

VIRGINIA ACTS OF ASSEMBLY -- 2012 SESSION

CHAPTER 701

An Act to amend and reenact §§ 51.1-124.3, 51.1-126, 51.1-126.5, 51.1-126.6, 51.1-135, 51.1-142.2, 51.1-145, 51.1-153, 51.1-155, 51.1-157, 51.1-166, 51.1-302, 51.1-306, 51.1-308, 51.1-601.1, 51.1-603.1, 51.1-611, 51.1-1100, 51.1-1400 through 51.1-1403, and 51.1-1405 of the Code of Virginia and to amend the Code of Virginia by adding in Article 9 of Chapter 1 of Title 51.1 a section numbered 51.1-169, by adding a section numbered 51.1-1131.1, 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 the Virginia Retirement System; hybrid defined benefit and defined contribution retirement program.

[H 1130]

Approved April 9, 2012

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-124.3, 51.1-126, 51.1-126.5, 51.1-126.6, 51.1-135, 51.1-142.2, 51.1-145, 51.1-153, 51.1-155, 51.1-157, 51.1-166, 51.1-302, 51.1-306, 51.1-308, 51.1-601.1, 51.1-603.1, 51.1-611, 51.1-1100, 51.1-1400 through 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 in Article 9 of Chapter 1 of Title 51.1 a section numbered 51.1-169, by adding a section numbered 51.1-1131.1, 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:

§ 51.1-124.3. Definitions.

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

"Abolished system" means the Virginia Retirement Act, §§ 51-30 through 51-111, repealed by Chapter 1 of the Acts of Assembly of 1952.

"Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, on or after July 1, 1980, except those amounts contributed on behalf of members of the General Assembly who are otherwise retired under the provisions of this chapter, and all interest accruing to these funds. If a member is retired for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), dies in service prior to retirement, or requests a refund of contributions in accordance with § 51.1-161, "accumulated contributions" shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

"Actuarial equivalent" means a benefit of equal value when computed upon the basis of actuarial tables adopted by the Board.

"Average final compensation" means the average annual creditable compensation of a member during his ~~36~~ 60 highest consecutive months of creditable service or during the entire period of his creditable service if less than ~~36~~ 60 months. However, for any person who ~~becomes a member on or after July 1, 2010~~ as of January 1, 2013, has at least 60 months of creditable service, "average final compensation" means the average annual creditable compensation of a member during his ~~60~~ 36 highest consecutive months of creditable service ~~or during the entire period of his creditable service if less than 60 months.~~

If a member ceased employment prior to July 1, 1974, "average final compensation" means the average annual creditable compensation during the five highest consecutive years of creditable service.

"Beneficiary" means any person entitled to receive benefits under this chapter.

"Board" means the Board of Trustees of the Virginia Retirement System.

"Creditable compensation" means the full compensation payable annually to an employee working full time in his covered position. For any state employee of a public institution of higher education or a teaching hospital affiliated with a public institution of higher education who is (i) compensated on a salaried basis, and (ii) working full time in a covered position pursuant to a contract of employment for a period of at least nine months, creditable compensation means the full compensation payable over the term of any contract entered into between the employee and the employer, without regard to whether or not the term of the contract coincides with the normal scholastic year. However, if the contract is for more than one year, creditable compensation means that compensation paid for the current year of the contract.

Remuneration received by members of the General Assembly not otherwise retired under the provisions of this chapter pursuant to §§ 30-19.11 and 30-19.12 shall be deemed creditable compensation. In addition, for any member of the General Assembly, creditable compensation shall include the full amount of salaries payable to such member for working in covered positions, regardless

of whether a contractual salary is reduced and not paid to such member because of service in the General Assembly.

"Creditable service" means prior service as set forth in § 51.1-142.2 plus membership service for which credit is allowable.

"Employee" means any teacher, state employee, officer, or employee of a locality participating in the Retirement System.

"Employer" means the Commonwealth in the case of a state employee, the local public school board in the case of a teacher, or the political subdivision participating in the Retirement System.

"Joint Rules Committee" means those members of the House of Delegates and the Senate designated by the Speaker of the House and the Chairman of the Senate Committee on Rules, respectively, to meet with each other and to act jointly on behalf of the Committee on Rules for each house.

"Local officer" means the treasurer, commissioner of the revenue, attorney for the Commonwealth, clerk of a circuit court, or sheriff of any county or city, or deputy or employee of any such officer.

"Medical Board" means the board of physicians as provided by this chapter.

"Member" means any person included in the membership of the Retirement System.

"Membership service" means service as an employee rendered while a contributing member of the Retirement System except as provided in this chapter.

"Normal retirement date" means a member's sixty-fifth birthday. However, for any person who becomes a member on or after July 1, 2010, under this chapter his normal retirement date shall be the date that the member attains his "retirement age" as defined under the Social Security Act (42 U.S.C. § 416 et seq., as now or hereafter amended).

"Person who becomes a member on or after July 1, 2010," means a person who is not a member of a retirement plan administered by the Virginia Retirement System the first time he is hired on or after July 1, 2010, in a covered position. Subsequent separation from such position and subsequent employment in a covered position shall not alter the status of a person who becomes a member on or after July 1, 2010.

"Political subdivision" means any county, city, or town, any political entity, subdivision, branch, or unit of the Commonwealth, or any commission, public authority, or body corporate created by or under an act of the General Assembly specifying the powers, privileges, or authority capable of exercise by the commission, public authority, or body corporate.

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

"Prior service" means service rendered prior to becoming a member of the Retirement System.

"Purchase of service contract" means a contract entered into by the member and the Retirement System for the purchase of service credit by the member as provided in § 51.1-142.2.

"Retirement allowance" means the retirement payments to which a member is entitled.

"Retirement plan administered by the Virginia Retirement System" means a retirement plan established under this title administered by the Virginia Retirement System, or by an agency that has been delegated administrative responsibility by the Virginia Retirement System, but such term shall exclude any plan established under Chapter 6 (§ 51.1-600 et seq.) or Chapter 6.1 (§ 58.1-607 et seq.) of this title.

"Retirement System" means the Virginia Retirement System.

"Service" means service as an employee.

