentage of that primary retirement benefit has been declared a disability payment. Any disability payment that is not a part of the primary retirement benefit will be offset.

§ 51.1-1168. Rehabilitation incentive.

Supplemental disability benefits payable to a participating employee who fails to cooperate with a rehabilitation program prescribed for the employee shall be decreased by 50 percent of the amounts otherwise payable to such employee. In determining the amount of any reduction in benefits under this section, the participating employee shall be presumed to continue to receive benefits payable under the Act. Failure to comply with a vocational rehabilitation assessment process at any time the employee is receiving supplemental disability benefits may constitute a failure to cooperate for purposes of this section.

§ 51.1-1169. Cessation of supplemental disability benefits.

Supplemental disability benefits shall cease to be paid to a participating employee upon the first to occur of the following:

1. The end of the period of supplemental disability coverage as provided in subsection F of § 51.1-1163 or subsection E of § 51.1-1165;

2. The date of death of the participating employee;

3. On the date the employee attains age 65; or

4. The date that the participating employee takes an initial distribution from the defined contribution retirement plan established pursuant to § 51.1-126.5:1.

Notwithstanding the foregoing, an employee who is approved for supplemental disability benefits (i) at age 60 through 64 shall be eligible for five years of supplemental disability benefits, (ii) at age 65 through 68 shall be eligible for supplemental disability benefits to age 70, and (iii) at age 69 or older shall be eligible for supplemental disability benefits for one year. The eligibility periods include supplemental short-term disability and supplemental long-term disability.

§ 51.1-1170. Coordination of benefits.

The Board shall develop guidelines and procedures for the coordination of benefits and case management for participating employees entitled to benefits under the Act and supplemental disability benefits under this article. Such guidelines shall also address disability benefits for participating employees whose disability results from multiple injuries or illnesses, one or more of which is a work-related injury.

#### Article 4.

##### Administrative Provisions.

§ 51.1-1171. Supplemental benefits for catastrophic disability.

Disability benefits shall be increased to 80 percent of creditable compensation for any disabled participating employee who (i) is unable to perform at least two of the six activities of daily living due to a loss of functional capacity or (ii) requires substantial supervision to protect the employee from threats to health and safety as a result of severe cognitive impairment. Determination of whether a participating employee satisfies either of these conditions shall be made in accordance with the policies of the Board or its designee.

§ 51.1-1172. Employer contributions during disability absences.

A. Employer and employee contributions to the defined contribution retirement program pursuant to subsections B and C of § 51.1-126.5:1 on behalf of participating employees shall continue during periods of such employees' absence covered by short-term disability benefits.

However, the calculation of such contributions shall be based on the participating employee's creditable compensation multiplied by the income replacement percentage for which the participating employee is otherwise eligible under this program.

B. In lieu of the mandatory employer and employee contributions pursuant to subdivisions B 1 and C 1 of § 51.1-126.5:1, a 10 percent contribution to the defined contribution retirement program shall be paid, on behalf of participating employees during periods of such employees' absence covered by long-term disability benefits, by the Defined Contribution Retirement Program Disability Insurance Trust Fund established under § 51.1-1183. However, the calculation of such contribution shall be based on the participating employee's creditable compensation multiplied by the income replacement percentage for which the participating employee is otherwise eligible under this program.

§ 51.1-1173. Health insurance coverage during disability absences.

A. Participating employees enrolled in a health insurance plan established pursuant to § 2.2-2818 shall continue to be covered during periods of short-term disability and shall have the option of continuing to be covered by such plan during periods of absence covered by long-term disability benefits.

B. The Commonwealth shall pay the employer's share of the cost of health insurance coverage under such plan for participating employees and for the families or dependents of such employees during

1167 periods the employee is receiving short-term disability benefits to the same extent as for other state  
1168 employees covered by such plan.

1169 C. Participating employees enrolled in such plan established pursuant to § 2.2-2818 shall have the  
1170 option of continuing to be covered under such plan, and shall pay the full cost for coverage under such  
1171 plan for themselves and for their families and dependents during periods the employee is receiving  
1172 long-term disability benefits. However, for an employee as defined in § 51.1-201 who is receiving  
1173 supplemental long-term disability benefits pursuant to Article 3 (§ 51.1-1162 et seq.), the Commonwealth  
1174 shall continue to pay the employer's share of the cost of health insurance coverage under such plan for  
1175 the participating employee and for his family and dependents until such time as the employee is  
1176 approved for continued health insurance coverage as provided under Chapter 4 (§ 9.1-400 et seq.) of  
1177 Title 9.1.

