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**SENATE BILL NO. 498**

Offered January 11, 2012

Prefiled January 11, 2012

*A BILL to amend and reenact §§ 51.1-135, 51.1-138, 51.1-145, 51.1-201, 51.1-202, 51.1-212, 51.1-213, 51.1-601.1, 51.1-602, 51.1-603.1, 51.1-608, 51.1-609, 51.1-611, 51.1-1100, 51.1-1400, 51.1-1401, 51.1-1402, 51.1-1403, and 51.1-1405 of the Code of Virginia, and to amend the Code of Virginia by adding in Title 51.1 chapters numbered 1.1, consisting of a section numbered 51.1-170, and 11.1, containing articles numbered 1 through 4, consisting of sections numbered 51.1-1150 through 51.1-1185, relating to the Virginia Retirement System; optional hybrid defined contribution and defined benefit program for state and local employees.*

Patrons—Watkins and McWaters

Referred to Committee on Finance

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

**1. That §§ 51.1-135, 51.1-138, 51.1-145, 51.1-201, 51.1-202, 51.1-212, 51.1-213, 51.1-601.1, 51.1-602, 51.1-603.1, 51.1-608, 51.1-609, 51.1-611, 51.1-1100, 51.1-1400, 51.1-1401, 51.1-1402, 51.1-1403, and 51.1-1405 of the Code of Virginia are amended, and that the Code of Virginia is amended by adding in Title 51.1 chapters numbered 1.1, consisting of a section numbered 51.1-170, and 11.1, containing articles numbered 1 through 4, consisting of sections numbered 51.1-1150 through 51.1-1185, as follows:**

**§ 51.1-135. Compulsory membership.**

Membership in the retirement system shall be compulsory for all eligible employees who enter service after the effective date of coverage. *For purposes of this section, "membership in the retirement system" includes an eligible employee's participation in the optional hybrid retirement program pursuant to § 51.1-170.*

**§ 51.1-138. Benefits.**

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

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

C. Each employer providing the benefits of subsection B for its employees prior to July 1, 1990, may elect to provide for the early retirement of employees as set forth in this subsection in lieu of the early retirement and death before retirement provisions of the State Police Officers' Retirement System. Such election must be made to the Board in writing prior to July 1, 1990. Any member in service on or after his fifty-fifth birthday with five or more years of creditable service (i) while earning the benefits permitted by this section, (ii) as a member in the retirement system established by Chapter 2 (§ 51.1-200 et seq.) of this title, or (iii) as a member in the retirement system established by Chapter 2.1 (§ 51.1-211 et seq.) of this title may retire upon written notification to the Board setting forth at what time the retirement is to become effective. The effective date shall be after his last day of service but shall not be more than 90 days prior to the filing of such notice. The member shall receive an allowance that shall be determined in the same manner as for retirement at an employee's normal retirement with creditable service and average final compensation being determined as of the date of his actual retirement. If the member has less than 30 years of service at retirement, the amount of the retirement allowance shall be reduced on an actuarial equivalent basis for the period by which the actual retirement date precedes the

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59 earlier of (a) the member's normal retirement date or (b) the first date on or after the member's fifty-fifth  
60 birthday on which the member would have completed a total of 30 years of creditable service. Effective  
61 December 31, 2003, any employee in service on June 30, 2002, and July 1, 2002, who is credited with  
62 five or more years of creditable service rendered under this chapter and earning the benefits permitted  
63 by this section, Chapter 2 (§ 51.1-200 et seq.), or Chapter 2.1 (§ 51.1-211 et seq.) of this title shall not  
64 be subject to the vesting requirements of this section, and §§ 51.1-205 and 51.1-216.

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

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

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

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

82 G. Beginning July 1, 2010, any county or city that (i) participates in the Virginia Retirement System  
83 pursuant to Chapter 1 (§ 51.1-124.1 et seq.), (ii) has in effect a retirement supplement for deputy sheriffs  
84 (in addition to the annual retirement allowance provided under the Virginia Retirement System) that  
85 exceeds the allowance set forth in subsection B of § 51.1-206 hereof, and (iii) provides the same level  
86 of retirement benefits to all of its deputy sheriffs, may, by resolution legally adopted, elect to provide  
87 the benefits coverage under subsection B hereof except for the allowance described in subsection B of  
88 § 51.1-206. Notwithstanding any other provision of law, the additional costs of such election shall be  
89 borne solely by such county or city.