"State employee" means any person who is regularly employed full time on a salaried basis, whose tenure is not restricted as to temporary or provisional appointment, in the service of, and whose compensation is payable, no more often than biweekly, in whole or in part, by the Commonwealth or any department, institution, or agency thereof. "State employee" shall include any faculty member, but not including adjunct faculty, of a public institution of higher education (a) who is compensated on a salary basis, (b) whose tenure is not restricted as to temporary or provisional appointment, and (c) who regularly works at least 20 hours but less than 40 hours per week (or works the equivalent of one-half of a full time equivalent position) engaged in the performance of teaching, administrative, or research duties at such institution; such faculty member shall be deemed an eligible employee for purposes of the retirement provisions under §§ 51.1-126, 51.1-126.1, and 51.1-126.3. "State employee" shall also include the Governor, Lieutenant Governor, Attorney General, and members of the General Assembly but shall not include (i) any local officer, (ii) any employee of a political subdivision of the Commonwealth, (iii) individuals employed by the Department for the Blind and Vision Impaired pursuant to § 51.5-72, (iv) any member of the State Police Officers' Retirement System, (v) any member of the Judicial Retirement System, or (vi) any member of the Virginia Law Officers' Retirement System.

"Teacher" means any person who is regularly employed full time on a salaried basis as a professional or clerical employee of a county, city, or other local public school board.

§ 51.1-126. Employees of institutions of higher education.

For purposes of this section, "optional retirement plan" means a retirement plan covering the

employee for retirement purposes other than the Virginia Retirement System defined benefit retirement plan established under this chapter *or the hybrid retirement program described in § 51.1-169*.

A. 1. The Board shall maintain an optional retirement plan covering employees engaged in the performance of teaching, administrative, or research duties with an institution of higher education and any institution of higher education is authorized to make contributions to such plan for the benefit of its employees participating in such plan. Except (i) as provided in subsection B for institutions of higher education that have established their own optional retirement plan and (ii) for employees described in subdivision A 2, every employee hired by an institution of higher education on or after July 1, 2003, engaged in the performance of teaching, administrative, or research duties shall make an irrevocable election to participate in either (a) the Virginia Retirement System defined benefit retirement plan established by this chapter *until January 1, 2014, and thereafter, the hybrid retirement program described in § 51.1-169*; or (b) an optional retirement plan maintained by the Board. Such election shall be exercised no later than 60 days from the time of the employee's entry upon the performance of his duties. If an election is not made within such 60 days, such employee shall be deemed to have elected to participate in the Virginia Retirement System defined benefit retirement plan *or the hybrid retirement program described in § 51.1-169, as applicable*.

2. Any employee (i) hired on or after July 1, 2003, by an institution of higher education engaged in the performance of teaching, administrative, or research duties; and (ii) who at the time of hiring is in continuous service in the performance of such teaching, administrative, or research duties shall participate in the optional retirement plan maintained by the Board if the most recent retirement plan covering the employee prior to such hiring was an optional retirement plan. If the most recent retirement plan covering the employee prior to such hiring was the Virginia Retirement System defined benefit retirement plan *or the hybrid retirement program described in § 51.1-169*, such person shall participate in such defined benefit retirement plan *or such hybrid retirement program, as applicable*, from the time of his entry upon the performance of his duties.

B. 1. Any institution of higher education, upon receipt of approval by the Board in writing, may establish and maintain its own optional retirement plan covering its employees who are engaged in the performance of teaching, administrative, or research duties. Upon such approval, such institution is authorized to make contributions to its own optional retirement plan for the benefit of its employees who elect to participate or who are required to participate in such plan as provided in this subsection.

2. Every employee, with the exception of employees described in subdivision B 3, (i) hired on or after July 1, 2003, by an institution of higher education that has established and is maintaining its own optional retirement plan pursuant to this subsection and (ii) engaged in the performance of teaching, administrative, or research duties shall make an irrevocable election to participate in either: (a) the Virginia Retirement System defined benefit retirement plan established by this chapter *until January 1, 2014, and thereafter, the hybrid retirement program described in § 51.1-169, as applicable*; or (b) such optional retirement plan of the institution of higher education. Such employee shall not be provided any election to participate in an optional retirement plan maintained by the Board.

The election shall be exercised no later than 60 days from the time of the employee's entry upon the performance of his duties. If an election is not made within such 60 days, such employee shall be deemed to have elected to participate in the Virginia Retirement System defined benefit retirement plan established by this chapter *or the hybrid retirement program described in § 51.1-169, as applicable*.

3. Any employee (i) hired on or after July 1, 2003, by an institution of higher education engaged in the performance of teaching, administrative, or research duties; and (ii) who at the time of hiring is in continuous service in the performance of such teaching, administrative, or research duties shall participate in the optional retirement plan established by the institution of higher education pursuant to this subsection if the most recent retirement plan covering the employee prior to such hiring was an optional retirement plan. If the most recent retirement plan covering the employee prior to such hiring was the Virginia Retirement System defined benefit retirement plan *or the hybrid retirement program described in § 51.1-169*, such person shall participate in such defined benefit retirement plan *or such hybrid retirement program, as applicable*, from the time of his entry upon the performance of his duties.

C. Any employee engaged in the performance of teaching, administrative, or research duties at an institution of higher education who was covered under an optional retirement plan for retirement purposes, other than the optional retirement plan established by such institution pursuant to subdivision B 1, shall, at the time such institution establishes its own optional retirement plan pursuant to subdivision B 1, automatically and immediately begin to participate in the optional retirement plan established pursuant to subdivision B 1, notwithstanding such employee's prior election to participate in a different optional retirement plan.

D. 1. Any administrative fee imposed pursuant to subdivision A 13 of § 51.1-124.22 upon any institution of higher education for administering and overseeing the institution's retirement plan established pursuant to subsection A shall be charged for each employee participating in such plan and shall be for costs incurred by the Retirement System that are directly related to the administration and oversight of such plan.

2. Each institution of higher education may charge and collect a reimbursement fee from each

employee participating in the institution's retirement plan established pursuant to subsection A. The total amount charged and collected for such fee from all such employees for any year shall not exceed the total of the costs described in subdivision D 1 and charged to the institution for such year.

E. 1. No employee of an institution of higher education who is an active member in any plan maintained by the Board or established by an institution of higher education, pursuant to this section, shall also be an active member of the retirement system or beneficiary other than a contingent annuitant.

2. If a member of the optional retirement plan maintained under this section is at any time in service as an employee in a position covered for retirement purposes under the provisions of Chapters 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 retirement plan maintained under this section shall be suspended while so employed; provided, however, reemployment shall have no effect on the payment under the optional plan 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.