1178 § 51.1-1174. Life and accident insurance coverage during disability absences.

1179 A. Participating employees participating in a group life and accident insurance program established  
1180 pursuant to Chapter 5 (§ 51.1-500 et seq.) shall continue to participate in such program during periods  
1181 of absence covered by short-term and long-term disability benefits.

1182 B. During periods of absence covered by short-term disability benefits, the amount of the life  
1183 insurance benefit shall be based on the annual salary of the participating employee at the  
1184 commencement of the disability and shall be adjusted to include salary increases awarded during the  
1185 period covered by short-term disability benefits.

1186 C. During periods of absence covered by long-term disability benefits, the amount of the life  
1187 insurance benefit shall be based on the annual salary of the participating employee at the  
1188 commencement of the disability. Such amount shall not include salary increases awarded during the  
1189 period covered by long-term disability benefits.

1190 § 51.1-1175. Optional insurance during disability absences.

1191 Participating employees may continue coverage under the optional insurance for themselves and  
1192 their spouses and minor dependents pursuant to §§ 51.1-512 and 51.1-513 at their own expense during  
1193 periods of disability.

1194 § 51.1-1176. Exclusions and limitations.

1195 A. Disability benefits shall not be payable to any participating employee (i) whose disability results  
1196 from the employee's commission of a felony or (ii) during any period when the employee is incarcerated.

1197 B. Long-term disability benefits shall not be payable to any participating employee whose disability  
1198 results from the abuse of alcohol, the misuse of any prescribed medication, or the misuse of any  
1199 controlled substance, unless the employee is actively receiving treatment and, in the judgment of the  
1200 case manager, is fully complying with the treatment plan and is making substantial progress toward  
1201 rehabilitation.

1202 C. Disability benefits shall not be payable if the participating employee is determined by the Board  
1203 or its designee to be noncompliant with the program.

1204 § 51.1-1177. Appeals.

1205 The Board may elect to develop an alternative to the process set forth in the Administrative Process  
1206 Act (§ 2.2-4000 et seq.) to allow appeals of case decisions related to the payment of disability benefits  
1207 under this chapter. This alternative process shall be modeled after the claims provisions as provided for  
1208 in the federal Employee Retirement Income Security Act of 1974, as amended, and shall (i) provide for  
1209 adequate notice in writing to any participant whose claim for benefits has been denied setting forth the  
1210 specific reasons for such denial and (ii) afford a reasonable opportunity to any participant whose claim  
1211 for benefits has been denied for a review of the decision denying the claim. Articles 3 (§ 2.2-4018 et  
1212 seq.) and 4 (§ 2.2-4024 et seq.) of the Administrative Process Act shall not apply to any portion of this  
1213 alternative appeals process.

1214 However, any person aggrieved by, and claiming the unlawfulness of, a final case decision issued  
1215 pursuant to this alternative appeals process, whether issued by the Board or by the Board's delegate,  
1216 shall have a right to seek judicial review thereof. Such judicial review shall be in accordance with  
1217 Article 5 (§ 2.2-4025 et seq.) of the Administrative Process Act.

1218 § 51.1-1178. Board authorized to provide long-term care insurance and benefits.

1219 A. For purposes of this section, "participating employee" means the same as that term is defined in  
1220 § 51.1-1150.

1221 B. The Board is authorized to develop, implement, and administer a long-term care insurance  
1222 program for participating employees. The Board may contract for and purchase such long-term care  
1223 insurance or may self-insure long-term care benefits or may use such other actuarially sound funding  
1224 necessary to effectuate such long-term care insurance and benefits.

1225 C. Employers of participating employees shall pay to the Board contribution amounts, to be  
1226 determined by the Board, to provide the Board with such funds as shall be required from time to time to  
1227 (i) obtain and maintain long-term care insurance and benefits for participating employees and (ii)  
1228 administer the long-term care insurance program, including providing case management and cost

containment programs. Contributions shall be deposited in the Defined Contribution Retirement Program Disability Insurance Trust Fund established under § 51.1-1183.

§ 51.1-1179. Limitation on coverage.

