

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 2.2-3204, 51.1-124.3, 51.1-124.7, 51.1-124.22, 51.1-142.2, 51.1-155.1, 51.1-155.2, 51.1-162, 51.1-166, 51.1-169, 51.1-302, 51.1-304, 51.1-600, 51.1-607, 51.1-1153, and 51.1-1155 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 51.1-306.1, relating to the Virginia Retirement System.*

[S 87]

Approved

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

**1. That §§ 2.2-3204, 51.1-124.3, 51.1-124.7, 51.1-124.22, 51.1-142.2, 51.1-155.1, 51.1-155.2, 51.1-162, 51.1-166, 51.1-169, 51.1-302, 51.1-304, 51.1-600, 51.1-607, 51.1-1153, and 51.1-1155 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 51.1-306.1 as follows:**

**§ 2.2-3204. Retirement program.**

A. In lieu of the transitional severance benefit provided in § 2.2-3203, any otherwise eligible employee who, on the date of involuntary separation, is also (i) a vested member of the Virginia Retirement System, the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System and (ii) at least ~~forty~~ 50 years of age, may elect to have the Commonwealth purchase on his behalf years to be credited to either his age or creditable service or a combination of age and creditable service, except that any years of credit purchased on behalf of a member of the Virginia Retirement System, the State Police Officers' Retirement System, or the Virginia Law Officers' Retirement System who is eligible for unreduced retirement shall be added to his creditable service and not his age. If the otherwise eligible employee is (a) a person who becomes a member on or after July 1, 2010, *a person who does not have 60 months of creditable service as of January 1, 2013, or a person who is enrolled in the hybrid retirement program described in § 51.1-169;* (b) not a member of the State Police Officers' Retirement System or the Virginia Law Officers' Retirement System; and (c) a person to whom the provisions of subdivision B 3 of § 51.1-153 do not apply, then he must be at least ~~sixty~~ 60 years of age on the date of involuntary separation to be eligible for the retirement program provided in this subsection. The cost of each year of age or creditable service purchased by the Commonwealth shall be equal to ~~fifteen~~ 15 percent of the employee's present annual compensation. The number of years of age or creditable service to be purchased by the Commonwealth shall be equal to the quotient obtained by dividing (1) the cash value of the benefits to which the employee would be entitled under subsections A and D of § 2.2-3203 by (2) the cost of each year of age or creditable service. Partial years shall be rounded up to the next highest year. Deferred retirement under the provisions of subsection C of §§ 51.1-153, 51.1-205, and 51.1-216, and disability retirement under the provisions of § 51.1-156 et seq. and § 51.1-209, shall not be available under this section.

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

C. 1. The retirement allowance for a person who (i) is not a member of the State Police Officers' Retirement System or the Virginia Law Officers' Retirement System; (ii) becomes a member on or after July 1, 2010, ~~electing~~ *does not have 60 months of creditable service as of January 1, 2013, or is enrolled in the hybrid retirement program described in § 51.1-169;* (iii) *elects* to retire under this section; and ~~(iii)~~ (iv) by adding years to his age is between ages ~~sixty~~ 60 and the age at his "normal retirement date" as defined in § 51.1-124.3 shall be reduced on the actuarial basis provided in subdivision A 3 of § 51.1-155, unless the provisions of subdivision B 3 of § 51.1-153 apply to him.

2. The retirement allowance for any other employee electing to retire under this section who, by adding years to his age, is between ages ~~fifty-five~~ 55 and ~~sixty-five~~ 65 shall be reduced on the actuarial basis provided in subdivision A 2 of § 51.1-155.

**§ 51.1-124.3. Definitions.**

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

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

"Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, all amounts the member may contribute to purchase creditable service, all member contributions contributed by the employer on behalf of the employee, on or after July 1, 1980, except those amounts contributed on

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behalf of members of the General Assembly who are otherwise retired under the provisions of this chapter, and all interest accruing to these funds. If a member is retired for disability from a cause which is compensable under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.), dies in service prior to retirement, or requests a refund of contributions in accordance with § 51.1-161, "accumulated contributions" shall include all member contributions paid by the employer on behalf of the member on and after July 1, 1980, and all interest which would have accrued to these funds.