F. 1. The contribution by the Commonwealth on behalf of an employee participating in an optional retirement plan maintained by the Board or on behalf of an employee participating in an optional retirement plan established by his institution of higher education under this section to such employee's retirement plan shall be (i) at least 8.5 percent but not in excess of 8.9 percent of creditable compensation for any person who becomes a member on or after July 1, 2010, and (ii) 10.4 percent of creditable compensation for all other employees. Any institution of higher education that elects a contribution in excess of 8.5 percent of creditable compensation for any employee described in clause (i) shall provide for the same percentage of creditable compensation as contributions for each of its employees described in clause (i) who participates in such optional retirement plan. The portion of the contribution in excess of 8.5 percent of creditable compensation pursuant to clause (i) shall not be funded from the general fund of the state treasury, but shall be paid by the institution of higher education from other funds. In addition, any person who becomes a member on or after July 1, 2010, shall, pursuant to procedures established by the Board, pay member contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code, in an amount equal to five percent of his creditable compensation, to the optional retirement plan maintained by the Board on his behalf or the optional retirement plan established by his institution of higher education on his behalf, as applicable. Each employee making such member contribution shall be deemed to consent and agree to any salary reduction for purposes of the member contribution. Such member contributions shall be in addition to all contributions pursuant to clause (i). An institution of higher education may make an additional contribution for participants who, before January 1, 1991, exercised the election to participate in the plan provided by the institution employing them. Such additional contributions shall be made using funds other than general funds, tuition or fees, up to an additional 2.17 percent of creditable compensation.

2. These contribution rates shall be examined by the Board at least once every six years. The examination shall consider the salary peer group mean contribution as determined by the State Council of Higher Education and the Virginia Retirement System actuary, and, if deemed advisable, recommend a revision to the rate of contribution by the Commonwealth.

G. With respect to any employee who elects pursuant to subsection A or B to participate in the Virginia Retirement System defined benefit retirement plan established by this chapter *or the hybrid retirement program described in § 51.1-169*, the institution of higher education shall collect and pay all employee and employer contributions to the Virginia Retirement System for retirement and group life insurance in accordance with the provisions of Chapter 1 (§ 51.1-124.1 et seq.) for such employees.

H. The Virginia Retirement System shall develop policies and procedures for the administration of the optional retirement plan it maintains. To assist the Virginia Retirement System in developing such policies and procedures, the Board may appoint an advisory committee of higher education employees to supply guidance in the process.

I. As a condition of the Board granting approval to an institution of higher education to establish its own optional retirement plan, the institution of higher education shall develop policies and procedures for the administration of such plan and shall submit such policies and procedures to the Board as part of the Board-approval process required under this section. In addition, an institution of higher education that is granted approval by the Board to establish its own optional retirement plan covering employees engaged in the performance of teaching, administrative, or research duties shall not adopt or implement policies and procedures that are substantially different from the policies and procedures approved by the Board in the initial approval process unless the Board, in writing, approves such substantially different policies and procedures.

J. The Board shall establish guidelines for the employee elections referred to in subdivision B 2 and shall review and, if deemed advisable, recommend revisions to the contribution rates as described in subsection F. Except for the duties described in subsection I, the Board shall have no duties and responsibilities with respect to such plans established pursuant to subsection B.

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

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

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

"Eligible position" means a position designated in subdivision 3, 4, or 20 of § 2.2-2905 or an officer or employee appointed by the Attorney General or Lieutenant Governor to a position designated as a deputy, counsel or director position.

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

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

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

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

D. Upon ceasing to be employed in an eligible position but continuing to be an employee of the Commonwealth, a participating member may elect to:

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

E. After termination of employment, a participating member may withdraw the accrued contributions and earnings from his defined contribution account, subject to applicable state and federal law and regulation.

F. Upon an election under subsection D by a participating member who has ceased to be employed in an eligible position, the accrued contributions and earnings in such electing person's defined contribution account shall be used to purchase service credit in the retirement system at a rate to be established by the Board. Such rate shall cover the actuarial cost of providing the creditable service. If the account is less than the actuarial cost of the total time worked in the eligible position, the employee may use his own funds to purchase the remaining time. In no event shall the amount of service credit purchased in the retirement system exceed the time that was served in an eligible position while participating in the plan. Any amount of accrued contributions and earnings in such electing person's defined contribution account in excess of the amount required to purchase service credit in the retirement system for the time served in an eligible position while participating in the plan shall be forfeited to the Virginia Retirement System.

G. The contribution by the Commonwealth to a participating member's defined contribution account shall be determined by the Board of Trustees of the Virginia Retirement System in consultation with its actuary. Contributions to the defined contribution account and all earnings thereon shall be credited to an account to be maintained for each participating member. Contributions by the Commonwealth to a participating member's defined contribution account shall be in lieu of contributions to the retirement system required pursuant to § 51.1-145.

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

I. *Effective January 1, 2014, any reference to "retirement system" in this section shall mean the hybrid retirement program described in § 51.1-169.* The Virginia Retirement System shall (i) develop policies and procedures for the administration of the plan and (ii) provide a program of education and support for participating members.

§ 51.1-126.6. Certain employees of public school divisions.

A. The Board shall establish a defined contribution plan covering any eligible employee serving in a position designated in § 22.1-60 who elects to participate in the plan.

B. Any school board established pursuant to Article VIII, Section 7 of the Constitution of Virginia and Chapter 5 (§ 22.1-28 et seq.) of Title 22.1 is hereby authorized to make contributions to the optional retirement plan established by the Virginia Retirement System pursuant to this section for the benefit of its eligible employees who elect to participate in such a plan. Any eligible employee of such school board hired on or after the effective date of the plan shall make an irrevocable election to participate in either (i) the retirement system established by this chapter or (ii) the optional retirement plan established by the Virginia Retirement System pursuant to this section. Such election shall be made in accordance with the guidelines established by the Virginia Retirement System.

C. No employee of any school board who is an active member of the retirement plan established under this section shall also be an active member in the Virginia Retirement System or beneficiary thereof other than as a contingent annuitant. Such eligible employee may, however, be covered under any insurance plan established by the Board under this title for which he would have been otherwise eligible.

D. The contribution by the school board to such employee's defined contribution account shall be determined by the Board of Trustees of the Virginia Retirement System in consultation with its actuary. Contributions to the defined contribution account and all earnings thereon shall be credited to an account to be maintained for each eligible employee who elects to participate. Contributions by the school board to an electing employee's defined contribution account shall be in lieu of contributions to the retirement system required pursuant to § 51.1-145.