No person shall have more than one coverage under a disability benefit program. Any person employed in more than one position, which provides coverage under a disability benefit program, shall elect one position on which his coverage shall be based by written notification to the Board. No person shall receive more than one disability benefit under this chapter at the same time.

§ 51.1-1180. Keeping records and furnishing information required by Board.

Each employer whose employees are covered under the provisions of this chapter shall keep records and furnish information required by the Board.

§ 51.1-1181. Benefits exempt from process.

The benefits provided for in this chapter and all proceeds therefrom shall be exempt from levy, garnishment, attachment, and other legal process.

§ 51.1-1182. Policies to provide for accounting to Board; advance premium deposit reserve.

A. Each insurance product purchased by the Board or contract for administrative services related to a self-funded product shall provide for an accounting to the Board not later than 120 days after the end of each product year. For an insurance product, the accounting shall include (i) the amounts of premiums actually accrued under the policy during the policy year, (ii) the total amount of all claim charges incurred during the policy year, and (iii) the amount of fees accrued under the policy during the year plus the total amount of all claim charges incurred during the policy year. For a self-insured product, the accounting shall include the total amount of all claim charges incurred during the product year, the total amount of third party administrator expenses, and the total amount of other charges for administrative services.

B. Any portion of the excess of the total of clause (i) of subsection A over clause (iii) of subsection A may, with the approval of the Board, be held by the insurance company in an advance premium deposit reserve to be used by the company for charges under the policy only. Any expenses incurred by the Board in connection with the administration of the disability benefits provisions of the program may be deducted from the advance premium deposit reserve. The advance premium deposit reserve shall bear interest at a rate to be determined in advance of each policy year by the insurance company. The rate shall be subject to Board approval as being consistent with the rates generally used by the company for similar funds held under other disability insurance policies. Any portion of the excess not held by the insurance company shall be held by the Board to be used for charges under the policy only. If the Board determines that the advance premium deposit reserve, together with any portion of the excess accumulated and held by the Board, has attained an amount estimated to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall inure to the benefit of the Commonwealth and its political subdivisions as determined by the Board.

C. For purposes of this section, the insurance company may combine and consolidate the policies issued by it as directed by the Board.

§ 51.1-1183. Funding of program; Defined Contribution Retirement Program Disability Insurance Trust Fund established.

A. The costs of providing short-term disability benefits shall be paid by the respective employers of participating employees. Employers that are state agencies shall pay such costs from funds as shall be appropriated by law to state agencies.

B. Employers of participating employees shall pay to the Board contribution amounts, to be determined by the Board, to provide the Board with such funds as shall be required from time to time to (i) obtain and maintain long-term disability insurance policies under this chapter and (ii) administer the Program, including providing case management and cost containment programs. Employers that are state agencies shall make such contributions from funds as shall be appropriated by law to state agencies. Contributions shall be deposited in the Defined Contribution Retirement Program Disability Insurance Trust Fund.

C. There is hereby established the Defined Contribution Retirement Program Disability Insurance Trust Fund. The costs incurred by the Board in providing policies of long-term disability insurance and administering the Program and in administering the long-term care insurance program established under § 51.1-1178, including the provision of case management and cost containment programs, shall be withdrawn from time to time by the Board from the Defined Contribution Retirement Program Disability Insurance Trust Fund. The funds of the Defined Contribution Retirement Program Insurance Trust Fund shall be deemed separate and independent trust funds, shall be segregated from all other funds of the Commonwealth and its political subdivisions, and shall be invested and administered solely in the interests of the participating employees and beneficiaries thereof. Neither the General Assembly nor any public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose other than as provided in law for benefits, refunds, and administrative expenses, including but not

1290 *limited to legislative oversight of the Defined Contribution Retirement Program Disability Insurance*  
1291 *Trust Fund.*

1292 § 51.1-1400. Health insurance credits for retired state employees.