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

"Average final compensation" means the average annual creditable compensation of a member during his 60 highest consecutive months of creditable service or during the entire period of his creditable service if less than 60 months. However, for any member who (i) is not a person who becomes a member on or after July 1, 2010, and (ii) as of January 1, 2013, has at least 60 months of creditable service, "average final compensation" means the average annual creditable compensation of a member during his 36 highest consecutive months of creditable service. *A participant in the hybrid retirement program described in § 51.1-169 shall be considered to be a person who becomes a member on or after July 1, 2010, for the purposes of this definition.*

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

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

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

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

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

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

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

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

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

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

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

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

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

"Normal retirement date" means a member's sixty-fifth birthday. However, for any (i) person who becomes a member on or after July 1, 2010, or (ii) member who does not have at least 60 months of creditable service as of January 1, 2013, under this chapter his normal retirement date shall be the date that the member attains his "retirement age" as defined under the Social Security Act (42 U.S.C. § 416 et seq., as now or hereafter amended).

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

"Political subdivision" means any county, city, or town, any political entity, subdivision, branch, or

unit of the Commonwealth, or any commission, public authority, or body corporate created by or under an act of the General Assembly specifying the powers, privileges, or authority capable of exercise by the commission, public authority, or body corporate.

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

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

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

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

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

"Retirement System" means the Virginia Retirement System.

"Service" means service as an employee.

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

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

#### **§ 51.1-124.7. Distribution of assets upon repeal of system.**

A. If the General Assembly repeals the provisions of this chapter or terminates its application to any person, the Board shall continue to administer the Retirement System in accordance with the provisions of this chapter for the sole benefit of the then members, any beneficiaries then receiving retirement allowances, and any future persons entitled to receive benefits under a joint and last-survivor option who are designated by a member.

B. Upon repeal or termination of the Retirement System, the assets of the Retirement System shall be allocated by the Board in an equitable manner to provide benefits for the persons stated in subsection A of this section in accordance with the provisions of this chapter but based on creditable service and average final compensation as of the date of repeal or termination and in the following order:

1. For the benefit of the then members to the extent of their individual account in the members' contribution account.

2. If any funds remain, then for the benefit of the then beneficiaries and persons already designated by former members who are then beneficiaries under a joint and last-survivor option, to the extent of the then actuarial value of their retirement allowances.

3. If any funds remain, then for the benefit of members, and persons, if any, designated by them under a joint and last-survivor option, to the extent, not provided under subdivision 1 of this subsection, of the then actuarial value of their accrued future retirement allowances. The allocation under this subdivision shall be the basis of the oldest-ages-first method.

The employer is required to contribute the amount necessary to make up any insufficiency of assets needed to provide all benefits payable under subdivisions 1 and 2 of this subsection.

C. The allocation of assets of the Retirement System shall be carried out by the Board as the benefits become due or by the transfer of such assets to any retirement system replacing this Retirement System. The vesting of benefits shall be fully maintained under the new retirement system. Any funds remaining in the assets of this retirement system after all of the vested benefits have been paid shall revert to the general fund.

D. Any allocation of assets shall be final and binding on all persons entitled to benefits.

*E. Upon the termination or partial termination of the Retirement System, each affected member shall become fully vested, as of the termination date or partial termination date, in his service retirement allowance to the extent funded, regardless of the length of service or amount of creditable service.*

**§ 51.1-124.22. Board to administer Retirement System; powers and duties.**

A. The Retirement System shall be administered by the Board of Trustees, whose powers and duties include but are not limited to:

1. Appointing a director, who shall not be a member of the Board, to serve as the chief administrative officer of the Retirement System at the pleasure of the Board.

2. Maintaining records of all of its proceedings and making such records available for inspection by the public.

3. Employing an actuary as its technical advisor and employing other persons and incurring expenditures as it deems necessary for the efficient administration of the Retirement System.

4. Causing an actuarial investigation to be made of all the experience under the Retirement System at least once in each four-year period. The Board shall also cause actuarial gain/loss analyses to be made in conjunction with each actuarial valuation of the System. Pursuant to such investigations and analyses, the Board shall periodically revise the actuarial assumptions used in the computation of employer contribution rates.

5. Causing a biennial actuarial valuation to be made of the assets and liabilities of the Retirement System with respect to each employer. Pursuant to the results of such valuations, the Board shall prepare a statement as to the employer contribution rates applicable to each employer.

6. Publishing the results of each actuarial valuation of the assets and liabilities.

7. Publishing annual financial statements of the Retirement System or annual reports in accordance with §§ 51.1-1000 through 51.1-1003.