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

93 *I. Notwithstanding the foregoing, any person participating in the optional hybrid retirement program*  
94 *established pursuant to § 51.1-170 shall not be entitled to any benefits under this section.*

95 § 51.1-145. Employer contributions.

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

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

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

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

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

116 F. The unfunded accrued liability with respect to any employer as of any valuation date shall be  
117 determined as the excess of (i) the then present value of the benefits to be provided under the retirement  
118 system in the future to members and former members over (ii) the sum of the assets of the retirement  
119 system then currently in the members' contribution account and in the employer's retirement allowance  
120 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.

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

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

N. *The employer contribution rate established for each employer may include the annual rate of contribution payable by such employer with respect to employees enrolled in the optional hybrid retirement program established pursuant to § 51.1-170.*

#### CHAPTER 1.1.

#### OPTIONAL HYBRID RETIREMENT PROGRAM.

§ 51.1-170. *Optional hybrid retirement program.*

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

182 established under Chapter 1 (§ 51.1-124.1 et seq.). Persons who are participants in, or eligible to be  
183 participants in, the optional retirement plans established under §§ 51.1-126, 51.1-126.1, 51.1-126.3,  
184 51.1-126.4, 51.1-126.5, 51.1-126.6, and 51.1-126.7 shall not be eligible to participate in the optional  
185 hybrid retirement program.

186 The Board shall maintain this optional hybrid retirement program, and any employer is authorized to  
187 make contributions under such program for the benefit of its employees participating in such program.  
188 Every person who is not a member of a retirement plan administered by the Virginia Retirement System  
189 the first time he is hired on or after January 1, 2014, in a covered position, shall make an irrevocable  
190 election to participate in either (a) the otherwise applicable defined benefit retirement plan established  
191 by this title and administered by the Virginia Retirement System or (b) this optional hybrid retirement  
192 program.

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

197 A person who participates in the otherwise applicable defined benefit retirement plan established by  
198 this title and administered by the Virginia Retirement System under this chapter may make an  
199 irrevocable election to participate in the optional hybrid retirement program. Such election shall be  
200 exercised no later than April 30, 2014. If an election is not made by April 30, 2014, such employee  
201 shall be deemed to have elected not to participate in the optional hybrid retirement program and shall  
202 continue to participate in his current retirement plan.

203 B. Employer contributions to optional hybrid retirement program.

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

206 2. The employer shall make a contribution to the defined contribution component of the program on  
207 behalf of an employee participating in the program in the amount of 1.5 percent of creditable  
208 compensation. In addition, the employer shall make a matching contribution on behalf of the employee  
209 based on the employee's voluntary contributions under the defined contribution component of the  
210 program to the deferred compensation plan established under § 51.1-602, up to a maximum of 2 percent  
211 of creditable compensation for the payroll period, in an amount equal to 100 percent of the employee's  
212 voluntary contributions to the defined contribution component of the program under subdivision C 2.  
213 The matching contribution by the employer shall be made to the appropriate cash match plan  
214 established for the employee under § 51.1-608.

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

- 217 a. Upon completion of one year of continuous participation in the program, 20 percent.
- 218 b. Upon completion of two years of continuous participation in the program, 40 percent.
- 219 c. Upon completion of three years of continuous participation in the program, 60 percent.
- 220 d. Upon completion of four years of continuous participation in the program, 80 percent.
- 221 e. Upon completion of five years of continuous participation in the program, 100 percent.

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

226 4. An employee may direct the investment of contributions made by an employer under subdivision B  
227 2.

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

230 C. Employee contributions to optional hybrid retirement program.

231 1. An employee participating in the optional hybrid retirement program shall, pursuant to procedures  
232 established by the Board, make mandatory contributions on a salary reduction basis in accordance with  
233 § 414(h) of the Internal Revenue Code (i) to the defined benefit component of the program in the  
234 amount of 4 percent of creditable compensation in lieu of the amount described in subsection A of  
235 § 51.1-144 and (ii) to the defined contribution component of the program in the amount of 3 percent of  
236 creditable compensation.