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

F. *Effective January 1, 2014, any reference to "retirement system" or "Virginia Retirement System" in this section, as the context requires, shall mean the hybrid retirement program described in § 51.1-169.* The Virginia Retirement System shall develop policies and procedures for the administration of such plan in accordance with existing and future federal and state policies, regulations, and statutes governing the administration of such plans.

§ 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 hybrid retirement program pursuant to § 51.1-169.*

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

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

A. Except as provided in subdivisions 1 and 2, in order to receive credit for the service made available in subsection B, a member in service shall be required to make a payment for each year, or portion thereof, to be credited at the time of purchase, equal to five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing the service made available in subsection B 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.

1. A person who becomes a member on or after July 1, 2010, *or a member who does not have at least 60 months of creditable service as of January 1, 2013*, 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. Any number of additional deductions may be permitted at any time. Should any 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 full or partial months of service for which full payment is made. If any 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.

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

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

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

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

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

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

§ 51.1-145. Employer contributions.

A. The total annual employer contribution for each employer, expressed as a percentage of the

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

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

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

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

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

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

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

H. Until July 1, 1997, the supplementary contribution rate for any employer shall be determined as 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.

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

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

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

3. For members participating in a retirement plan established pursuant to Chapter 2 (§ 51.1-200 et seq.), (i) 67.56 percent for fiscal years beginning July 1, 2012, and July 1, 2013, (ii) 78.37 percent for fiscal years beginning July 1, 2014, and July 1, 2015, (iii) 89.19 percent for fiscal years beginning July 1, 2016, and July 1, 2017, and (iv) 100 percent for fiscal years beginning on or after July 1, 2018;

4. For members participating in a retirement plan established pursuant to Chapter 2.1 (§ 51.1-211 et seq.), (i) 75.82 percent for fiscal years beginning July 1, 2012, and July 1, 2013, (ii) 83.88 percent for

fiscal years beginning July 1, 2014, and July 1, 2015, (iii) 91.94 percent for fiscal years beginning July 1, 2016, and July 1, 2017, and (iv) 100 percent for fiscal years beginning on or after July 1, 2018; and

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

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. *Notwithstanding the foregoing, the total employer contribution for each employer, expressed as a percentage of the employer's payroll for such period, shall be established as the contribution rate payable by such employer with respect to its employees enrolled in the defined benefit plan established under this chapter. The employer's contribution shall be first applied to any defined contribution plan administered by the Virginia Retirement System and available to the employer, then applied to the defined contribution component of the hybrid retirement program described in § 51.1-169, and the remainder shall be deposited in the employer's retirement allowance account. Institutions of higher education shall also pay contributions to the employer's retirement allowance account in amounts representing the difference between the contribution rate payable with respect to employees enrolled in the defined benefit plan under this chapter and the employer contributions paid to any optional retirement plan it offers on behalf of any of its employees classified under the provisions of subdivision A 10 of § 23-38.88. The employer contribution rate established for each employer may include the annual rate of contribution payable to such employer with respect to employees enrolled in the optional contribution retirement plans established under §§ 51.1-126, 51.1-126.1, 51.1-126.3, and 51.1-126.4.*

§ 51.1-153. Service retirement.

A. Normal retirement. - Any member in service at his normal retirement date with five or more years of creditable service may retire at any time upon written notification to the Board setting forth the date the retirement is to become effective. Any member in service who was denied membership prior to July 1, 1987, as a result of being age ~~sixty~~ 60 or over when first employed may retire at any time after his normal retirement date and the requirement of having five or more years of service shall not apply.

B. Early retirement. - 1. Any member in service who has attained his fifty-fifth birthday with five or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective.

However, a person who becomes a member on or after July 1, 2010, *or a member who does not have at least 60 months of creditable service as of January 1, 2013*, under this chapter shall be allowed to retire under this subdivision prior to his normal retirement date only if the person is in service and has attained his sixtieth birthday with five or more years of creditable service, and the benefit for such person shall be calculated in accordance with the provisions of subdivision A 3 of § 51.1-155.

2. Subject to the provisions of subdivision 3, any state employee, teacher, or employee of a political

subdivision who is a member of the retirement system may retire prior to his normal retirement date after attaining age ~~fifty~~ 50 and ~~thirty~~ 30 years of creditable service, upon written notification to the Board setting forth the date the retirement is to become effective. The benefit for such member shall be calculated in accordance with the provisions of subdivision A 1 of § 51.1-155.

3. A person who becomes a member on or after July 1, 2010, *or a member who does not have at least 60 months of creditable service as of January 1, 2013*, as a state employee, teacher, or employee of a political subdivision may retire prior to his normal retirement date after the sum of his age and years of creditable service equals 90, upon written notification to the Board setting forth the date the retirement is to become effective. The benefit for such member shall be calculated in accordance with the provisions of subdivision A 1 of § 51.1-155.

C. Deferred retirement for members terminating service. - Any member who terminates service after five or more years of creditable service, regardless of termination date, may retire under the provisions of subsection A, B, or D of this section if he has not withdrawn his accumulated contributions prior to the effective date of his retirement or if he has five or more years of creditable service for which his employer has paid the contributions and such contributions cannot be withdrawn. For the purposes of this subsection, any requirements as to the member being in service shall not apply.

D. 50/10 retirement. - Any member in service on or after January 1, 1994, who has attained his fiftieth birthday with ~~ten~~ 10 or more years of creditable service may retire prior to his normal retirement date upon written notification to the Board setting forth the date the retirement is to become effective. A person who becomes a member on or after July 1, 2010, *or a member who does not have at least 60 months of creditable service as of January 1, 2013*, shall not be allowed to retire pursuant to this subsection.

E. Effective date of retirement. - The effective date of retirement shall be after the last day of service of the member, but shall not be more than ~~ninety~~ 90 days prior to the filing of the notice of retirement.

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

§ 51.1-155. Service retirement allowance.

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

1. Normal retirement. - The allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of his creditable service. *Notwithstanding the foregoing, for a member who does not have at least 60 months of creditable service as of January 1, 2013, the allowance shall equal the sum of (i) 1.65 percent of his average final compensation multiplied by the amount of his creditable service performed or purchased on or after January 1, 2013, and (ii) 1.70 percent of his average final compensation multiplied by the amount of all other creditable service.*

2. Early retirement; applicable to teachers, state employees, and certain others. - The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has less than 30 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of 30 years of creditable service. The provisions of this subdivision shall apply to teachers and state employees. These provisions shall also apply to employees of any political subdivision that participates in the retirement system if the political subdivision makes the election provided in subdivision 3.

