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HOUSE BILL NO. 1130**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on Finance
on February 28, 2012)

(Patron Prior to Substitute—Delegate Howell, W.J. [HB 1129])

A *BILL to amend and reenact §§ 51.1-126, 51.1-126.5, 51.1-126.6, 51.1-135, 51.1-145, 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.*

Be it enacted by the General Assembly of Virginia:

1. That §§ 51.1-126, 51.1-126.5, 51.1-126.6, 51.1-135, 51.1-145, 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:

§ 51.1-126. 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.

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

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

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

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

85 2. Each institution of higher education may charge and collect a reimbursement fee from each
86 employee participating in the institution's retirement plan established pursuant to subsection A. The total
87 amount charged and collected for such fee from all such employees for any year shall not exceed the
88 total of the costs described in subdivision D 1 and charged to the institution for such year.

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

92 2. If a member of the optional retirement plan maintained under this section is at any time in service
93 as an employee in a position covered for retirement purposes under the provisions of Chapters 1
94 (§ 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
95 benefit payments under the optional retirement plan maintained under this section shall be suspended
96 while so employed; provided, however, reemployment shall have no effect on the payment under the
97 optional plan maintained under this section if the benefits are being paid in an annuity form under an
98 annuity contract purchased with the member's account balance.

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

121 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

183 actuary. Contributions to the defined contribution account and all earnings thereon shall be credited to
184 an account to be maintained for each participating member. Contributions by the Commonwealth to a
185 participating member's defined contribution account shall be in lieu of contributions to the retirement
186 system required pursuant to § 51.1-145.

187 H. If a member of the optional retirement plan maintained under this section is at any time in service
188 as an employee in a position covered for retirement purposes under the provisions of this chapter,
189 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
190 title, his benefit payments under the optional retirement plan maintained under this section shall be
191 suspended while so employed; provided, however, reemployment in such position shall have no effect
192 on the payment under the optional retirement plan maintained under this section if the benefits are being
193 paid in an annuity form under a lifetime annuity contract purchased with the member's account balance.

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

198 § 51.1-126.6. Certain employees of public school divisions.

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

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

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

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

220 E. If a member of the optional retirement plan maintained under this section is at any time in service
221 as an employee in a position covered for retirement purposes under the provisions of this chapter,
222 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
223 title, his benefit payments under the optional retirement plan maintained under this section shall be
224 suspended while so employed; provided, however, reemployment in such position shall have no effect
225 on the payment under the optional retirement plan maintained under this section if the benefits are being
226 paid in an annuity form under a lifetime annuity contract purchased with the member's account balance.

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

232 § 51.1-135. Compulsory membership.

233 Membership in the retirement system shall be compulsory for all eligible employees who enter
234 service after the effective date of coverage. *For purposes of this section, "membership in the retirement*
235 *system" includes an eligible employee's participation in the hybrid retirement program pursuant to*
236 *§ 51.1-169.*

237 § 51.1-145. Employer contributions.

238 A. The total annual employer contribution for each employer, expressed as a percentage of the
239 annual membership payroll, shall be determined in a manner so as to remain relatively level from year
240 to year. Each employer shall contribute an amount equal to the sum of the normal contribution, any
241 accrued liability contribution, and any supplementary contribution. The contribution rates for each
242 employer shall be determined after each valuation and shall remain in effect until a new valuation is
243 made. All contribution rates shall be computed in accordance with recognized actuarial principles on the
244 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), (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

306 *seq.), (i) 83.98 percent for fiscal years beginning July 1, 2012, and July 1, 2013, (ii) 89.32 percent for*
307 *fiscal years beginning July 1, 2014, and July 1, 2015, (iii) 94.66 percent for fiscal years beginning July*
308 *1, 2016, and July 1, 2017, and (iv) 100 percent for fiscal years beginning on or after July 1, 2018.*

309 *The General Assembly shall only set contribution rates less than the applicable minimum percentage*
310 *of the rates certified by the Board set forth herein upon a recorded affirmative vote of two-thirds of the*
311 *members elected in each house.*

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

333 M. The employer contribution rate established for each employer may include the cost to administer
334 any defined contribution plan administered by the Virginia Retirement System and available to the
335 employer. The portion of such contribution designated to cover administrative costs of the defined
336 contribution plans shall not be deposited into the trust fund established for the defined benefit plans but
337 shall be separately accounted for and used solely to defray the administrative costs associated with the
338 various defined contributions plans. This provision shall supplement the authority of the Board under
339 §§ 51.1-124.22 and 51.1-602 to charge and collect administrative fees to employers whose employees
340 have available the various defined contribution plans administered by the Virginia Retirement System.