8. Promulgating regulations and procedures and making determinations necessary to carry out the provisions of this title.

9. Purchasing insurance to insure against losses suffered by the Retirement System if any member of the Board or of any advisory committee breaches the standard of care in § 51.1-124.30.

10. Adopting rules and policies that bring the Retirement System into compliance with any applicable law or regulation of this Commonwealth or the United States.

11. Establishing and administering, for the officers and employees of the Retirement System, (i) a compensation plan which is consistent with the provisions set forth in the general appropriations act for this purpose and (ii) a grievance procedure which is consistent with the provisions of § 2.2-1202.1 and any regulations promulgated pursuant thereto.

12. Investing in real estate to be held as a nonrevenue producing asset and used by the Retirement System for administrative offices.

13. Charging and collecting administrative fees to pay actual costs incurred by the Retirement System in ~~administering~~ *administering* and overseeing any retirement plan or service award fund other than the Virginia Retirement System (§ 51.1-124.1 et seq.), the State Police Officers' Retirement System (§ 51.1-200 et seq.), the Virginia Law Officers' Retirement System (§ 51.1-211 et seq.), or the Judicial Retirement System (§ 51.1-300 et seq.), for which it is responsible from the Commonwealth or participating political subdivisions whose employees benefit under such retirement plans. Any fee charged under the authority granted herein shall be for costs incurred directly related to the administration and oversight of the retirement plan or service award fund, as determined by the Board. Such fee shall be charged to the employer whose employees benefit under the retirement plan and to the service award fund in the case of costs incurred in ~~administering~~ *administering* and overseeing service award funds. Overpayments from benefits received under the Virginia Retirement System, the State Police Officers' Retirement System, the Virginia Law Officers' Retirement System, the Judicial Retirement System, the Virginia Sickness and Disability Program *under Chapter 11* (§ 51.1-1100 et seq.), *the Disability Program for Hybrid Retirement Program Participants under Chapter 11.1* (§ 51.1-1150 et seq.), or Health Insurance Credits for Certain Retirees *under Chapter 14* (§ 51.1-1400 et seq.); may be deducted from life insurance benefits payable under Chapter 5 (§ 51.1-500 et seq.).

14. The Board is authorized to charge and collect from participating employers any penalties, interest, compliance fees, or other charges charged to the Retirement System by the Internal Revenue Service or other regulatory body.

B. The Board shall be vested with the powers and duties of the Board of Trustees of the abolished system to the extent necessary for the payment of vested rights and the return of accumulated contributions.

C. The Commonwealth, the Board, employees of the Retirement System, the Investment Advisory Committee of the Retirement System, and any other advisory committee established by the Board shall not incur any liability for any losses suffered by the deferred compensation, the cash match, or the

defined contribution retirement plans established or administered under the authority of this title, except as provided in § 51.1-124.30.

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

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

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

1. A person who becomes a member on or after July 1, 2010, or a member who does not have at least 60 months of creditable service as of January 1, 2013, shall pay an amount equal to a rate approximating the normal cost for the retirement program under which the member is covered, with such rate for each retirement program to be determined by the Board, and reviewed by the Board no less than every six years. However, if the member does not purchase, or enter into a purchase of service contract for the service made available in subsection B within one year from his first date of hire or within one year of the final day of any leave of absence under subdivision B 2, as applicable, then, for each year or portion thereof to be credited at the time of purchase, the member shall pay an amount equal to the actuarial equivalent cost.

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

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

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

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

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

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

C. Any member in service may purchase service credit for creditable service lost from ceasing to be a member under this chapter, as provided in § 51.1-128, because of the withdrawal of his accumulated contributions. Notwithstanding any other provision in this section, the cost to purchase such service shall be five percent of his creditable compensation or five percent of his average final compensation, whichever is greater, unless the member in service is purchasing such service through a pre-tax or

post-tax deduction, in which case the cost to purchase each year, or portion thereof, of such service shall be five percent of his creditable compensation, *provided, however, that the applicable cost for a person enrolled in the hybrid retirement program described in § 51.1-169 shall be four percent.* If the member purchases or enters into a contract to purchase such service within three years of the date he became eligible to purchase the service, then the service may be purchased in a lump sum at the time of purchase or through an additional payroll deduction. Any purchase of such service made at a time later than such period shall be made in a lump sum at the time of purchase.