3. Early retirement; applicable to employees of certain political subdivisions, any person who becomes a member on or after July 1, 2010, and any member who does not have at least 60 months of creditable service as of January 1, 2013. - The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the creditable service of the member equals 30 or more years but the sum of his age at retirement plus his creditable service at retirement is less than 90, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which the sum of his then attained age plus his then creditable service would have been equal to 90 or more had he remained in service until such date. If the member has less than 30 years of creditable service, the retirement allowance shall be reduced for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on which he would have completed a total of at least 30 years of creditable service and his then creditable service plus his then attained age would have been equal to 90 or more.

The provisions of this subdivision shall apply to the employees of any political subdivision that participates in the retirement system and any other employees as provided by law. The participating political subdivision may, however, elect to provide its employees with the early retirement allowance set forth in subdivision 2. No such election shall be made for a person who becomes a member on or after July 1, 2010, *or a member who does not have at least 60 months of creditable service as of*

January 1, 2013. Any election pursuant to this subdivision shall be set forth in a legally adopted resolution.

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

5. 50/10 retirement. - The allowance shall be payable in a monthly stream of payments equal to the greater of (i) the actuarial equivalent of the benefit the member would have received had he terminated service and deferred retirement to age 55 or (ii) the actuarially calculated present value of the member's accumulated contributions, including accrued interest.

B. Beneficiary serving in position covered by this title.

1. Except as provided in subdivisions 2 and 3, if a beneficiary of a service retirement allowance under this chapter or the provisions of Chapters 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 6 (§ 51.1-600 et seq.), 6.1 (§ 51.1-607 et seq.), or 7 (§ 51.1-700 et seq.), his retirement allowance shall cease while so employed. Any member who retires and later returns to covered employment shall not be entitled to select a different retirement option for a subsequent retirement.

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

3. (Expires July 1, 2015) Any person receiving a service retirement allowance under this chapter, who is hired as a local school board instructional or administrative employee required to be licensed by the Board of Education, may elect to continue to receive the retirement allowance during such employment, under the following conditions:

(a) The person has been receiving such retirement allowance for a certain period of time preceding his employment as provided by law;

(b) The person is not receiving a retirement benefit pursuant to an early retirement incentive program from any local school division within the Commonwealth; and

(c) At the time the person is employed, the position to which he is assigned is among those identified by the Superintendent of Public Instruction pursuant to subdivision 4 of § 22.1-23, by the relevant division superintendent, pursuant to § 22.1-70.3, or by the relevant local school board, pursuant to subdivision 9 of § 22.1-79.

If the person elects to continue to receive the retirement allowance during the period of such employment, then his service performed and compensation received during such period of time will not increase, decrease, or affect in any way his retirement benefits before, during, or after such employment.

§ 51.1-157. Disability retirement allowance.

A. Allowance payable on retirement. - Upon retirement for disability, a member who has five or more years of creditable service shall receive an annual retirement allowance during his lifetime and continued disability equal to 1.70 percent of his average final compensation 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 ~~sixty~~ 60 if he had remained in service to that age. *Notwithstanding the foregoing, for a member who does not have at least 60 months of creditable service as of January 1, 2013, the allowance shall equal 1.65 percent of his average final compensation 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.* If a member has already attained age ~~sixty~~ 60, the amount of creditable service at his date of retirement shall be used.

For retirements between October 1, 1994, and December 31, 1998, any employee or local officer who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to three percent of the disability retirement allowance payable under this section; provided that, for purposes of this additional retirement allowance, the term employee shall include only those employees of political subdivisions that have adopted a resolution providing for such an allowance under subsection B of § 51.1-130. Average final compensation attributable to service

as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

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

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

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

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

§ 51.1-166. Post-retirement supplements generally.

A. In addition to the allowances payable under this ~~chapter~~ title, post-retirement supplements shall be payable to the recipients of such allowances. Supplements shall be subject to the same conditions of payment as are allowances.

B. The amounts of the post-retirement supplements shall be determined as percentages of the allowances supplemented hereby. The percentages shall be determined annually by reference to the increase in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor. The percentages shall be based on monthly averages and shall be the difference between (i) the average for the calendar year just ended and (ii) the average for the most recent calendar year used in the determination of the post-retirement supplements currently being paid. The annual increase, if any, in the CPI-U shall be considered only to the extent of the first ~~three~~ two percent plus one-half of the next ~~four~~ two percent of any additional increase, or a maximum increase in the post-retirement supplement of ~~five~~ three percent in any given year. However, for a ~~person~~ *anyone* who (a) *is not a person who* becomes a member on or after July 1, 2010, the annual increase in the Consumer Price Index shall be considered only to the extent of the first two percent plus one-half of the next eight percent of any additional increase, or a maximum increase in the post-retirement supplement of six percent in any given year and (b) *has at least 60 months of creditable service as of January 1, 2013, the applicable annual increase, if any, in the CPI-U shall be considered only to the extent of the first three percent plus one-half of the next four percent of any additional increase, or a maximum increase in the post-retirement supplement of five percent in any given year.* If the difference in the percentages determined above is zero or less, the post-retirement supplements shall either not commence or shall continue unchanged until such time as an annual determination results in a difference in the percentages that are greater than zero.

Contribution rates for all employers shall include an amount equal to 100 percent of the total annual amount necessary to fund all post-retirement supplements. All contribution rates shall be computed in accordance with recognized actuarial principles on the basis of methods and assumptions approved by the Board.

C. There shall be no change in the amount of any post-retirement supplement between determination dates except as necessary to reflect changes in the amount of the allowance being supplemented. The post-retirement supplement shall remain a constant percentage of the respective allowance being supplemented. No new post-retirement supplement shall be commenced except as of a determination date. The post-retirement supplement determined as of any determination dates shall become effective at the beginning of the fiscal year and shall be in lieu of any post-retirement supplements previously

payable, which shall thereupon be terminated.

D. 1. Any recipient of an allowance which initially commenced on or prior to January 1, 1990, shall be entitled to post-retirement supplements effective July 1, 1991.

2. A person who is the recipient of an allowance pursuant to § 2.2-3204, subsection Q of Item 469 of Chapter 890 of the Acts of Assembly of 2011, or § 51.1-155.1, 51.1-155.2, 51.1-157, 51.1-162, 51.1-207, 51.1-218, 51.1-308, 51.1-1117, or 51.1-1128 must receive that allowance for one full calendar year before being entitled to post-retirement supplements.