341 N. *Notwithstanding the foregoing, the total employer contribution for each employer authorized to*
342 *participate in the hybrid retirement program described in § 51.1-169 for any period, expressed as a*
343 *percentage of the employer's payroll for such period, shall be established as the contribution rate*
344 *payable by such employer with respect to its employees enrolled in the defined benefit plan established*
345 *under this chapter. The employer's contribution shall be first applied to the defined contribution*
346 *component of the hybrid retirement program described in § 51.1-169, and the remainder shall be*
347 *deposited in the employer's retirement allowance account. Institutions of higher education shall also pay*
348 *contributions to the employer's retirement allowance account in amounts representing the difference*
349 *between the contribution rate payable with respect to employees enrolled in the defined benefit plan*
350 *under this chapter and the employer contributions paid to any optional retirement plan it offers on*
351 *behalf of any of its employees classified under the provisions of subdivision A 10 of § 23-38.88.*

352 *§ 51.1-169. Hybrid retirement program.*

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

362 The Board shall maintain the hybrid retirement program established by this section, and any
363 employer is authorized to make contributions under such program for the benefit of its employees
364 participating in such program. Every person who is otherwise eligible to participate in the program but
365 is not a member of a retirement plan administered by the Virginia Retirement System the first time he is
366 hired on or after January 1, 2014, in a covered position, shall participate in the hybrid retirement
367 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.

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

429 Virginia Retirement System for retirement and group life insurance in accordance with the provisions of
430 Chapter 1 (§ 51.1-124.1 et seq.) for such employee.

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

434 2. No employee who is an active member in the hybrid retirement program maintained under this
435 section shall also be an active member of any other optional retirement plan maintained under the
436 provisions of Chapter 1 (§ 51.1-124.1 et seq.).

437 3. If a member of the hybrid retirement program maintained under this section is at any time in
438 service as an employee in a position covered for retirement purposes under the provisions of Chapter 1
439 (§ 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
440 benefit payments under the hybrid retirement program maintained under this section shall be suspended
441 while so employed; provided, however, reemployment shall have no effect on a payment under the
442 defined contribution component of the program if the benefit is being paid in an annuity form under an
443 annuity contract purchased with the member's account balance.

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

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

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

460 § 51.1-601.1. Participation in plan by certain employees.

461 All employees of the Commonwealth and its agencies commencing employment or who are
462 reemployed on or after January 1, 2008, in a position covered by the Virginia Retirement System, and
463 who have not elected to participate in a plan established pursuant to (i) § 403(b) of the Internal Revenue
464 Code of 1986, as amended, or (ii) § 51.1-169, shall participate in the plan described in § 51.1-602,
465 unless such employee elects, in a manner prescribed by the Board, not to participate in such plan. The
466 amount of the deferral for any such employee participating in the plan shall equal, on a semimonthly
467 basis, \$20 of otherwise payable compensation, unless the employee elects to defer a different amount.

468 § 51.1-603.1. Participation by employees of political subdivisions in deferred compensation plan of
469 Virginia Retirement System.

470 The Virginia Retirement System may enter into an agreement with any political subdivision of the
471 Commonwealth to permit participation by the political subdivision's employees in the deferred
472 compensation plan established and administered by the Board pursuant to § 51.1-602, *except that*
473 *political subdivisions of the Commonwealth otherwise participating in the retirement system pursuant to*
474 *Article 5 (§ 51.1-130 et seq.) of Chapter 1 shall participate in the deferred compensation plan*
475 *established and administered by the Board pursuant to § 51.1-602 to the extent necessary to provide*
476 *benefits under the hybrid retirement program described in § 51.1-169.*

477 § 51.1-611. Participation by employees of political subdivisions in cash match plan of Virginia
478 Retirement System.