237 2. An employee participating in the optional hybrid retirement program may also make voluntary  
238 contributions to the defined contribution component of the program, in increments of half percentages of  
239 creditable compensation, of up to 2 percent of creditable compensation or the limit on elective deferrals  
240 pursuant to § 457(b) of the Internal Revenue Code, whichever is less. The contribution by the employee  
241 shall be made to the appropriate deferred compensation plan established by the employee under  
242 § 51.1-602.

243 3. No loans or hardship distributions shall be available from contributions made by an employee

under this subsection.

D. Service retirement and service retirement allowance under defined benefit component; no disability retirement.

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

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

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

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

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

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

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

§ 51.1-201. Definitions.

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

"Employee" means a state police officer.

"Member" means any person included in the membership of the retirement system as provided in this chapter, except that any person participating in the optional hybrid retirement program established pursuant to § 51.1-170 shall not be considered a member.

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

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

§ 51.1-202. Membership in retirement system.

Membership in the retirement system shall be compulsory for all state police officers. However, such compulsory membership requirement shall be deemed to have been met by any employee participating in the optional hybrid retirement program described under § 51.1-170.

§ 51.1-212. Definitions.

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

"Employee" means any (i) member of the Capitol Police Force as described in § 30-34.2:1, (ii) campus police officer appointed under the provisions of Chapter 17 (§ 23-232 et seq.) of Title 23, (iii) conservation police officer in the Department of Game and Inland Fisheries appointed under the provisions of Chapter 2 (§ 29.1-200 et seq.) of Title 29.1, (iv) special agent of the Department of

305 Alcoholic Beverage Control appointed under the provisions of Chapter 1 (§ 4.1-100 et seq.), (v)  
306 law-enforcement officer employed by the Virginia Marine Resources Commission as described in  
307 § 9.1-101, (vi) correctional officer as the term is defined in § 53.1-1, and including correctional officers  
308 employed at a juvenile correction facility as the term is defined in § 66-25.3, (vii) any parole officer  
309 appointed pursuant to § 53.1-143, and (viii) any commercial vehicle enforcement officer employed by  
310 the Department of State Police.

311 "Member" means any person included in the membership of the Retirement System as provided in  
312 this chapter, *except that any person participating in the optional hybrid retirement program pursuant to*  
313 *§ 51.1-170 shall not be considered a member.*

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

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

316 § 51.1-213. Membership in Retirement System.

317 Membership in the Retirement System shall be compulsory for all employees. *However, such*  
318 *compulsory membership requirement shall be deemed to have been met by an employee participating in*  
319 *the optional hybrid retirement program described under § 51.1-170.*

320 § 51.1-601.1. Participation in plan by certain employees.

321 All employees of the Commonwealth and its agencies commencing employment or who are  
322 reemployed on or after January 1, 2008, in a position covered by the Virginia Retirement System, and  
323 who have not elected to participate in a plan established pursuant to § 403(b) of the Internal Revenue  
324 Code of 1986, as amended, *or (ii) § 51.1-170,* shall participate in the plan described in § 51.1-602,  
325 unless such employee elects, in a manner prescribed by the Board, not to participate in such plan. The  
326 amount of the deferral for any such employee participating in the plan shall equal, on a semimonthly  
327 basis, \$20 of otherwise payable compensation, unless the employee elects to defer a different amount.

328 § 51.1-602. Deferred compensation plan for employees of the Commonwealth; administered by the  
329 Board.

330 A. The Board shall establish and administer a deferred compensation plan for employees of the  
331 Commonwealth and its agencies. The Virginia Retirement System Director shall be the chief  
332 administrative officer of the plan. The Board may contract with private corporations or institutions  
333 subject to the standards set forth in § 51.1-124.30 to provide investment products as well as any other  
334 goods and services related to the administration of the deferred compensation plan. The Virginia  
335 Retirement System is hereby authorized to perform related services including, but not limited to,  
336 providing consolidated billing, individual and collective record keeping and accountings, and asset  
337 purchase, control, and safekeeping. In accordance with such plan, and upon contract or agreement with  
338 an eligible employee, deferrals of compensation may be accomplished by payroll deductions made by  
339 the appropriate officer of the Commonwealth, with such funds being thereafter held and administered in  
340 accordance with the plan. Administrative fees related to the VRS program oversight that otherwise  
341 would be charged to an employee participating in the plan shall be paid by the participating employer  
342 under procedures established by the Board. Any political subdivision participating in the plan pursuant  
343 to § 51.1-603.1 may collect the administrative fee imposed by the Virginia Retirement System from  
344 employees participating in the plan.