1293 A. The Commonwealth shall provide a credit toward the cost of health insurance coverage for any  
1294 former state employee, as defined in § 2.2-2818, who retired under the Virginia Retirement System,  
1295 State Police Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement  
1296 System, or any retirement system authorized pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4,  
1297 51.1-126.5, *51.1-126.5:1*, or 51.1-126.7 and who (i) rendered at least 15 years of total creditable service  
1298 under the Retirement System or (ii) rendered service as a temporary employee of the General Assembly  
1299 in 1972 and became a member of the retirement system from 1972 to 1985 immediately following such  
1300 temporary service. The amount of each monthly health insurance credit payable under this section shall  
1301 be \$4 per year of creditable service, which amount shall be credited monthly to any retired state  
1302 employee participating in the state retiree health benefits program pursuant to § 51.1-1405 or an  
1303 alternative personal health insurance plan as provided herein. However, such credit shall not exceed the  
1304 health insurance premium for retiree-only coverage as provided under such alternative personal health  
1305 insurance plan. Any (i) employee participant pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4,  
1306 51.1-126.5, *51.1-126.5:1*, or 51.1-126.7 receiving long-term disability, or (ii) retired state employee  
1307 retired under the provisions of § 51.1-156 or 51.1-307, or (iii) any participating employee receiving  
1308 long-term disability pursuant to § 51.1-1112 or 51.1-1123 shall receive a maximum monthly credit  
1309 which is the greater of (i) \$120, (ii) \$4 per year for each year of creditable service at the time of  
1310 disability retirement, or (iii) \$4 per year for each year of creditable service at the time of eligibility for  
1311 long-term disability. Any person included in the membership of a retirement system provided by Chapter  
1312 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) ~~of this~~  
1313 ~~title~~ who elects to defer his retirement pursuant to subsection C of § 51.1-153, subsection C of  
1314 § 51.1-205 or subsection C of § 51.1-305 shall be entitled to receive the allowable credit provided by  
1315 this section on the effective date of his retirement.

1316 B. For those retired state employees:

1317 1. Participating in the state retiree health benefits program, such credit shall be applied to the  
1318 monthly premium deducted from benefits payable to retired state employees in accordance with Chapters  
1319 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), and 3 (§ 51.1-300 et seq.) ~~of~~  
1320 ~~this title~~. In the event that either no benefit is payable or the benefit payable is insufficient to deduct the  
1321 entire health care premium, the payment of the credit shall be determined in the manner prescribed by  
1322 the Virginia Retirement System. Eligibility for the credit shall be determined in a manner prescribed by  
1323 the Virginia Retirement System.

1324 2. Not electing or eligible to participate in the state retiree health benefits program and who purchase  
1325 an alternative personal health insurance policy from a carrier or organization of his own choosing, such  
1326 retirees shall be eligible to receive a credit in the amount specified in subsection A. Eligibility for the  
1327 credit and payment for the credit shall be determined in a manner prescribed by the Virginia Retirement  
1328 System.

1329 C. Any person included in the membership of a retirement system provided by Chapter 1  
1330 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) ~~of this~~  
1331 ~~title~~ who (i) rendered at least 15 years of total creditable service as a state employee as defined in  
1332 § 2.2-2818 and (ii) after terminating state service, was employed by a local government that does not  
1333 elect to provide a health insurance credit under § 51.1-1401 or 51.1-1402, shall be eligible for the credit  
1334 provided by subsection A, provided that the retired employee is participating in a health insurance plan.  
1335 The Commonwealth shall be charged with the credit as provided for in subsection D. In such case, the  
1336 health insurance credit shall be determined based upon the amount of state service or service as a  
1337 teacher, whichever is greater.

1338 D. The Virginia Retirement System shall actuarially determine the amount necessary to fund all  
1339 credits provided by this section to reflect the cost of such credits in the employer contribution rate  
1340 pursuant to § 51.1-145, and prescribe such terms and conditions as are necessary to carry out the  
1341 provisions of this section. The costs associated with the administration of the health insurance credit  
1342 program provided for in this section shall be recovered from the health insurance credit trust fund.

1343 E. Notwithstanding anything contained in this section to the contrary, the Virginia Commonwealth  
1344 University Health System Authority shall pay the cost of coverage for employees of such Authority who  
1345 (i) retired under the Virginia Retirement System or any retirement system authorized pursuant to  
1346 § 23-50.16:24.1, 51.1-126, 51.1-126.1, or former § 51.1-126.2; (ii) were employed by such Authority  
1347 prior to July 1, 1998, and were not subsequently rehired by such Authority on or after July 1, 1998; and  
1348 (iii) served no less than 15 years of creditable service as regularly employed full-time employees of such  
1349 Authority or the Commonwealth.

1350 § 51.1-1401. Health insurance credits for retired teachers.