479 The Virginia Retirement System may enter into an agreement with any political subdivision of the
480 Commonwealth to permit participation by the political subdivision's employees in the cash match plan
481 established and administered by the Board pursuant to § 51.1-607, *except that political subdivisions of*
482 *the Commonwealth otherwise participating in the retirement system pursuant to Article 5 (§ 51.1-130 et*
483 *seq.) of Chapter 1 shall participate in the cash match plan established and administered by the Board*
484 *pursuant to § 51.1-608 to the extent necessary to provide benefits under the hybrid retirement program*
485 *described in § 51.1-169.*

486 § 51.1-1100. Definitions.

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

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

489 "Company" means an insurance company issuing a long-term disability insurance policy purchased
490 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 months following the occurrence or commencement of an illness or injury when an employee is earning less than eighty 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 hours but less than forty 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 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 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 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 participating employees shall continue during periods of such employees' absence covered by short-term and long-term disability benefits. 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.

552 "Eligible employee" means a person who is (i) not eligible for the disability program pursuant to
553 Chapter 11 (§ 51.1-1100 et seq.) and (ii) participating in the hybrid retirement program described in
554 § 51.1-169.

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

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

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

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

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

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

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

575 § 51.1-1151. Sickness and disability program; disability insurance policies.

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

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

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

589 § 51.1-1152. Additional powers of the Board.

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

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

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

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

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

598 § 51.1-1153. Participation in the program.

599 A. All eligible employees shall become participants in this program; provided however, that the
600 governing body of an employer may adopt a resolution on or before January 1, 2014, which shall be
601 submitted to the Board, requesting that its eligible employees not participate in the program because the
602 employer has or will establish, and continue to maintain, comparable disability coverage for such
603 eligible employees. The election by the governing body of an employer not to participate in this
604 program shall be irrevocable. The employer need not consider the provisions of § 51.1-1178 when
605 determining the comparability of its disability coverage to this program.

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

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

612 D. Eligibility for participation in the program shall terminate upon the earliest to occur of an
613 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 :

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

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

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

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

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

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

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

§ 51.1-1157. Long-term disability benefit.

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

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

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

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

675 *partial disability.*

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

678 *§ 51.1-1158. Successive periods of long-term disability.*

679 *A. A participating employee's disability, which is related or due to the same cause or causes as a*
680 *prior disability for which long-term disability benefits were paid, shall be deemed to be a continuation*
681 *of the prior disability if the employee returns to a position on an active employment basis for less than*
682 *125 consecutive work days. Days of work arranged pursuant to vocational, rehabilitation, or*
683 *return-to-work programs shall not be counted in determining the duration of the period of the*
684 *employee's return to work.*

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

688 *§ 51.1-1159. Adjustments to disability benefits.*

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

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

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

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

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

701 *5. Benefits paid under any compulsory benefits law.*

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

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

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

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

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

727 *§ 51.1-1160. Rehabilitation incentive.*

728 *Disability benefits payable to a participating employee who fails to cooperate with a rehabilitation*
729 *program prescribed for the employee shall be decreased by 50 percent of the amounts otherwise payable*
730 *to such employee.*

731 *§ 51.1-1161. Cessation of disability benefits; service retirement.*

732 *A. Disability benefits shall cease to be paid to a participating employee upon the first to occur of the*
733 *following:*

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

736 *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	Replacement of	Replacement of	Replacement of
Continuous	Creditable	Creditable	Creditable
Participation	Compensation	Compensation	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

798 which the participating employee is eligible to receive short-term disability benefits. Days of work
799 arranged pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in
800 determining the duration of the period of the employee's return to work.

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

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

807 § 51.1-1165. Supplemental long-term disability benefit.

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

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

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

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

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

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

823 § 51.1-1166. Successive periods of long-term disability.

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

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

834 § 51.1-1167. Adjustments in supplemental disability benefits.

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

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

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

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

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

848 5. Benefits paid under any compulsory benefits law; and

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

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

855 B. If the plan administrator deems a participating employee to be eligible for benefits from any of
856 the sources listed in subdivisions A 3, A 4, and A 5, the plan administrator may direct the participating
857 employee to apply for those benefits and to pursue whatever additional steps are necessary to obtain the
858 benefits. If a participating employee fails or refuses to pursue the available benefits as directed by the
859 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 reappplied 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

921 work-related injury.