345 B. If it deems it advisable, the Board may create a trust or other special fund for the segregation of  
346 the funds or assets resulting from compensation deferred at the request of employees of the  
347 Commonwealth or its agencies and for the implementation of such program.

348 C. ~~The Department of Accounts Board shall be responsible~~ *develop policies and procedures* for the  
349 (i) accounting and reconciliations associated with state employees' contributions to the plan through  
350 payroll deductions and (ii) timely transfer of withheld funds to the private corporation or institution  
351 designated by the Board pursuant to subsection A. ~~However, any state agency that has decentralized its~~  
352 ~~payroll function and, including employees of any political subdivision of the Commonwealth~~  
353 ~~participating in the plan pursuant to § 51.1-603.1 shall be responsible for the (i) accounting and~~  
354 ~~reconciliations associated with their employees' contributions to the plan through payroll deductions and~~  
355 ~~(ii) timely transfer of withheld funds to the private corporation or institution designated by the Board~~  
356 ~~pursuant to subsection A.~~

357 § 51.1-603.1. Participation by employees of political subdivisions in deferred compensation plan of  
358 Virginia Retirement System.

359 The Virginia Retirement System may enter into an agreement with any political subdivision of the  
360 Commonwealth to permit participation by the political subdivision's employees in the deferred  
361 compensation plan established and administered by the Board pursuant to § 51.1-602, *except that*  
362 *political subdivisions of the Commonwealth otherwise participating in the retirement system pursuant to*  
363 *Article 5 (§ 51.1-130 et seq.) of Chapter 1 shall participate in the deferred compensation plan*  
364 *established and administered by the Board pursuant to § 51.1-602 to the extent necessary to provide*  
365 *benefits under the optional hybrid retirement program described in § 51.1-170.*

366 § 51.1-608. Cash match plan for employees of the Commonwealth; administered by the Board.

A. The Board shall establish and administer a cash match plan for employees of the Commonwealth and its agencies. The Virginia Retirement System Director shall be the chief administrative officer of the plan. The Board may contract with private corporations or institutions subject to the standards set forth in § 51.1-124.30 to provide investment products as well as any other goods and services related to the administration of the cash match plan. The Virginia Retirement System is hereby authorized to perform related services including, but not limited to, providing consolidated billing, individual and collective recordkeeping and accountings, and asset purchase, control, and safekeeping. Administrative fees related to the Virginia Retirement System Program oversight shall be paid by the participating employer under procedures established by the Board.

B. If it deems it advisable, the Board may create a trust or other special fund for the segregation of the funds or assets resulting from contributions made on behalf of qualified participants.

C. The ~~Department of Accounts~~ Board shall be responsible *develop policies and procedures* for the timely transfer of the matching contributions to the private corporation or institution designated by the Board pursuant to subsection A. ~~However, any state agency that has decentralized its payroll function and, including the contributions of any political subdivision of the Commonwealth participating in the plan pursuant to § 51.1-611 shall be responsible for the timely transfer of matching contributions to the private corporation or institution designated by the Board pursuant to subsection A.~~

D. Alternatively, agencies of the Commonwealth that sponsor or maintain programs described in § 403 (b) of the Internal Revenue Code of 1986, as amended, may establish separate cash match plans with the consent of the Board in lieu of participation in the plan established pursuant to this section.

§ 51.1-609. Contributions on behalf of qualified participants.

A. A participating employer or, on behalf of the Commonwealth, the Department of Accounts or any agency of the Commonwealth not covered under the central payroll system, shall transfer funds from its appropriations to the private corporation or institution designated to hold investments under the plan or plans adopted or established by the participating employer pursuant to § 401 (a) or § 403 (b) of the Internal Revenue Code of 1986, as amended. The funds shall be held, administered and invested as provided for in the applicable document adopted for the administration of such contributions.