1351 A. A teacher, as defined in § 51.1-124.3, retired under the Virginia Retirement System, and any

employee retired under a defined contribution plan pursuant to § 51.1-126.5:1 or 51.1-126.6, who rendered at least 15 years of total creditable service under the System or plan 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. The amount of each monthly health insurance credit payable under this section shall be \$4 for each full year of the retired member's creditable service; however, each former member whose retirement was for disability, or a participant pursuant to § 51.1-126.5:1 or 51.1-126.6 receiving long-term disability shall receive a monthly health insurance credit of \$4 multiplied by the smaller of (i) twice the amount of his creditable service or (ii) the amount of creditable service he would have completed at age 60 if he had remained in service to that age. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System. Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

B. Those retired employees who purchase an alternative personal health insurance policy from a carrier or organization of their own choosing shall be eligible to receive a credit in the amount specified in subsection D. Eligibility for the credit and payment of the credit shall be determined in a manner prescribed by the Virginia Retirement System.

C. The credit shall be in (i) the amount provided in subsection A or (ii) the amount of premium paid for the personal health insurance policy, whichever is less.

D. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) of this title who (i) rendered at least 15 years of total creditable service as a teacher as defined in § 51.1-124.3 and (ii) after terminating service as a teacher, was employed by a local government that does not elect to provide a health insurance credit under § 51.1-1402, shall be eligible for the credit provided by subsection A and subsection B if provided by the school division from which the service described in clause (i) was rendered, provided that the retired employee is participating in a health insurance plan. The Commonwealth and local school division, if appropriate, shall be charged with the credit as provided for in subsection E. In such case, the health insurance credit shall be determined based upon the amount of state service or service as a teacher, whichever is greater.

E. The Virginia Retirement System shall (i) actuarially determine the amount necessary to fund all credits provided under this section, (ii) reflect the cost of such credits in the applicable employer contribution rate pursuant to §§ 51.1-145, 51.1-204, and 51.1-304, and (iii) prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administration of the health insurance program provided for in this section shall be recovered from the health insurance credit trust fund.

§ 51.1-1402. Health insurance credits for retired local government employees.

A. Retired local government employees, whose localities have elected to participate in the Virginia Retirement System, including the optional defined contribution retirement program established pursuant to § 51.1-126.5:1, who have rendered at least ~~fifteen~~ 15 years of total creditable service under the System shall receive a health insurance credit to ~~his~~ their 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. The amount of each monthly health insurance credit payable under this section shall be \$1.50 for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of ~~forty-five dollars~~ \$45; however, each former member whose retirement was for disability, or a participant pursuant to § 51.1-126.5:1 receiving long-term disability, shall receive a monthly health insurance credit of ~~forty-five dollars~~ \$45. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System. Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

B. Those retired employees who purchase an alternative policy from a carrier or organization of their own choosing shall be eligible to receive a credit in the amount specified in subsection C. Eligibility for the credit and payment of the credit shall be determined in a manner prescribed by the Virginia Retirement System.

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

D. The cost of the monthly health insurance credit payable under this section shall be borne by the locality.

E. The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided under this section, reflect the cost of such credits in the applicable employer contribution rate pursuant to § 51.1-145, and prescribe such terms and conditions as are necessary to carry out the provisions of this section. The costs associated with the administration of the health insurance credit program provided for in this section shall be recovered from the health insurance credit



1413 trust fund.

1414 § 51.1-1403. Health insurance credits for retired constitutional officers, employees of constitutional  
1415 officers, general registrars, employees of general registrars, and local social service employees.

1416 A. A local officer, as defined in § 51.1-124.3, general registrar, employee of a general registrar, or an  
1417 employee of a local social services board, retired under the Virginia Retirement System, *including the*  
1418 *optional defined contribution retirement program established pursuant to § 51.1-126.5:1*, who rendered  
1419 at least 15 years of total creditable service under the System shall receive a health insurance credit to his  
1420 monthly retirement allowance, which shall be applied to reduce the retired member's health insurance  
1421 premium cost. The amount of each monthly health insurance credit payable under this section shall be  
1422 \$1.50 for each full year of the retired member's creditable service, not to exceed a maximum monthly  
1423 credit of \$45; however, each former member whose retirement was for disability, *or a participant*  
1424 *pursuant to § 51.1-126.5:1 receiving long-term disability*, shall receive a monthly health insurance credit  
1425 of \$45. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement  
1426 System. Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be  
1427 entitled to receive the allowable credit provided by this section on the effective date of his retirement.  
1428 The cost of such credit shall be borne by the Commonwealth.