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

E. Any member receiving benefits under the Virginia Workers' Compensation Act (§ 65.2-100 et seq.) may, in a manner prescribed by the Board and prior to the effective date of retirement, purchase service credit for service that is not reported to the retirement system by the member's employer while the member is receiving such benefits. Notwithstanding any other provision in this section, the cost to purchase such service shall be five percent of the member's creditable compensation.

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

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

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

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

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

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

#### **§ 51.1-155.1. Exceptions from general early retirement provisions for certain state employees and constitutional officers.**

A. ~~Members~~ *The provisions of this subsection apply to any member of the retirement system (i) whose positions are position* is described by subdivision 1 (except ~~members a member~~ of the Judicial Retirement System (§ 51.1-300 et seq.)), 2 (except ~~members a member~~ of the Judicial Retirement System (§ 51.1-300 et seq.)), 3, 4 (except ~~officers an officer~~ elected by popular vote), 7, 13, 14, 15, 16, 17, or 20 of § 2.2-2905; (ii) who ~~are is~~ an agency ~~heads head~~ appointed by a state board, state commission, or state council; or (iii) who ~~are is~~ a school division ~~superintendents superintendent~~ appointed by a school board pursuant to § 22.1-60, and (a) who ~~are is~~ involuntarily separated from state service and (b) who ~~have has~~ 20 or more years of creditable service at the date of separation; *Such member may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155 upon attaining age 60 50, provided, however, that if (1) the member is a person who becomes a member on or after July 1, 2010, and upon attaining age 50 for any other member (2) the member does not have at least 60 months of creditable service as of January 1, 2013, or (3) the member is enrolled in the hybrid retirement program described in § 51.1-169, then the member may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155 upon attaining age 60.*

B. ~~Any member~~ *The provisions of this subsection apply to any member of the retirement system who (i) serves as chief executive officer of an interstate commission pursuant to Virginia's participation in such commission; (ii) is involuntarily separated from service; and (iii) has 20 or more years of creditable service at the date of separation. Such member may retire without the reduction in retirement allowance required by subdivision A 2 of § 51.1-155 A 2 upon attaining age 60 50, provided, however, that if (a) the member is a person who becomes a member on or after July 1, 2010, and (b) the member does not have at least 60 months of creditable service as of January 1, 2013, or (c) the member is enrolled in the hybrid retirement program described in § 51.1-169, then the member may retire without the reduction in retirement allowance required by subdivision A 2 of § 51.1-155 upon attaining age 50 for any other member 60.*

C. ~~Any~~ *The provisions of this subsection apply to any member of the retirement system who (i) serves as a constitutional officer, (ii) is involuntarily separated from service because his office is lawfully abolished, and (iii) has 20 or more years of creditable service at the date of separation. Such member may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155, upon attaining age 60 50, provided, however, that if (a) the member is a person who becomes a member on or after July 1, 2010; and, (b) the member does not have at least 60 months of creditable service as of January 1, 2013, or (c) the member is enrolled in the hybrid retirement program described in § 51.1-169, then the member may retire with the retirement allowance as provided in subdivision A 1 of § 51.1-155 upon attaining age 50 for any other member 60.*

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

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

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

A. ~~Members~~ *The provisions of this section apply to any member of the retirement system who (i) are is appointed county administrator pursuant to § 15.2-406 or 15.2-1540, urban county executive pursuant to § 15.2-804, county executive pursuant to § 15.2-509, county manager pursuant to § 15.2-609 or 15.2-702, county administrator or city or town manager pursuant to Chapter 15 (§ 15.2-1500 et seq.) of Title 15.2 or county, city or town attorney pursuant to § 15.2-1542; (ii) are is involuntarily separated from service; and (iii) have has 20 or more years of creditable service at the date of separation. Such member may retire without the reduction in retirement allowance required by subdivisions A 2 and A 3 of § 51.1-155 upon attaining age 60 50, provided, however, that if (a) the member is a person who becomes a member on or after July 1, 2010, and (b) the member does not have at least 60 months of creditable service as of January 1, 2013, or (c) the member is enrolled in the hybrid retirement program described in § 51.1-169, then the member may retire without the reduction in retirement allowance required by subdivisions A 2 and A 3 of § 51.1-155 upon attaining age 50 for any other member 60.*

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

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

**§ 51.1-162. Death before retirement.**

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

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

First, to the spouse of the member;

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

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

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

Fifth, if none of the above, to other next of kin of the member entitled under the laws of the

domicile of the member at the time of his death.