B. The amount credited on behalf of a qualified participant pursuant to this section shall not exceed, on a semimonthly basis, the lesser of fifty dollars or fifty percent of the amount that the qualified participant voluntarily contributes to the deferred compensation plan established under this chapter or to a plan established pursuant to § 403 (b) of the Internal Revenue Code of 1986, as amended, unless otherwise determined by the General Assembly through the appropriations process. The amount credited pursuant to this section on behalf of a qualified participant who is an employee of a participating employer other than the Commonwealth shall be a discretionary amount determined by the participating employer's governing body from time to time.

C. *No amount shall be credited pursuant to subsection B on behalf of a qualified participant who is a state employee participating in the optional hybrid retirement program pursuant to Chapter 1 (§ 51.1-170) if the qualified participant has not contributed the maximum amount of voluntary contributions under subdivision C 2 of § 51.1-170.*

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

The Virginia Retirement System may enter into an agreement with any political subdivision of the Commonwealth to permit participation by the political subdivision's employees in the cash match plan established and administered by the Board pursuant to ~~§ 51.1-607~~ § 51.1-608 *except that political subdivisions of the Commonwealth otherwise participating in the retirement system pursuant to Article 5 (§ 51.1-130 et seq.) of Chapter 1 shall participate in the cash match plan established and administered by the Board pursuant to § 51.1-608 to the extent necessary to provide benefits under the optional hybrid retirement program described in § 51.1-170.*

§ 51.1-1100. Definitions.

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

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

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

"Disability" means a partial disability or total disability.

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

"Eligible employee" means (i) a state employee as defined in § 51.1-124.3 who is a member of the retirement system, *including the optional hybrid retirement program described in § 51.1-170*, (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,

428 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  
429 University of Virginia Medical Center covered under the basic insurance policies purchased by the  
430 Medical Center shall not be considered eligible employees under this chapter, unless the University of  
431 Virginia Board of Visitors, or a duly authorized agent or representative of the Board of Visitors,  
432 purchases such insurance policies from the Virginia Retirement System.

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

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

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

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

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

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

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

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

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

#### 461 CHAPTER 11.1

### 462 DISABILITY PROGRAM FOR POLITICAL SUBDIVISION EMPLOYEES PARTICIPATING IN THE 463 OPTIONAL HYBRID RETIREMENT PROGRAM.

#### 464 Article 1.

#### 465 General Provisions.

#### 466 § 51.1-1150. Definitions.

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

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

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

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

473 "Disability" means a partial disability or total disability.

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

477 "Eligible employee" means a person who is (i) an employee of a political subdivision that has  
478 elected to participate in this program and (ii) participating in the optional hybrid retirement program  
479 described in § 51.1-170.

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

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

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

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

489 "Total disability" exists (i) during the first 24 months following the occurrence or commencement of



an illness or injury if an employee is unable to perform all of his essential job functions or (ii) after 24 months following the occurrence or commencement of an illness or injury if an employee is unable to perform any job for which he is reasonably qualified based on his training or experience and earning less than 80 percent of his predisability earnings.

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

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

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

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

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

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

§ 51.1-1152. Additional powers of the Board.

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

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

§ 51.1-1153. Participation in the program.

A. The governing body of a political subdivision may adopt a resolution requesting that its eligible employees become participants in this program. The governing body's resolution shall be submitted to the Board for approval, and acceptance of the employees in this program shall be at the option of the Board.

B. The effective date of participation in the program for participating employees shall be their first day of participation in the optional hybrid retirement program described in § 51.1-170.

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

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

## Article 2.

### Nonwork-Related Disability Benefits.

§ 51.1-1154. Applicability of article.

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

§ 51.1-1155. Short-term disability benefit.

A. Except as provided in subsection B § 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

551 result of a catastrophic disability shall not require a waiting period.

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

557	Work Days of 100%	Work Days of 80%	Work Days of 60%
558	Months of	Replacement of	Replacement of
559	Continuous	Creditable	Creditable
560	Service	Compensation	Compensation
561	60-119	25	75
562	120-179	25	50
563	180 or more	25	75

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

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

568 § 51.1-1156. Successive periods of short-term disability.