3. Any person who, as of January 1, 2013, (i) is the recipient of an allowance under this title or (ii) would otherwise be eligible for an unreduced allowance under the applicable chapter within five years, including a person described in clause (ii) who commences an unreduced allowance on or after January 1, 2013, must receive that allowance for one full calendar year before being entitled to post-retirement supplements.

4. Any other person who has less than 20 years of creditable service must receive that allowance for one full calendar year after the date he would otherwise have been eligible for an unreduced allowance under the applicable chapter before being entitled to post-retirement supplements.

§ 51.1-169. Hybrid retirement program.

A. For purposes of this section, "hybrid retirement program" or "program" means a hybrid retirement program covering any employee in a position covered for retirement purposes under the provisions of Chapter 1 (§ 51.1-124.1 et seq.) for retirement purposes other than the Virginia Retirement System defined benefit retirement plan established under Chapter 1 (§ 51.1-124.1 et seq.). Except as provided in § 51.1-302, persons who are participants in, or eligible to be participants in, the retirement plans under the provisions of Chapter 2 (§ 51.1-200 et seq.), Chapter 2.1 (§ 51.1-211 et seq.), Chapter 3 (§ 51.1-300 et seq.), the optional retirement plans established under §§ 51.1-126.1, 51.1-126.3, 51.1-126.4, and 51.1-126.7, or a person eligible to earn the benefits permitted by § 51.1-138 shall not be eligible to participate in the hybrid retirement program.

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

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 hybrid retirement program maintained under this section. Such election shall be exercised no later than April 30, 2014. If an election is not made by April 30, 2014, such employee shall be deemed to have elected not to participate in the hybrid retirement program and shall continue to participate in his current retirement plan.

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

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

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

- a. Upon completion of two years of continuous participation in the program, 50 percent.
- b. Upon completion of three years of continuous participation in the program, 75 percent.
- c. Upon completion of four years of continuous participation in the program, 100 percent.

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

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

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

C. 1. An employee participating in the hybrid retirement program maintained under this section

shall, pursuant to procedures established by the Board, make mandatory contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code (i) to the defined benefit component of the program in the amount of four percent of creditable compensation in lieu of the amount described in subsection A of § 51.1-144 and (ii) to the defined contribution component of the program in the amount of one percent of creditable compensation.

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

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

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

D. 1. The amount of the service retirement allowance under the defined benefit component of the program shall be governed by § 51.1-155, except that the allowance shall equal one percent of a member's average final compensation multiplied by the amount of his creditable service while in the program. For judges who are participating in the hybrid retirement program, creditable service shall be determined as provided in § 51.1-303.

2. No member shall retire for disability under the defined benefit component of the program.

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

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

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

2. No employee who is an active member in the hybrid retirement program maintained under this section shall also be 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 hybrid 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 hybrid retirement program maintained under this section shall be suspended while so employed; provided, however, reemployment shall have no effect on a payment under the defined contribution component of the program if the benefit is 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 hybrid retirement program maintained under 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 hybrid 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 hybrid 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.

§ 51.1-302. Membership in retirement system.

Membership in the retirement system shall consist of all judges, except those judges appointed or elected to an original term commencing on or after January 1, 2014. Judges appointed or elected to an original term commencing on or after January 1, 2014, shall participate in the hybrid retirement

program described in § 51.1-169.

§ 51.1-306. Service retirement allowance.

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

1. Normal retirement. - The allowance shall equal 1.70 percent of his average final compensation multiplied by the amount of creditable service. The allowance shall not exceed ~~seventy-eight~~ 78 percent of the average final compensation of the member. *Notwithstanding the foregoing, for a member who does not have at least 60 months of creditable service as of January 1, 2013, the allowance shall equal the sum of (i) 1.65 percent of his average final compensation multiplied by the amount of his creditable service performed or purchased on or after January 1, 2013, and (ii) 1.70 percent of his average final compensation multiplied by the amount of all other creditable service.*

For retirements between October 1, 1994, and December 31, 1998, any judge who is a member or beneficiary of a retirement system administered by the Board shall receive an additional retirement allowance equal to three percent of the service retirement allowance payable under this section. Average final compensation attributable to service as Governor, Lieutenant Governor, Attorney General, or member of the General Assembly shall not be included in computing this additional retirement allowance.

2. Early retirement. - The allowance shall be determined in the same manner as for normal retirement with creditable service and average final compensation being determined as of the date of actual retirement. If the member has not attained his sixtieth birthday or has less than ~~thirty~~ 30 years of service, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the earlier of (i) his normal retirement date or (ii) the first date on or after his sixtieth birthday on which he would have completed a total of ~~thirty~~ 30 years of creditable service.

B. Normal and early retirement guarantees. - Any member who was a member of one of the previous systems immediately prior to July 1, 1970, and who would have been eligible for retirement benefits thereunder shall be guaranteed a minimum retirement allowance no less than that for which he would have qualified had he continued to participate therein.

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

D. Beneficiary serving in position covered by this title. - If a beneficiary of a service retirement allowance under this chapter or under any of the previous systems is at any time in service as an employee in a position covered for retirement purposes under the provisions of this or any chapter other than Chapter 7 (§ 51.1-700 et seq.) of this title, his retirement allowance shall cease while so employed.

§ 51.1-308. Disability retirement allowance.

A. Allowance payable on retirement. - Upon retirement for disability, a member who has five or more years of creditable service shall receive an annual retirement allowance, not to exceed ~~seventy-eight~~ 78 percent of his average final compensation, payable during his lifetime and continued disability equal to 1.70 percent of average final compensation when multiplied by the smaller of (i) twice the amount of creditable service or (ii) the amount of creditable service he would have completed at age ~~sixty~~ 60 if he had remained in service to that age. *Notwithstanding the foregoing, for a member who does not have at least 60 months of creditable service as of January 1, 2013, the allowance shall equal 1.65 percent of his average final compensation 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.* If a member has already attained age ~~sixty~~ 60, the amount of creditable service at his date of retirement shall be used.

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

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

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

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

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

§ 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) § 51.1-169, 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 hybrid retirement program described in § 51.1-169.*

§ 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, *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 cash match plan established and administered by the Board pursuant to § 51.1-608 to the extent necessary to provide benefits under the hybrid retirement program described in § 51.1-169.*

§ 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, *including the hybrid retirement program described in § 51.1-169*; (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, 51.1-502.1, 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.

§ 51.1-1131.1. Employer contributions during disability absences.