B. If a member dies in service, including a member who is on leave without pay while performing active duty military service in the armed forces of the United States, and if no benefits are payable under subsection C of this section, a retirement allowance shall be paid to the person or persons designated as provided in subsection A of this section if the person is the member's (i) surviving spouse, (ii) minor child, or (iii) parent(s). If no designation has been made, or if the death of the designated person occurs prior to the death of the member and another designation has not been made, a retirement allowance shall be paid in the following order of precedence to the member's (a) surviving spouse, (b) minor children, or (c) parent(s). The retirement allowance shall be paid to the first person qualifying in the orders of precedence set out in this subsection. If more than one minor child survives the deceased member, the allowance shall be divided among them in a manner determined by the Board. If more than one parent survives the deceased member, the allowance shall be divided among them in a manner determined by the Board. The retirement allowance shall be continued during the lifetime of the person or in the case of a minor child until the child dies or attains the age of majority, whichever occurs first. The retirement allowance shall equal the deceased retirement allowance that would have been payable under the joint and survivor option so that the same amount would be continued to such person after the member's death. If the member dies prior to his fifty-fifth birthday, then, for purposes of this subsection, the member shall be presumed to be age ~~fifty-five~~ 55 on his date of death. However, if the member ~~who~~ dies in service *prior to his sixtieth birthday and is (1) a person who ~~became~~ becomes a member on or after July 1, 2010, and he dies prior to his sixtieth birthday (2) a member who does not have at least 60 months of creditable service as of January 1, 2013, or (3) a member of the hybrid retirement program described in § 51.1-169*, then, for purposes of this subsection, the member shall be presumed to be age ~~sixty~~ 60 on his date of death. When determining the allowance that would have been payable to the member had the member retired on the date of his death, the provisions of subdivision A 4 of § 51.1-155 shall not apply. If the person elects in writing, the amount of the member's accumulated contributions or lump sum payment shall be paid to him exclusively, in lieu of any other benefits under this section. This amount shall be reduced by the amount of any retirement allowance previously received by the member under this chapter.

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

The retirement allowance payable hereunder to a qualifying survivor shall be the annual amount which when added to the compensation payable under the Virginia Workers' Compensation Act for the death of the member equals ~~fifty~~ 50 percent of the member's average final compensation if the survivor does not qualify for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member. If the survivor qualifies for death benefits under the provisions of the Social Security Act in effect on the date of the death of the member, the allowance payable from the retirement system when added to the compensation payable under the Virginia Workers' Compensation Act shall equal thirty-three and one-third percent of the member's average final compensation.

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

#### **§ 51.1-166. Post-retirement supplements generally.**

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

B. The amounts of the post-retirement supplements shall be determined as percentages of the allowances supplemented hereby. The percentages shall be determined annually by reference to the increase in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U), as published by the Bureau of Labor Statistics of the United States Department of Labor. The percentages shall be based on monthly averages and shall be the difference between (i) the average for the calendar year just ended and (ii) the average for the most recent calendar year used in the



determination of the post-retirement supplements currently being paid. The annual increase, if any, in the CPI-U shall be considered only to the extent of the first two percent plus one-half of the next two percent of any additional increase, or a maximum increase in the post-retirement supplement of three percent in any given year. However, for anyone who (a) is not a person who becomes a member on or after July 1, 2010, and (b) has at least 60 months of creditable service as of January 1, 2013, the applicable annual increase, if any, in the CPI-U shall be considered only to the extent of the first three percent plus one-half of the next four percent of any additional increase, or a maximum increase in the post-retirement supplement of five percent in any given year. If the difference in the percentages determined above is zero or less, the post-retirement supplements shall either not commence or shall continue unchanged until such time as an annual determination results in a difference in the percentages that are greater than zero. *A participant in the hybrid retirement program described in § 51.1-169 shall be considered to be a person who becomes a member on or after July 1, 2010, for the purposes of this section.*

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

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

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

2. A person who is the recipient of an allowance pursuant to § 2.2-3204, subsection Q of Item 469 of Chapter 890 of the Acts of Assembly of 2011, or § 51.1-155.1, 51.1-155.2, 51.1-157, 51.1-162, 51.1-207, 51.1-218, 51.1-308, 51.1-1117, 51.1-1128, 51.1-1161, or 51.1-1169 must receive that allowance for one full calendar year before being entitled to post-retirement supplements.