569 A. A participating employee's disability which is related or due to the same cause or causes as a  
 570 prior disability for which short-term disability benefits were paid shall be deemed to be a continuation  
 571 of the prior disability if the employee returns to his position on an active employment basis for less than  
 572 45 consecutive calendar days. If a participating employee, after receiving short-term disability benefits,  
 573 immediately returns to work for less than 45 consecutive calendar days and cannot continue to work,  
 574 the days worked shall be deemed to have interrupted the short-term disability benefits period, and such  
 575 days worked shall not be counted for purposes of determining the maximum period for which the  
 576 participating employee is eligible to receive short-term disability benefits. Days of work arranged  
 577 pursuant to vocational, rehabilitation, or return-to-work programs shall not be counted in determining  
 578 the duration of the period of the employee's return to work.

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

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

585 § 51.1-1157. Long-term disability benefit.

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

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

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

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

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

597 § 51.1-1158. Successive periods of long-term disability.

598 A. A participating employee's disability, which is related or due to the same cause or causes as a  
 599 prior disability for which long-term disability benefits were paid, shall be deemed to be a continuation  
 600 of the prior disability if the employee returns to a position on an active employment basis for less than  
 601 125 consecutive work days. Days of work arranged pursuant to vocational, rehabilitation, or  
 602 return-to-work programs shall not be counted in determining the duration of the period of the  
 603 employee's return to work.

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

607 § 51.1-1159. Adjustments to disability benefits.

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

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

replacement percentage;

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

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

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

5. Benefits paid under any compulsory benefits law.

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

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

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

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

§ 51.1-1160. Rehabilitation incentive.

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

§ 51.1-1161. Cessation of disability benefits.

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

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

2. The date of death of the participating employee;

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

4. The date that the participating employee commences receiving an allowance under the defined benefit component of the optional hybrid retirement program established pursuant to § 51.1-170.

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.

§ 51.1-1162. Service retirement of participating full-time employees receiving disability benefits.

A. A participating full-time employee receiving disability benefits who has at least five years of creditable service in the optional hybrid retirement program described in § 51.1-170 shall be eligible for service retirement under the defined benefit component of that optional hybrid retirement program. 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.

B. The average final compensation of any participating full-time employee taking a service retirement under the defined benefit component of the optional hybrid retirement program 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.

C. The creditable service of a participating full-time employee taking service retirement pursuant to

673 *this section shall include periods during which the employee received disability benefits.*

674 *§ 51.1-1163. Survivor benefits.*

675 *If a participating full-time employee dies during periods he is receiving disability benefits, survivor*  
 676 *benefits under the defined benefit component of the optional hybrid retirement program shall be payable*  
 677 *to the extent provided in subsections A and B of § 51.1-162.*

678 *Article 3.*

679 *Work-Related Disability Benefits.*

680 *§ 51.1-1164. Applicability of article.*

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

683 *§ 51.1-1165. Supplemental short-term disability benefit.*

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

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

695 *C. Except as provided in subsection D and 51.1-1175, supplemental short-term disability coverage*  
 696 *shall provide income replacement for (i) 60 percent of a participating employee's creditable*  
 697 *compensation for the first 60 months of continuous service and (ii) thereafter, a percentage of a*  
 698 *participating employee's creditable compensation during the period specified below that an employee is*  
 699 *disabled, based on the number of months of continuous service, as follows:*

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

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

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

710 *§ 51.1-1166. Successive periods of short-term disability.*

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

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

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

728 *§ 51.1-1167. Supplemental long-term disability benefit.*

729 *A. Supplemental long-term disability benefits for participating employees shall commence upon the*  
 730 *expiration of the maximum period for which the participating employee is eligible to receive short-term*  
 731 *disability benefits under § 51.1-1165.*

732 *B. Except as provided in § 51.1-1175, supplemental long-term disability benefits shall provide income*  
 733 *replacement in an amount equal to 60 percent of a participating employee's creditable compensation.*

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

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

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

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

§ 51.1-1168. Successive periods of long-term disability.

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

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

§ 51.1-1169. Adjustments in supplemental disability benefits.

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

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

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

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

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

5. Benefits paid under any compulsory benefits law; and

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

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

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

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

E. Any payment to a participating employee that is later determined by the Board or by the employer to have been procured on the basis of any false statement or falsification of any record knowingly made by or on behalf of the employee, or the employee's failure to make any required report of change in

795 disability status, may be recovered from the employee by the Board, with interest, either by way of a  
796 credit against future payments due the employee or by an action at law against the employee.