Mandatory employer contributions to the defined contribution component of the hybrid retirement program pursuant to subdivision B 2 of § 51.1-169 on behalf of a participating employee shall be made for each employee who is permanently and totally disabled (as defined in § 22(e)(3) of the Internal Revenue Code). The calculation of such contributions shall be based on the full amount of the participating employee's creditable compensation.

CHAPTER 11.1.

DISABILITY PROGRAM FOR HYBRID 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 (i) not eligible for the disability program pursuant to Chapter 11 (§ 51.1-1100 et seq.) and (ii) participating in the hybrid retirement program described in § 51.1-169.

"Partial disability" means a disability that 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.

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

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

"Total disability" means a disability that exists (i) during the first 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 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 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 employer for purposes of the Act is the Commonwealth or other political subdivision through which the participating employee became eligible for the program.

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

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

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

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

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

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

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

1. Establish policies and procedures to implement and administer the program and the provisions of this chapter;
2. Contract for the provision of comprehensive case management;
3. Take all other actions necessary for the implementation and administration of the program; and
4. Adopt rules and policies that bring the program into compliance with any applicable law or regulation of the Commonwealth or the United States.

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

A. The governing body of a political subdivision may adopt a resolution requesting that its eligible employees become participants in this program. The governing body's election under such resolution shall be irrevocable. Acceptance of the employees of such governing body into this program shall be at the option of the Board and shall be subject to such terms and conditions as it may determine.

B. The effective date of participation in the program for participating employees shall be their first day of employment or the effective date of their participation in the hybrid retirement program described in § 51.1-169 as applicable.

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

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

Article 2.

Nonwork-Related Disability Benefits.

§ 51.1-1154. *Applicability of article.*

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

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

A. Except as provided in subsection B of § 51.1-1153, 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 or of maternity leave. If an employee returns to work for one day or less during the seven-calendar-day waiting period 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 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 participation in the program 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 participation in the program attained by an employee who is disabled, on maternity leave, or takes periodic absences due to a major chronic condition, as determined by the Board or its

designee, as follows :

Months of Continuous Participation	Work Days of 100% Replacement of Creditable Compensation	Work Days of 80% Replacement of Creditable Compensation	Work Days of 60% Replacement of Creditable 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;

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

3. Disability payments from the Social Security Administration, local government disability benefits, federal civil service disability benefits, or other similar governmental disability program benefits received by the employee or his family as a result of the qualifying disability;

4. Benefits received from any other group insurance contract provided to the participating employee

by his employer for the purpose of providing income replacement; and

5. Benefits paid under any compulsory benefits law.

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

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

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

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

F. Notwithstanding the foregoing, disability benefit payments shall not be offset by military disability benefits payable to a participating employee.

§ 51.1-1160. Rehabilitation incentive.

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.

§ 51.1-1161. Cessation of disability benefits; service retirement.

A. 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 disability coverage as provided in subsection D of § 51.1-1155 or subsection D of § 51.1-1157;
2. The date of death of the participating employee;
3. The date that the participating employee attains normal retirement age; or
4. The effective date of the participating full-time employee's service retirement under the hybrid retirement program described in § 51.1-169.

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

B. A participating full-time employee receiving disability benefits who is a vested member of the retirement system, including the hybrid retirement program described in § 51.1-169, shall be eligible for service retirement under any provision of this title for which the employee is otherwise eligible. Such employee shall be authorized to elect any option for the payment of his retirement allowance provided under subsection A of § 51.1-165 for which the employee is otherwise eligible.

C. The average final compensation of any participating full-time employee taking a service retirement under any provision of this title shall be equal to his creditable compensation on the date of the commencement of the disability increased by an amount recommended by the program actuary and approved by the Board, from the date of the commencement of the disability to the date of retirement.

D. The creditable service of a participating full-time employee taking service retirement pursuant to this section shall include periods during which the employee received disability benefits.

Article 3.

Work-Related Disability Benefits.

§ 51.1-1162. Applicability of article.

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

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

A. Payments of supplemental short-term disability benefits payable under this article shall be reduced by an amount equal to any benefits paid to the employee under the Act, or which the employee is 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 § 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 participation in the program 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 participation in the program attained by an employee who is disabled, on maternity leave, or takes periodic absences due to a major chronic condition, as determined by the Board or its designee, as follows:

	Work Days of 100%	Work Days of 80%	Work Days of 60%
Months of Continuous Participation	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. 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.

E. 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.

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

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

§ 51.1-1166. 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 supplemental long-term disability benefits were paid, shall be deemed to be a continuation of the prior disability if the employee is eligible for benefits payable under the Act, whether

or not he is receiving such benefits, and 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.

§ 51.1-1167. Adjustments in supplemental disability benefits.

A. In addition to offsets equal to the amount of any benefits paid to a participating employee under the Act, supplemental 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 income replacement percentage payable;

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

3. Disability payments from the Social Security Administration, local government disability benefits, federal civil service disability benefits, or other similar governmental disability program benefits received by the employee or his family as a result of the qualifying disability;

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

5. Benefits paid under any compulsory benefits law; and

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

Notwithstanding the foregoing, supplemental disability benefit payments shall not be offset by military disability benefits payable to a participating employee.

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

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

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

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

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

§ 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; service retirement.

A. 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 E 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 normal retirement age; or
4. The effective date of the participating full-time employee's service retirement under the hybrid retirement program described in § 51.1-169.

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.

B. Upon the cessation of benefits payable under the Act, a participating full-time employee may take service retirement under any provision of this title for which the employee is otherwise eligible, including the hybrid retirement program described in § 51.1-169. Such employee shall be authorized to elect any option for the payment of his retirement allowance provided under subsection A of § 51.1-165.

C. 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.

D. The creditable service of a participating full-time employee taking service 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.

§ 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.

Mandatory employer contributions to the defined contribution component of the hybrid retirement program pursuant to subdivision B 2 of § 51.1-169 on behalf of a participating employee shall be made for each employee who is permanently and totally disabled (as defined in § 22(e)(3) of the Internal Revenue Code). The calculation of such contributions shall be based on the full amount of the participating employee's creditable compensation.

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

C. Participating employees enrolled in such plan established pursuant to § 2.2-2818 shall have the option of continuing to be covered under such plan, and shall pay the full cost for coverage under such plan for themselves and for their families and dependents during periods the employee is receiving long-term disability benefits.

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

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

B. During periods of absence covered by short-term disability benefits, the amount of the life

insurance benefit shall be based on the annual salary of the participating employee at the commencement of the disability and shall be adjusted to include salary increases awarded during the period covered by short-term disability benefits.