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

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

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

A. For purposes of this section, "hybrid retirement program" or "program" means a hybrid retirement program covering any employee in a position covered for retirement purposes under the provisions of Chapter 1 (§ 51.1-124.1 et seq.) for retirement purposes other than the Virginia Retirement System defined benefit retirement plan established under Chapter 1 (§ 51.1-124.1 et seq.). ~~Except as provided in § 51.1-302, persons~~ *Persons* who are participants in, or eligible to be participants in, the retirement plans under the provisions of Chapter 2 (§ 51.1-200 et seq.), Chapter 2.1 (§ 51.1-211 et seq.), ~~Chapter 3 (§ 51.1-300 et seq.),~~ the optional retirement plans established under §§ 51.1-126.1, 51.1-126.3, 51.1-126.4, and 51.1-126.7, or a person eligible to earn the benefits permitted by § 51.1-138 shall not be eligible to participate in the hybrid retirement program. Any person who is employed as a firefighter, emergency medical technician, or law-enforcement officer as those terms are defined in § 15.2-1512.2 and whose employing political subdivision has legally adopted an irrevocable resolution as described in subdivision B 4 of § 51.1-153 and subdivision A 3 of § 51.1-155 shall not be eligible to participate in the hybrid retirement program. *No member of the Judicial Retirement System under Chapter 3 (§ 51.1-300 et seq.) shall be eligible to participate in the hybrid retirement program described in § 51.1-169 except members appointed to an original term on or after January 1, 2014.*

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

A person who participates in the otherwise applicable defined benefit retirement plan established by

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

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

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

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

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

*For purposes of this subdivision, "active participation" includes creditable service, as defined in § 51.1-124.3, in any retirement plan established by this title and administered by the Retirement System.*

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

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

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

C. 1. An employee participating in the hybrid retirement program maintained under this section shall, pursuant to procedures established by the Board, make mandatory contributions on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code (i) to the defined benefit component of the program in the amount of four percent of creditable compensation in lieu of the amount described in subsection A of § 51.1-144 and (ii) to the defined contribution component of the program in the amount of one percent of creditable compensation.

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

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

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

D. 1. The amount of the service retirement allowance under the defined benefit component of the program shall be governed by § 51.1-155, ~~except that for all creditable service credited prior to the effective date of the member's participation in the program.~~ For all other creditable service, the allowance shall equal one percent of a member's average final compensation multiplied by the amount of his creditable service while in the program. For judges who are participating in the hybrid retirement program, creditable service shall be determined as provided in § 51.1-303 and service retirement eligibility shall be determined as provided in § 51.1-305.

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

3. *Except as provided in subdivision 1, any employee participating in the hybrid retirement program*

*maintained under this section shall be considered to be a person who becomes a member on or after July 1, 2010.*

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

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

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

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

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

4. Any administrative fee imposed pursuant to subdivision A 13 of § 51.1-124.22 on any employer for administering and overseeing the hybrid retirement program maintained under this section shall be charged for each employee participating in such program and shall be for costs incurred by the Virginia Retirement System that are directly related to the administration and oversight of such program. *Notwithstanding the foregoing, the Board is authorized to collect all or a portion of such fee directly from the employee.*

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

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

#### **§ 51.1-302. Membership in retirement system.**

Membership in the retirement system shall consist of all judges, ~~except those judges appointed or elected to an original term commencing on or after January 1, 2014. Judges appointed or elected to an original term commencing on or after January 1, 2014, shall participate in the hybrid retirement program described in § 51.1-169.~~

#### **§ 51.1-304. Contributions by Commonwealth.**

The Commonwealth shall contribute an amount equal to the sum of the normal contribution, any accrued liability contribution, and any supplementary contribution. The amount shall be determined and paid as provided in Chapter 1 (§ 51.1-124.1 et seq.) ~~of this title. Notwithstanding the foregoing provisions of this section, member contributions and employer contributions for judges appointed or elected to an original term commencing on or after January 1, 2014, shall be determined under the provisions of the hybrid retirement program described in § 51.1-169.~~

#### **§ 51.1-306.1. Service retirement allowance for judges appointed or elected after January 1, 2014.**

*Notwithstanding any contrary provision of this chapter, the service retirement allowance for judges appointed or elected to an original term commencing on or after January 1, 2014, shall be determined under the provisions of the hybrid retirement program described in § 51.1-169.*

#### **§ 51.1-600. Definitions.**

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

"Act" means the Government Employees Deferred Compensation Plan Act.