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

800 § 51.1-1170. Rehabilitation incentive.

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

808 § 51.1-1171. Cessation of supplemental disability benefits.

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

811 1. The end of the period of supplemental disability coverage as provided in subsection F of  
812 § 51.1-1165 or subsection E of § 51.1-1167;

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

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

815 4. The date that the participating employee commences receiving an allowance under the defined  
816 benefit component of the optional hybrid retirement program established pursuant to § 51.1-170.

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

822 § 51.1-1172. Service retirement of participating full-time employees receiving disability benefits.

823 A. Upon the cessation of benefits payable under the Act, a participating full-time employee who is  
824 otherwise eligible may take service retirement under the defined benefit component of the optional  
825 hybrid retirement program described in § 51.1-170. Such employee shall be authorized to elect any  
826 option for the payment of his retirement allowance provided under subsection A of § 51.1-165 for which  
827 the employee is otherwise eligible.

828 B. The average final compensation of any participating full-time employee taking a service retirement  
829 under the defined benefit component of the optional hybrid retirement program shall be equal to his  
830 creditable compensation on the date of the commencement of the disability increased by an amount  
831 recommended by the program actuary and approved by the Board, from the date of the commencement  
832 of the disability to the date of retirement.

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

838 § 51.1-1173. Survivor benefits.

839 If a participating full-time employee dies during periods he is receiving supplemental disability  
840 benefits, survivor benefits under the defined benefit component of the optional hybrid retirement  
841 program shall be payable to the extent provided in subsections A and B of § 51.1-162.

842 § 51.1-1174. Coordination of benefits.

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

#### 848 Article 4.

##### 849 Administrative Provisions.

850 § 51.1-1175. Supplemental benefits for catastrophic disability.

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

§ 51.1-1176. Life and accident insurance coverage during disability absences.

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

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

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

§ 51.1-1177. Optional insurance during disability absences.

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

§ 51.1-1178. Exclusions and limitations.

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

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

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

§ 51.1-1179. Appeals.

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

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

§ 51.1-1180. 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 Optional Hybrid Retirement Program Disability Insurance Trust Fund established under § 51.1-1185.

§ 51.1-1181. Limitation on coverage.

No person shall have more than one coverage under a disability benefit program covered by this chapter. Any person employed in more than one position, which provides coverage under a disability benefit program covered by this chapter, 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.

§ 51.1-1182. Keeping records and furnishing information required by Board.

Each employer whose employees are covered under the provisions of this chapter shall keep records



918 and furnish information required by the Board.

919 § 51.1-1183. Benefits exempt from process.

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

922 § 51.1-1184. Policies to provide for accounting to Board; advance premium deposit reserve.

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

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

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

947 § 51.1-1185. Funding of program; Optional Hybrid Retirement Program Disability Insurance Trust  
948 Fund established.

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

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

959 C. There is hereby established the Optional Hybrid Retirement Program Disability Insurance Trust  
960 Fund. The costs incurred by the Board in providing policies of long-term disability insurance and  
961 administering the Program and in administering the long-term care insurance program established  
962 under § 51.1-1180, including the provision of case management and cost containment programs, shall be  
963 withdrawn from time to time by the Board from the Optional Hybrid Retirement Program Disability  
964 Insurance Trust Fund. The funds of the Optional Hybrid Retirement Program Insurance Trust Fund  
965 shall be deemed separate and independent trust funds, shall be segregated from all other funds of the  
966 Commonwealth and its political subdivisions, and shall be invested and administered solely in the  
967 interests of the participating employees and beneficiaries thereof. Neither the General Assembly nor any  
968 public officer, employee, or agency shall use or authorize the use of such trust funds for any purpose  
969 other than as provided in law for benefits, refunds, and administrative expenses, including but not  
970 limited to legislative oversight of the Optional Hybrid Retirement Program Disability Insurance Trust  
971 Fund.

972 § 51.1-1400. Health insurance credits for retired state employees.