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

§ 51.1-1175. Optional insurance during disability absences.

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

§ 51.1-1176. Exclusions and limitations.

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

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

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

§ 51.1-1177. Appeals.

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

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

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

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

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

C. 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 care insurance and benefits for participating employees and (ii) administer the long-term care insurance program, including providing case management and cost containment programs. Contributions shall be deposited in the Defined Hybrid 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 that 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; Hybrid 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 Hybrid Retirement Program Disability Insurance Trust Fund.

C. There is hereby established the Hybrid 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 Hybrid Retirement Program Disability Insurance Trust Fund. The funds of the Hybrid Retirement Program Disability 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 limited to legislative oversight of the Hybrid Retirement Program Disability Insurance Trust Fund.

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

A. The Commonwealth shall provide a credit toward the cost of health insurance coverage for any former state employee, as defined in § 2.2-2818, who retired under the Virginia Retirement System, State Police Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or any retirement system authorized pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, ~~or~~ 51.1-126.7, or 51.1-169 and who (i) rendered at least 15 years of total creditable service under the Retirement System or (ii) rendered service as a temporary employee of the General Assembly in 1972 and became a member of the retirement system from 1972 to 1985 immediately following such temporary service. The amount of each monthly health insurance credit payable under this section shall be \$4 per year of creditable service, which amount shall be credited monthly to any retired state employee participating in the state retiree health benefits program pursuant to § 51.1-1405 or an alternative personal health insurance plan as provided herein. However, such credit shall not exceed the health insurance premium for retiree-only coverage as provided under such alternative personal health insurance plan. Any (i) employee participant pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4, 51.1-126.5, or 51.1-126.7 receiving long-term disability, or (ii) retired state employee retired under the provisions of § 51.1-156 or 51.1-307, or (iii) any participating employee receiving long-term disability pursuant to § 51.1-1112 ~~or~~, 51.1-1123, 51.1-1157, or 51.1-1165 shall receive a maximum monthly credit which is the greater of (i) \$120, (ii) \$4 per year for each year of creditable service at the time of disability retirement, or (iii) \$4 per year for each year of creditable service at the time of eligibility for long-term disability. 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 elects to defer his retirement pursuant to subsection C of § 51.1-153, subsection C of § 51.1-205 or subsection C of § 51.1-305 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

B. For those retired state employees:

1. Participating in the state retiree health benefits program, such credit shall be applied to the monthly premium deducted from benefits payable to retired state employees in accordance with Chapters 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 this title~~. In the event that either no benefit is payable or the benefit payable is insufficient to deduct the entire health care premium, the payment of the credit shall be determined in the manner prescribed by the Virginia Retirement System. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System.

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

C. 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 state employee as defined in § 2.2-2818 and (ii) after terminating state service, was employed by a local government that does not elect to provide a health insurance credit under § 51.1-1401 or 51.1-1402, shall be eligible for the credit provided by subsection A, provided that the retired employee is participating in a health insurance plan. The Commonwealth shall be charged with the credit as provided for in subsection D. 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.

D. The Virginia Retirement System shall actuarially determine the amount necessary to fund all credits provided by this section to reflect the cost of such credits in the 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 trust fund.

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

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

A. A teacher, as defined in § 51.1-124.3, retired under the Virginia Retirement System, *including the hybrid retirement program described in § 51.1-169*, and any employee retired under a defined contribution plan pursuant to § 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~~, any employee participant pursuant to § 51.1-126.6 receiving long-term disability, *or a participant receiving long-term disability pursuant to § 51.1-1157 or 51.1-1165* 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 hybrid retirement program described in § 51.1-169*, 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 receiving long-term disability pursuant to § 51.1-1157 or 51.1-1165*, 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 trust fund.

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

A. A local officer, as defined in § 51.1-124.3, general registrar, employee of a general registrar, or an employee of a local social services board, retired under the Virginia Retirement System, *including the hybrid retirement program described in § 51.1-169*, who rendered at least 15 years of total creditable service under the System shall receive a health insurance credit to his monthly retirement allowance, which shall be applied to reduce the retired member's health insurance premium cost. 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 \$45; however, each former member whose retirement was for disability, *or a participant receiving long-term disability pursuant to § 51.1-1157 or 51.1-1165*, shall receive a monthly health insurance credit of \$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. The cost of such credit shall be borne by the Commonwealth.

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

C. 1. 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 subdivision C 2. Eligibility for the credit and payment of the credit shall be determined in a manner prescribed by the Virginia Retirement System.

2. The credit shall be in (i) the amount provided in subsection A, or subsection A and subsection B if the additional credit authorized by subsection B is provided 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.) who (i) rendered at least 15 years of total creditable service as a local officer as defined in § 51.1-124.3 or as an employee of a local social services board or combined service as a general registrar or an employee of a general registrar and (ii) after terminating service as a local officer or employee of a local social services board or general registrar or as an employee of a general registrar, 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, provided that the retired employee is participating in a health insurance plan. The Commonwealth shall be charged with the credit as provided for in subsection A. In such case, the health insurance credit shall be determined based upon the amount of state service or service as a local officer or service as an employee of a local social services board or combined service as a general registrar or an employee of a general registrar, 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, 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.

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

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

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

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

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

"State retiree" means a state employee retired under the Virginia Retirement System, State Police Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or any retirement system authorized pursuant to § 51.1-126 ~~or~~, 51.1-126.5, *or 51.1-169* who is eligible to receive a monthly retirement annuity from that retirement system.

B. A state retiree shall be eligible to participate in the retiree health benefits program only if he makes an election to participate in the program within ~~thirty-one~~ 31 days following the date of termination of employment with the Commonwealth. A retired state employee who fails to elect to participate in the state health plan within ~~thirty-one~~ 31 days of the effective date of retirement, or who, once having elected to participate, discontinues participation, is barred from participating in the state health plan thereafter.

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

2. That any person who, as of January 1, 2013, has an agreement for the purchase of prior service shall be allowed to complete the purchase of prior service at the rate provided under the existing agreement.

3. That if any clause, sentence, paragraph, subsection, or subdivision of this act shall be adjudged in any court of competent jurisdiction to be invalid, the judgment shall not affect, impair, or invalidate the remaining provisions of this act, but shall be confined in its operation to the clause, sentence, paragraph, subsection, or subdivision thereof directly involved in the controversy in which the judgment shall have been rendered, and to this end the provisions of this act are declared severable.