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

"Deferred compensation plan" means a plan by which an employee defers some portion of income until some stated time in the future; provides that the federal and state income tax on such income will

be deferred until the actual receipt of such income; and is established pursuant to the provisions of § 457 of the Internal Revenue Code of 1986, as amended.

"Employee" means, in the case of the plan described in § 51.1-602, all persons employed by a participating employer, including appointed or elected officials. In the case of a plan adopted by a county, municipality, authority or other political subdivision pursuant to § 51.1-603, an employee shall be defined by such county, municipality, authority or other political subdivision, *subject to the approval of the Board*.

"Participating employer" means the Commonwealth or any political subdivision that has elected pursuant to § 51.1-603.1 to participate in the deferred compensation plan established by the Board pursuant to this chapter.

**§ 51.1-607. Definitions.**

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

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

"Cash match plan" means a plan established pursuant to the provisions of § 401 (a) of the Internal Revenue Code of 1986, as amended, to which a participating employer contributes based on contributions made by an employee to a deferred compensation plan or to a plan established pursuant to § 403 (b) of the Internal Revenue Code of 1986, as amended. Alternatively, if the Board determines that it is appropriate, such plan may be established pursuant to § 403 (b) of the Internal Revenue Code of 1986, as amended.

"Deferred compensation plan" means a plan described in Chapter 6 (§ 51.1-600 et seq.) of this title.

"Employee" means, in the case of the plan described in § 51.1-608, any salaried person, including appointed or elected officials, providing services for a participating employer. In the case of a plan adopted by a county, municipality, authority or other political subdivision pursuant to § 51.1-610, an employee shall be defined by such county, municipality, authority or other political subdivision, *subject to the approval of the Board*.

"Participating employer" means the Commonwealth or any political subdivision that has elected pursuant to § 51.1-603.1 to participate in the deferred compensation plan established by the Board pursuant to Chapter 6 (§ 51.1-600 et seq.) of this title or a sponsor of a plan established pursuant to § 403 (b) of the Internal Revenue Code of 1986, as amended.

"Qualified participant" means, in the case of a plan established pursuant to § 51.1-608, an employee of a participating employer who is making continuous deferrals of at least ten dollars per pay period to the deferred compensation plan established by the Board pursuant to Chapter 6 (§ 51.1-600 et seq.) of this title or to a plan established pursuant to § 403 (b) of the Internal Revenue Code of 1986, as amended. The determination of whether an employee is making continuous deferrals shall be made by the Board. In the case of a plan established pursuant to subsection D of § 51.1-608 or § 51.1-610, qualified participant means an employee described by the governing body establishing such plan in the documents setting forth the details of such plan.

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

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

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

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

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

A. Except as provided in subsection B of § 51.1-1153, short-term disability benefits for participating employees shall commence upon the expiration of a seven-calendar-day waiting period. The waiting period shall commence the first day of a disability or of maternity leave. If an employee returns to work for one day or less during the seven-calendar-day waiting period but cannot continue to work, the

periods worked shall not be considered to have interrupted the seven-calendar-day waiting period. Additionally, the seven-calendar-day waiting period shall not be considered to be interrupted if the employee works 20 hours or less during the waiting period. Short-term disability benefits payable as the result of a catastrophic disability or major chronic condition shall not require a waiting period.

B. Except as provided in § 51.1-1171, short-term disability coverage shall provide income replacement for (i) 60 percent of a participating employee's creditable compensation for the first 60 months of continuous ~~participation in the program~~ service and (ii) thereafter, a percentage of a participating employee's creditable compensation during the periods specified below, based on the number of months of continuous ~~participation in the program~~ service attained by an employee who is disabled, on maternity leave, or takes periodic absences due to a major chronic condition, as determined by the Board or its designee, as follows:

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

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

D. Short-term disability benefits shall be payable only during periods of (i) total disability, (ii) partial disability, (iii) maternity leave, or (iv) periodic absences due to a major chronic condition as defined by the Board or its designee.