973 A. The Commonwealth shall provide a credit toward the cost of health insurance coverage for any  
974 former state employee, as defined in § 2.2-2818, who retired under the Virginia Retirement System,  
975 State Police Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement  
976 System, or any retirement system authorized pursuant to § 51.1-126, 51.1-126.1, 51.1-126.3, 51.1-126.4,  
977 51.1-126.5, ~~or~~ 51.1-126.7, or 51.1-170 and who (i) rendered at least 15 years of total creditable service  
978 under the Retirement System or (ii) rendered service as a temporary employee of the General Assembly  
979 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, *or 51.1-170* 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 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.), *1.1 (§ 51.1-170)*, 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.), *1.1 (§ 51.1-170)*, 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 *or the optional hybrid retirement program described in § 51.1-170*, 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 a participant pursuant to § 51.1-170 or § 51.1-126.6 receiving long-term disability*, or any employee participant pursuant to § 51.1-126.6 receiving long-term disability shall receive a monthly health insurance credit of \$4 multiplied by the smaller of (i) twice the amount of his creditable service or (ii)

the amount of creditable service he would have completed at age 60 if he had remained in service to that age. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System. Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

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

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

D. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 1.1 (§ 51.1-170), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) of this title who (i) rendered at least 15 years of total creditable service as a teacher as defined in § 51.1-124.3 and (ii) after terminating service as a teacher, was employed by a local government that does not elect to provide a health insurance credit under § 51.1-1402, shall be eligible for the credit provided by subsection A and subsection B if provided by the school division from which the service described in clause (i) was rendered, provided that the retired employee is participating in a health insurance plan. The Commonwealth and local school division, if appropriate, shall be charged with the credit as provided for in subsection E. In such case, the health insurance credit shall be determined based upon the amount of state service or service as a teacher, whichever is greater.

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

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

A. Retired local government employees, whose localities have elected to participate in the Virginia Retirement System, *including the optional hybrid retirement program established pursuant to § 51.1-170*, 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 shall receive a monthly health insurance credit of ~~forty-five dollars~~ \$45. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System. Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement.

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

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

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

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

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

A. A local officer, as defined in § 51.1-124.3, general registrar, employee of a general registrar, or an employee of a local social services board, retired under the Virginia Retirement System, *including the optional hybrid retirement program established pursuant to § 51.1-170*, who rendered at least 15 years of total creditable service under the System shall receive a health insurance credit to his monthly retirement allowance, which shall be applied to reduce the retired member's health insurance premium cost. The amount of each monthly health insurance credit payable under this section shall be \$1.50 for each full year of the retired member's creditable service, not to exceed a maximum monthly credit of

\$45; however, each former member whose retirement was for disability shall receive a monthly health insurance credit of \$45. Eligibility for the credit shall be determined in a manner prescribed by the Virginia Retirement System. Any member who elects to defer his retirement pursuant to subsection C of § 51.1-153 shall be entitled to receive the allowable credit provided by this section on the effective date of his retirement. The cost of such credit shall be borne by the Commonwealth.

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

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

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

D. Any person included in the membership of a retirement system provided by Chapter 1 (§ 51.1-124.1 et seq.), 1.1 (§ 51.1-170), 2 (§ 51.1-200 et seq.), 2.1 (§ 51.1-211 et seq.), or 3 (§ 51.1-300 et seq.) who (i) rendered at least 15 years of total creditable service as a local officer as defined in § 51.1-124.3 or as an employee of a local social services board or combined service as a general registrar or an employee of a general registrar and (ii) after terminating service as a local officer or employee of a local social services board or general registrar or as an employee of a general registrar, was employed by a local government that does not elect to provide a health insurance credit under § 51.1-1402, shall be eligible for the credit provided by subsection A, provided that the retired employee is participating in a health insurance plan. The Commonwealth shall be charged with the credit as provided for in subsection A. In such case, the health insurance credit shall be determined based upon the amount of state service or service as a local officer or service as an employee of a local social services board or combined service as a general registrar or an employee of a general registrar, whichever is greater.

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

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

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

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

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

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

"State retiree" means a state employee retired under the Virginia Retirement System, State Police Officers' Retirement System, Judicial Retirement System, Virginia Law Officers' Retirement System, or any retirement system authorized pursuant to § 51.1-126, ~~or~~ 51.1-126.5, *or* 51.1-170, who is eligible to receive a monthly retirement annuity from that retirement system.

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

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