1429 B. In addition to the health insurance credit authorized in subsection A, localities which participate in  
1430 the Virginia Retirement System may elect to provide an additional health insurance credit of \$1 per  
1431 month for each full year of the retired member's creditable service, not to exceed a maximum monthly  
1432 credit of \$30. The costs of such additional health insurance credit shall be borne by the locality.

1433 C. 1. Those retired employees who purchase an alternative personal health insurance policy from a  
1434 carrier or organization of their own choosing shall be eligible to receive a credit in the amount specified  
1435 in subdivision C 2. Eligibility for the credit and payment of the credit shall be determined in a manner  
1436 prescribed by the Virginia Retirement System.

1437 2. The credit shall be in (i) the amount provided in subsection A, or subsection A and subsection B  
1438 if the additional credit authorized by subsection B is provided or (ii) the amount of premium paid for  
1439 the personal health insurance policy, whichever is less.

1440 D. Any person included in the membership of a retirement system provided by Chapter 1  
1441 (§ 51.1-124.1 et seq.), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) who (i)  
1442 rendered at least 15 years of total creditable service as a local officer as defined in § 51.1-124.3 or as an  
1443 employee of a local social services board or combined service as a general registrar or an employee of a  
1444 general registrar and (ii) after terminating service as a local officer or employee of a local social  
1445 services board or general registrar or as an employee of a general registrar, was employed by a local  
1446 government that does not elect to provide a health insurance credit under § 51.1-1402, shall be eligible  
1447 for the credit provided by subsection A, provided that the retired employee is participating in a health  
1448 insurance plan. The Commonwealth shall be charged with the credit as provided for in subsection A. In  
1449 such case, the health insurance credit shall be determined based upon the amount of state service or  
1450 service as a local officer or service as an employee of a local social services board or combined service  
1451 as a general registrar or an employee of a general registrar, whichever is greater.

1452 E. The Virginia Retirement System shall (i) actuarially determine the amount necessary to fund all  
1453 credits provided under this section, (ii) reflect the cost of such credits in the applicable employer  
1454 contribution rate pursuant to § 51.1-145, and (iii) prescribe such terms and conditions as are necessary to  
1455 carry out the provisions of this section. The costs associated with the administration of the health  
1456 insurance program provided for in this section shall be recovered from the health insurance credit trust  
1457 fund.

1458 § 51.1-1405. Participation in the state retiree health benefits program.

1459 A. As used in this section, unless the context requires a different meaning:

1460 "Involuntarily separated" means separated from state service as the result of any dismissal, requested  
1461 resignation, or failure to obtain reappointment, excluding a separation resulting from a conviction for a  
1462 felony or crime involving moral turpitude or dishonesty or a separation related to the job performance or  
1463 misconduct of the state employee.

1464 "Retiree health benefits program" or "program" means the plan for providing health insurance  
1465 coverage for retired state employees provided pursuant to subsection E of § 2.2-2818.

1466 "State employee" means the same as that term is defined in § 2.2-2818.

1467 "State retiree" means a state employee retired under the Virginia Retirement System, State Police  
1468 Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or  
1469 any retirement system authorized pursuant to § 51.1-126, *51.1-126.5, or 51.1-126.5:1*, who is eligible to  
1470 receive a monthly retirement annuity from that retirement system.

1471 B. A state retiree shall be eligible to participate in the retiree health benefits program only if he  
1472 makes an election to participate in the program within ~~thirty-one~~ 31 days following the date of  
1473 termination of employment with the Commonwealth. A retired state employee who fails to elect to  
1474 participate in the state health plan within ~~thirty-one~~ 31 days of the effective date of retirement, or who,



1475 once having elected to participate, discontinues participation, is barred from participating in the state  
1476 health plan thereafter.

1477 C. Any state retiree who was involuntarily separated who on July 1, 1999, is participating in the  
1478 retiree health benefits program and is receiving monthly retirement annuity payments may elect, by  
1479 notifying the Virginia Retirement System and the Department of Human Resource Management before  
1480 September 1, 1999, to cease receiving monthly retirement annuity payments until reapplying for such  
1481 benefits at a later date and to continue participation in the retiree health benefits program.