922 Article 4.

923 Administrative Provisions.

924 § 51.1-1171. Supplemental benefits for catastrophic disability.

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

931 § 51.1-1172. Employer contributions during disability absences.

932 Mandatory employer contributions to the defined contribution component of the hybrid retirement
933 program pursuant to subdivision B 2 of § 51.1-169 on behalf of participating employees shall continue
934 during periods of such employees' absence covered by short-term and long-term disability benefits. The
935 calculation of such contributions shall be based on the full amount of the participating employee's
936 creditable compensation.

937 § 51.1-1173. Health insurance coverage during disability absences.

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

942 B. The Commonwealth shall pay the employer's share of the cost of health insurance coverage under
943 such plan for participating employees and for the families or dependents of such employees during
944 periods the employee is receiving short-term disability benefits to the same extent as for other state
945 employees covered by such plan.

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

950 § 51.1-1174. Life and accident insurance coverage during disability absences.

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

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

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

962 § 51.1-1175. Optional insurance during disability absences.

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

966 § 51.1-1176. Exclusions and limitations.

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

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

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

976 § 51.1-1177. Appeals.

977 The Board may elect to develop an alternative to the process set forth in the Administrative Process
978 Act (§ 2.2-4000 et seq.) to allow appeals of case decisions related to the payment of disability benefits
979 under this chapter. This alternative process shall be modeled after the claims provisions as provided for
980 in the federal Employee Retirement Income Security Act of 1974, as amended, and shall (i) provide for
981 adequate notice in writing to any participant whose claim for benefits has been denied setting forth the
982 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*

1167 *participant receiving long-term disability pursuant to § 51.1-1157 or 51.1-1165*, shall receive a monthly
1168 health insurance credit of ~~forty-five dollars~~ \$45. Eligibility for the credit shall be determined in a
1169 manner prescribed by the Virginia Retirement System. Any member who elects to defer his retirement
1170 pursuant to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this
1171 section on the effective date of his retirement.

1172 B. Those retired employees who purchase an alternative policy from a carrier or organization of their
1173 own choosing shall be eligible to receive a credit in the amount specified in subsection C. Eligibility for
1174 the credit and payment of the credit shall be determined in a manner prescribed by the Virginia
1175 Retirement System.

1176 C. The credit shall be in the amount provided in subsection A or the amount of premium paid for
1177 the personal health insurance policy, whichever is less.

1178 D. The cost of the monthly health insurance credit payable under this section shall be borne by the
1179 locality.

1180 E. The Virginia Retirement System shall actuarially determine the amount necessary to fund all
1181 credits provided under this section, reflect the cost of such credits in the applicable employer
1182 contribution rate pursuant to § 51.1-145, and prescribe such terms and conditions as are necessary to
1183 carry out the provisions of this section. The costs associated with the administration of the health
1184 insurance credit program provided for in this section shall be recovered from the health insurance credit
1185 trust fund.

1186 § 51.1-1403. Health insurance credits for retired constitutional officers, employees of constitutional
1187 officers, general registrars, employees of general registrars, and local social service employees.

1188 A. A local officer, as defined in § 51.1-124.3, general registrar, employee of a general registrar, or an
1189 employee of a local social services board, retired under the Virginia Retirement System, *including the*
1190 *hybrid retirement program described in § 51.1-169*, who rendered at least 15 years of total creditable
1191 service under the System shall receive a health insurance credit to his monthly retirement allowance,
1192 which shall be applied to reduce the retired member's health insurance premium cost. The amount of
1193 each monthly health insurance credit payable under this section shall be \$1.50 for each full year of the
1194 retired member's creditable service, not to exceed a maximum monthly credit of \$45; however, each
1195 former member whose retirement was for disability, *or a participant receiving long-term disability*
1196 *pursuant to § 51.1-1157 or 51.1-1165*, shall receive a monthly health insurance credit of \$45. Eligibility
1197 for the credit shall be determined in a manner prescribed by the Virginia Retirement System. Any
1198 member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be entitled to
1199 receive the allowable credit provided by this section on the effective date of his retirement. The cost of
1200 such credit shall be borne by the Commonwealth.

1201 B. In addition to the health insurance credit authorized in subsection A, localities which participate in
1202 the Virginia Retirement System may elect to provide an additional health insurance credit of \$1 per
1203 month for each full year of the retired member's creditable service, not to exceed a maximum monthly
1204 credit of \$30. The costs of such additional health insurance credit shall be borne by the locality.

1205 C. 1. Those retired employees who purchase an alternative personal health insurance policy from a
1206 carrier or organization of their own choosing shall be eligible to receive a credit in the amount specified
1207 in subdivision C 2. Eligibility for the credit and payment of the credit shall be determined in a manner
1208 prescribed by the Virginia Retirement System.

1209 2. The credit shall be in (i) the amount provided in subsection A, or subsection A and subsection B
1210 if the additional credit authorized by subsection B is provided or (ii) the amount of premium paid for
1211 the personal health insurance policy, whichever is less.

1212 D. Any person included in the membership of a retirement system provided by Chapter 1
1213 (§ 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)
1214 rendered at least 15 years of total creditable service as a local officer as defined in § 51.1-124.3 or as an
1215 employee of a local social services board or combined service as a general registrar or an employee of a
1216 general registrar and (ii) after terminating service as a local officer or employee of a local social
1217 services board or general registrar or as an employee of a general registrar, was employed by a local
1218 government that does not elect to provide a health insurance credit under § 51.1-1402, shall be eligible
1219 for the credit provided by subsection A, provided that the retired employee is participating in a health
1220 insurance plan. The Commonwealth shall be charged with the credit as provided for in subsection A. In
1221 such case, the health insurance credit shall be determined based upon the amount of state service or
1222 service as a local officer or service as an employee of a local social services board or combined service
1223 as a general registrar or an employee of a general registrar, whichever is greater.

1224 E. The Virginia Retirement System shall (i) actuarially determine the amount necessary to fund all
1225 credits provided under this section, (ii) reflect the cost of such credits in the applicable employer
1226 contribution rate pursuant to § 51.1-145, and (iii) prescribe such terms and conditions as are necessary to
1227 carry out the provisions of this section. The costs associated with the administration of the health
1228 insurance program provided for in this section shall be recovered from the health insurance credit trust

1229 fund.

1230 § 51.1-1405. Participation in the state retiree health benefits program.

1231 A. As used in this section, unless the context requires a different meaning:

1232 "Involuntarily separated" means separated from state service as the result of any dismissal, requested
 1233 resignation, or failure to obtain reappointment, excluding a separation resulting from a conviction for a
 1234 felony or crime involving moral turpitude or dishonesty or a separation related to the job performance or
 1235 misconduct of the state employee.

1236 "Retiree health benefits program" or "program" means the plan for providing health insurance
 1237 coverage for retired state employees provided pursuant to subsection E of § 2.2-2818.

1238 "State employee" means the same as that term is defined in § 2.2-2818.

1239 "State retiree" means a state employee retired under the Virginia Retirement System, State Police
 1240 Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or
 1241 any retirement system authorized pursuant to § 51.1-126 ~~or~~, 51.1-126.5, *or 51.1-169* who is eligible to
 1242 receive a monthly retirement annuity from that retirement system.

1243 B. A state retiree shall be eligible to participate in the retiree health benefits program only if he
 1244 makes an election to participate in the program within ~~thirty-one~~ 31 days following the date of
 1245 termination of employment with the Commonwealth. A retired state employee who fails to elect to
 1246 participate in the state health plan within ~~thirty-one~~ 31 days of the effective date of retirement, or who,
 1247 once having elected to participate, discontinues participation, is barred from participating in the state
 1248 health plan thereafter.

1249 C. Any state retiree who was involuntarily separated who on July 1, 1999, is participating in the
 1250 retiree health benefits program and is receiving monthly retirement annuity payments may elect, by
 1251 notifying the Virginia Retirement System and the Department of Human Resource Management before
 1252 September 1, 1999, to cease receiving monthly retirement annuity payments until reapplying for such
 1253 benefits at a later date and to continue participation in the retiree health benefits program.